

MR MARKER

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Folder Title: PDD/NSC-23 [U.S. Policy on Foreign Access to Remote Sensing Space Capabilities, March 9, 1994]				
Staff Office-Individual: Records Management				
Original OA/ID Number: 4117				
Row: 43	Section: 6	Shelf: 8	Position: 1	Stack: v

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	President Clinton to Vice President Gore et al. re: U.S. Policy on Foreign Access to Remote Sensing Space Capabilities (5 pages)	03/09/94	P1/b(1) RDS 05/12/2009
002a. form	Distribution Receipt [partial] [CIA Act] (1 page)	03/19/1994	P3/b(3)
002b. form	Distribution Receipt [partial] [CIA Act] (1 page)	03/19/1994	P3/b(3)
003a. letter	Todd Stern to President Clinton re: PDD 23 (1 page)	03/09/94	P1/b(1) RDS 05/12/2009
003b. memo	Samuel Berger to President Clinton re: U.S. Policy on Foreign Access to Remote Sensing Space Capabilities (2 pages)	03/03/94	P1/b(1) RDS 05/12/2009
003c. memo	Regina Ganton to Samuel Berger re: PDD on Remote Sensing (1 page)	03/09/94	P1/b(1) RDS 05/12/2009
004a. form	Distribution Receipt [partial] [CIA Act] (1 page)	03/18/1998	P3/b(3)
004b. form	Distribution Receipt [partial] [CIA Act] (1 page)	03/18/1998	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Records Management
OA/Box Number: 4117

FOLDER TITLE:

PDD/NSC-23

2008-1017-M
kh215

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

TO: YEATES, E

FROM: ITOH

DOC DATE: 06 APR 94
SOURCE REF:

KEYWORDS: ACCESS
SPACE PROGRAMS

PDD

PERSONS:

SUBJECT: CY OF PDD-23 W/ FACT SHEET & WH PRESS STATEMENT FOR PFIAB

ACTION: KENNEY SGD MEMO

DUE DATE: 05 APR 94 STATUS: C

STAFF OFFICER: MERCHANT

LOGREF: 9420152 9420189

FILES: IFD 0

NSCP: PDD0023

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO
NSC CHRON

COMMENTS:

DISPATCHED BY *PK*

DATE 4/07

BY HAND *[Signature]* W/ATTCH

OPENED BY: NSASK

CLOSED BY: NSBTM

DOC 3 OF 3

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9420439

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 LEARY	Z 94040117 APPROPRIATE ACTION
001	Z 94040513 ACTION TRANSFERRED
001 MERCHANT	Z 94040513 PREPARE MEMO FOR LAKE
002 ITOH	Z 94040611 FOR SIGNATURE
003	X 94040710 KENNEY SGD MEMO

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003 940406 YEATES, E

UNCLASSIFIED

TO: ITOH

FROM: YEATES, E

DOC DATE: 01 APR 94
SOURCE REF:

KEYWORDS: ACCESS PDD
PFIAB

PERSONS:

SUBJECT: REQUEST FOR COPY OF PDD 23 FORN ACCESS TO REMOTE SENSING SPACE
CAPABILITIES

ACTION: APPROPRIATE ACTION DUE DATE: 05 APR 94 STATUS: S

STAFF OFFICER: LEARY LOGREF:

FILES: NS NSCP: CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
LEARY

FOR CONCURRENCE
TENET

FOR INFO

MERCHANT

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSASK CLOSED BY: DOC 1 OF 1

National Security Council
The White House

PROOFED BY: BO LOG # 20439
 URGENT NOT PROOFED: _____ SYSTEM PRS NSC INT
 BYPASSED WW DESK: _____ DOCLOG BO A/O _____

6 APR 94 12: 30

	SEQUENCE TO	HAS SEEN	DISPOSITION
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Itoh	_____	_____	_____
Soderberg	_____	_____	_____
Berger	_____	_____	_____
Lake	_____	_____	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>2</u>	<u>BO</u>	<u>D/R</u>
NSC Secretariat	<u>3</u>	<u>4/07</u>	<u>D/R</u>

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc: VP McLarty Other _____

Should be seen by: _____
(Date/Time)

COMMENTS:

DISPATCH INSTRUCTIONS:

Return to Brian
McNittan

NATIONAL SECURITY COUNCIL
DISTRIBUTION RECEIPT

LOG 9420439
DATE 06 APR 94

SUBJECT: CY OF PDD-23 W/ FACT SHEET & WH PRESS STATEMENT FOR PFIAB
DOCUMENT CLASSIFICATION: UNCLASSIFIED W/ ~~SECRET~~ ATTACHMENT

EXTERNAL DISTRIBUTION:

DATE

TIME

SIGNATURE

MR. EUGENE F. YEATES
PRES FORN INTELLIGENCE ADVISORY BOARD
ROOM 334
OLD EXECUTIVE OFC BLDG
WASHINGTON, DC 20500

4-7-94

10:30a

Sandra Van Namee

COPY: #18

DATE, TIME, SIGN THE RECEIPT AND RETURN TO: NSC SECRETARIAT, ROOM 379 OEOB

PAGE 01 OF 01 PAGES

~~SECRET~~

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

20439

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April 6, 1994

MEMORANDUM FOR MR. EUGENE YEATES
Executive Director
President's Foreign Intelligence Advisory Board

