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**Briefing for Incoming Minister in Charge of the NZSIS
(The Prime Minister)**

November 2008

NZSIS in its Historical and International Context

Brief History, and the Evolution of NZSIS Roles

Following the disbanding of the wartime Security Intelligence Bureau (SIB) at the end of the Second World War, security intelligence responsibilities in New Zealand were transferred to Police Special Branch. Then in 1956 the NZ Security Service was established as a separate entity by Order in Council. In 1969 the Service was put onto a statutory basis – and its name changed – with enactment of the NZSIS Act 1969.

Subsequent amendments to the NZSIS Act occurred over time:

- In 1977, to provide powers to intercept communications and seize documents and other items relevant to security, under a warrant authorised by the Minister in Charge (in practice, always the Prime Minister), and to bring the NZSIS more firmly under the control of the Minister in Charge. (These changes resulted from shortcoming revealed by then Chief Ombudsman Sir Guy Powles as a result of his enquiry into the circumstances surrounding the Sutch case. You will recall that we recently declassified and made public the Report, which was previously Top Secret, along with a selection of other Sutch case papers.)
- In 1996, to provide for the collection of foreign intelligence by the Service. This was done by amending the definition of “security”, rather than by adding foreign intelligence collection as a new function to the role of the Service. At the same time, improved oversight of NZSIS (and GCSB) was instituted, through separate legislation which established the roles of: Inspector-General of Intelligence and Security (who must be a retired High Court Judge – currently the IG is Justice Paul Neazor); and the Intelligence and Security Committee comprising senior Parliamentarians from both Government and the Opposition, and which as Prime Minister you now Chair. As you know, the ISC operates by law “within the ring of secrecy” to scrutinise the Agencies’ budgets, financial performance, and annual reports.
- In 1999 (twice), to provide for explicit powers of entry under warrant (a provision made necessary as a result of a Court of Appeal ruling in the Chaudry case); and to tighten the warrant authorisation process by requiring warrants to be approved by both the Minister in Charge and the Commissioner of Security Warrants (who like the IG must be a retired High Court Judge – currently the Commissioner is Sir John Jeffries). Also at this time the role of the Service was expanded to provide for the NZSIS to make security-related recommendations in respect of immigration and citizenship matters.
- In 2003, to broaden the provisions relating to countering terrorism, and bring them into line with the UN Resolutions and the consequential NZ legislation which followed the attacks in the US on September 11, 2001. (Previous provisions focussed specifically on terrorism in or relating to New Zealand, whereas the 2003 amendments relate to “any terrorist act”, regardless of place or target.)

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Key Points

- NZSIS was created 52 years ago, in 1956, as the NZ Security Service.
- For most of that time its role was to collect secret intelligence related to threats against NZ, NZers, or NZ interests.
- This role is that of the classic Security Service. Espionage, sabotage, subversion and terrorism were threats specifically defined in the NZSIS Act (1969).
- In 1996 the role was broadened, to include gathering foreign intelligence – ie, that which impacts (positively or negatively) on NZ's international well-being or economic well-being.
- NZSIS is thus a Service with a hybrid role, analogous to a combination of the UK's MI5 (Security Service) and MI6 (Secret Intelligence Service), or to Australia's ASIO (Security Intelligence Organisation) and ASIS (Secret Intelligence Service).

The US/NZ Intelligence Relationship

In January 1985 the decision by the then Labour Government to cancel the proposed visit by the USS Buchanan led to the breakdown of the ANZUS Treaty, with deep adverse consequences for the long-standing and valuable bilateral intelligence relationship between NZ and the US (and indeed through its spill-over consequences, on New Zealand's wider multilateral intelligence relationship with the other traditional partners, the UK, Australia, and Canada). One direct consequence was the signing of a Presidential Directive by then President Reagan, which directed the US Intelligence Agencies to take a number of punitive actions against New Zealand, including:

- Ceasing to provide "finished intelligence" (ie, intelligence which assesses global, regional or country events or situations using multiple intelligence sources, and which is analytic and sometimes predictive in nature, often containing a set of judgements aimed at assisting those making policy decisions).
- Ceasing to provide high-grade geospatial or imagery intelligence derived from US satellites or other overhead sensors (sometimes referred to as "National Technical Means").
- Not replacing the various existing New Zealand Liaison Officers dealing with the US Intelligence Agencies when their present tour ended.
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There were a number of other actions directed against the NZ-US military relationship, including a ban on joint exercises and training, with the effect of removing New Zealand's status as an ally of the US. These are beyond the scope of this briefing.

