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(U) DIRgram-382: "Congress Passes Intelligence Reform: The End of the Beginning"

Distribution: Director's Message to the Work Force

POC: Michael V. Hayden [redacted]

(U) As you've no doubt heard, Congress has passed the conference report on a bill that responds to recommendations by the 9/11 Commission. The President is expected to sign it into law. The intelligence reform provisions are to take effect within 6 months of enactment and the President is to submit to Congress an implementation plan within 180 days of the effective date.

(b) (3) - P.L. 86-36

(U//FOUO) Let me offer one way of looking at these developments. By endorsing, this summer, the concept of a Director of National Intelligence (DNI) who would not also head the CIA, the President changed the nature of the Intelligence Community (IC). Before the President's announcement, the IC functioned on the basis of consensus. The DCI had a range of authorities in law, but effective implementation of those authorities depended largely upon his agreements and arrangements with the SECDEF and others. Under this model, NSA and the other national intelligence agencies within DoD had to show some flexibility in moving between and reporting to each "master."

(U//FOUO) The DNI legislation moves the IC to a constitutional-like model of a central executive with enumerated powers. Any effort to define the executive's powers inevitably bumps up against powers currently held by others. During the debate on the legislation, for example, some wanted the DNI to be a weak center when dealing with relatively strong agencies and departments. This would be analogous to our country's Articles of Confederation, which called for a weak national government and relatively strong states. Others during the legislative debate wanted the DNI to be a very strong central authority in relation to other departments and agencies, as in Alexander Hamilton's vision for the role of the national government relative to the states.

(U//FOUO) The current bill represents a compromise (politics is the art of the possible). The final version of the bill creates a DNI who has more formal, codified authority than the current DCI, but who is still a far cry from the "Hamiltonian" idea. In the final analysis, the DNI's effectiveness will likely depend not just on his enumerated powers but on intangibles, such as the personality of the DNI and his or her relationship with Congress, the SECDEF, and the President.

(b) (1)
(b) (3) - 18 USC 798
(b) (3) - 50 USC 3024(i)
(b) (3) - P.L. 86-36

(S//REL) [redacted]

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