SUBJECT: PDD-23

Pursuant to your request, enclosed for your information and retention are copies of PDD-23, the fact sheet and the statement by the press secretary on this PDD.

for Kristine A. Keaney
William H. Itoh
Executive Secretary

Attachments

Tab A PDD-23
Tab B Fact Sheet
Tab C Statement by the Press Secretary

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E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KPM NARA, Date 4/28/08
2008-1017-M

Tab A

~~SECRET~~

No. PDD 23

COPY #18 (PFIAB)

NATIONAL SECURITY COUNCIL INFORMATION

Notice

The attached document contains classified National Security Council Information. It is to be read and discussed only by persons authorized by law.

Your signature acknowledges you are such a person and you promise you will show or discuss information contained in the document only with persons who are authorized by law to have access to this document.

Persons handling this document acknowledge he or she knows and understands the security law relating thereto and will cooperate fully with any lawful investigation by the United States Government into any unauthorized disclosure of classified information contained herein.

Access List

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DECLASSIFIED
E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KBN NARA, Date 4/28/08
2008-1017-M

Tab B

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 10, 1994

FACT SHEET

FOREIGN ACCESS TO REMOTE SENSING SPACE CAPABILITIES

Background

Remote sensing from space provides scientific, industrial, civil governmental, military and individual users with the capacity to gather data for a variety of useful purposes. The US Government operates very high resolution space-based reconnaissance systems for intelligence and military purposes. These systems are among the most valuable US national security assets because of their high quality data collection, timeliness, and coverage and the capability they provide to monitor events around the world on a near real-time basis. More nations have discovered the value of these satellites and are developing their own indigenous capabilities, or are seeking the purchase of data or systems.

Policy Goal

The fundamental goal of our policy is to support and to enhance US industrial competitiveness in the field of remote sensing space capabilities while at the same time protecting US national security and foreign policy interests. Success in this endeavor will contribute to maintaining our critical industrial base, advancing US technology, creating economic opportunities, strengthening the US balance of payments, enhancing national influence, and promoting regional stability.

Scope of Policy

The policy covers foreign access to remote sensing space systems, technology, products, and data. With respect to commercial licenses, this would include operating licenses granted under the Land Remote Sensing Policy Act of 1992 and export licenses for certain items controlled on the US Munitions List (USML). While the policy will define certain restrictions for export of items on the USML, export of items on either the USML or the Commerce Control List (CCL) would continue to be licensed in accord with existing law and regulations.

- more -

Licensing and Operation of Private Remote Sensing Systems

License requests by US firms to operate private remote sensing space systems will be reviewed on a case-by-case basis in accordance with the Land Remote Sensing Policy Act of 1992 (the Act). There is a presumption that remote sensing space systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace (e.g., SPOT, Landsat, etc.) will be favorably considered, and that the following conditions will apply to any US entity that receives an operating license under the Act.

1. The licensee will be required to maintain a record of all satellite tasking for the previous year and to allow the USG access to this record.
2. The licensee will not change the operational characteristics of the satellite system from the application as submitted without formal notification and approval of the Department of Commerce, which would coordinate with other interested agencies.
3. The license being granted does not relieve the licensee of the obligation to obtain export license(s) pursuant to applicable statutes.
4. The license is valid only for a finite period, and is neither transferable nor subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce.
5. All encryption devices must be approved by the US Government for the purpose of denying unauthorized access to others during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act.
6. A licensee must use a data downlink format that allows the US Government access and use of the data during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act.
7. During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary of Commerce may, after consultation with the appropriate agency(ies), require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce

in consultation with the Secretary of Defense or the Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President. The Secretaries of State, Defense and Commerce shall develop their own internal mechanisms to enable them to carry out their statutory responsibilities.

8. Pursuant to the Act, the US Government requires US companies that have been issued operating licenses under the Act to notify the US Government of its intent to enter into significant or substantial agreements with new foreign customers. Interested agencies shall be given advance notice of such agreements to allow them the opportunity to review the proposed agreement in light of the national security, international obligations and foreign policy concerns of the US Government. The definition of a significant or substantial agreement, as well as the time frames and other details of this process, will be defined in later Commerce regulations in consultation with appropriate agencies.

Transfer of Advanced Remote Sensing Capabilities

1. Advanced Remote Sensing System Exports: The United States will consider requests to export advanced remote sensing systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace on a case-by-case basis.

The details of these potential sales should take into account the following:

- the proposed foreign recipient's willingness and ability to accept commitments to the US Government concerning sharing, protection, and denial of products and data; and
- constraints on resolution, geographic coverage, timeliness, spectral coverage, data processing and exploitation techniques, tasking capabilities, and ground architectures.

Approval of requests for exports of systems would also require certain diplomatic steps be taken, such as informing other close friends in the region of the request, and the

conditions we would likely attach to any sale; and informing the recipient of our decision and the conditions we would require as part of the sale.