New Zealand's response was long-term and strategic. In essence we would maintain and grow both our own intelligence collection and assessment capabilities, to become much more self-sufficient than previously s6(a)

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Key Points

- NZ's long-standing status as a formal ally of the US ended in 1985 with the suspension of the ANZUS Treaty by the US in response to New Zealand's anti-nuclear policy.
- The 1985 Presidential Directive, signed by President Reagan, imposed a series of punitive embargoes on provision of various types of intelligence to NZ.
- These included cessation of provision of "finished" (assessed) intelligence, and high-grade geospatial and imagery from US satellites and other "overhead" sensors.

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- Intelligence-led diplomacy lies at the heart of this restoration of much-improved relations between NZ and the US – not just in the intelligence relationship, but across the bilateral relationship generally.
- NZ has the expertise, agility, and capabilities to deliver (with key close and trusted partners) world-class intelligence successes. These must, by their very nature, remain secret and highly protected.
- Intelligence capability and reputation is one of New Zealand's hidden strengths, providing strong competitive advantage, particularly in our broader relations with the UK and the US.

The Importance and Value of the 5-Eyes Partnership

During the Second World War, the UK's pre-eminent capabilities in intelligence collection and exploitation were, though necessity of survival, shared with the US. By the late 1940s and early 1950s, the British Empire had given way to the ascendant US, with its growing global network of military basing and other arrangements – and the human, economic and technological resources of a new superpower to support them.

The intelligence relationship between the UK and the US, forged in the crucible of WW II, was formalised and codified in the late 1940s. Under UK sponsorship, the key "Old Commonwealth" countries (Australia, Canada, and New Zealand), which had each contributed so significantly to the WW II effort, were also invited to join. So was born the so-called "5 Eyes" Intelligence Partnership – often abbreviated as AUSCANUKUS.

It is claimed by some activists (Nicky Hager, for example) that New Zealand's participation – as by far the smallest member – in the 5 Eyes partnership is to our significant disadvantage. The argument runs along the following lines. New Zealand contributes far more than we receive; our sovereignty and freedom of action (especially in foreign policy) is eroded and constrained; and our intelligence capabilities (GCSB's Tangimoana and Waihopai Stations, for example) are not independent nor are they under the proper control of the New Zealand authorities, but rather are used directly by the larger partners for purposes that are often counter to New Zealand's express positions and interests.

Nothing could be further from the truth. New Zealand gains enormous benefits from the partnership. These include access to a huge volume of intelligence collection and reporting, derived from scale of resources, technology, and global reach which would be impossible for New Zealand to achieve on our own. s6(a)

) Further, we have access to knowledge of sources and methods, tradecraft, and technologies which underpin our own independent intelligence collection capabilities. s6(a)

And the historic record – on New Zealand's independent approach to being anti-nuclear, and to standing aside from the invasion of Iraq, for example, gives the lie to the argument that our sovereignty and independence of thought and action is compromised. Indeed, it can be argued that NZ's sovereignty is **more** secure as a result of our membership of the 5 Eyes partnership, through being better informed on global

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issues and events, and through “having the ear” of much larger partners such as the US and the US, who are such significant players on the world stage.

Given this imbalance in the relative size and contribution which NZ brings to the 5 Eyes partnership, why is NZ still able to hold its place at the table? The answer lies in the determined effort which we have made over the years to ensure that we earn our continued membership. The NZ Agencies (GCSB and NZSIS) are seen by our larger counterparts within the international intelligence community as agile, very competent, and able to deliver valued contributions. s6(a)

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Key Points

- Following the Second World War, the formerly pre-eminent position held by the UK – including in intelligence collection and exploitation – gave way as the ascendant US emerged as the new superpower during the Cold War era.
- In the late 1940s, the very close collaborative wartime intelligence relationship between the UK and the US was formalised. Australia, Canada and New Zealand were invited under UK sponsorship to join what became a formally recognised 5-Eyes intelligence partnership, often denoted AUSCANZUKUS.
- New Zealand derives huge advantage from this arrangement.
- The benefits include not only access to a very large volume of intelligence reporting, derived from scale of resources, global reach, and technology which we could not possibly achieve on our own. They also include access to knowledge of the latest intelligence “sources and methods”, tradecraft, methodologies, and technologies which underpin our own independent intelligence collection capabilities.
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- New Zealand has made sustained and determined effort to ensure that it is seen by the partners as worthy of continued membership of this very exclusive “club”, and that we continue to earn our place at the table.

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- GCSB and NZSIS are seen as agile, very competent, and able to deliver highly valued niche contributions. s6(a)

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November 2008

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