Any system made available to a foreign government or other foreign entity may be subject to a formal government-to-government agreement.

Transfer of Sensitive Technology

The United States will consider applications to export sensitive components, subsystems, and information concerning remote sensing space capabilities on a restricted basis. Sensitive technology in this situation consists of items of technology on the US Munitions List necessary to develop or to support advanced remote sensing space capabilities and which are uniquely available in the United States. Such sensitive technology shall be made available to foreign entities only on the basis of a government-to-government agreement. This agreement may be in the form of end-use and retransfer assurances which can be tailored to ensure the protection of US technology.

Government-to-Government Intelligence and Defense Partnerships

Proposals for intelligence or defense partnerships with foreign countries regarding remote sensing that would raise questions about US Government competition with the private sector or would change the US Government's use of funds generated pursuant to a US-foreign government partnership arrangement shall be submitted for interagency review.

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Tab C

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 10, 1994

STATEMENT BY THE PRESS SECRETARY

The President today announced that the Administration will allow for the expansion of the sale of images taken from space and the export of the systems themselves. This decision is expected to expand American jobs and business opportunities by enabling U.S. firms to compete aggressively in the growing international market for remote sensing, which already accounts for nearly \$400 million worldwide and is expected to grow to more than \$2 billion by the turn of the century.

Under the policy, U.S. companies will be licensed by the Secretary of Commerce to operate private remote sensing systems and sell those images to domestic and foreign entities. The export of turn-key remote sensing systems will also be considered under this policy on a case-by-case basis under an export license issued by the State Department. National security and international obligations will be protected through specific licensing conditions. Export of sensitive technologies will be considered on a restricted basis.

Vice President Gore also highlighted the decision's importance to maintaining the competitiveness of America's aerospace industry. "Removing some of our barriers to the sale of space-based remote sensing systems and data products is a major contribution to the ability of U.S. industry, which sets the world standard for these systems, to compete successfully in this rapidly emerging global commercial market," he said.

Equally important, the Vice President said, is the contribution which data from such satellites will make to our knowledge of the planet: "Timely, high quality data which we expect to become available from these systems will include global change and environmental information which will form a vital part of this country's National Information Infrastructure."

Space-based images and imaging systems are increasingly being recognized by commercial entities as a means of dramatically improving their productivity and business operations. Farmers, city planners, environmentalists, news organizations, map makers, surveyors, geologists, mining

- more -

companies, oil companies, timber harvesters, taxing authorities, as well as foreign governments have all recognized the utility of high quality space-based images for purely commercial purposes.

This new policy should also aid the U.S. defense industry in its efforts to find new commercial applications for defense technologies and enhance U.S. global competitiveness in the international remote sensing market. Including the market for images incorporating demographic or technical data with digital maps, or geographic information systems, the market for space-based imagery could be up to \$15 billion by the year 2000.

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

20439

April 6, 1994

ACTION

SIGNED

MEMORANDUM FOR WILLIAM H. ITOH
THROUGH: WILLIAM H. LEARY *WHL*
FROM: BRIAN T. MERCHANT *BTM*
SUBJECT: PFIAB Request for Copy of PDD-23

Eugene Yeates of PFIAB has requested a copy of PDD-23 (Tab II). NSC staff has no objection (Tab III). Your memorandum at Tab I will convey a copy of PDD-23 to PFIAB along with a copy of the fact sheet and a copy of the White House Press Secretary's statement on PDD-23.

Concurrences by: Regina *ea* Genton

RECOMMENDATION:

That you sign the memorandum at Tab I.

Attachments

Tab I Memorandum to Eugene Yeates
Tab A PDD-23
Tab B Fact Sheet
Tab C Statement by the Press Secretary
Tab II Incoming PFIAB Memorandum
Tab III NSC Staff Comments

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~~SECRET ATTACHMENT~~

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DECLASSIFIED
E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KBH NARA, Date 4/28/08
2008 - 1017 - M

THE WHITE HOUSE
WASHINGTON

April 1, 1994

President's
Foreign Intelligence
Advisory Board

MEMORANDUM FOR: WILL ITOH
EXECUTIVE SECRETARY, NSC

FROM: EUGENE YEATES *E.Y.*
EXECUTIVE DIRECTOR

SUBJECT: Request for Copy of PDD 23, "Foreign Access to Remote
Sensing Space Capabilities"

It is requested that the PFIAB be provided a copy of the subject PDD. This is a current area of interest to the Chairman and members of the Board and a copy of the document would be very useful to them.

Thank you for your assistance.

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506
April 5, 1994

MEMORANDUM FOR REGINA A. GENTON

FROM: BRIAN T. MERCHANT *BT*

SUBJECT: PFIAB Request

PFIAB has requested a copy of PDD-23. Please review your Office Book copy of this PRD and indicate your recommendation below:

No objection to sending copy to PFIAB

Copy should NOT be sent to PFIAB

Other Guidance: _____

Signature: *Regina A. Genta* Date: *4/5/94*

Thank you for your assistance in this matter.

Please return this form to me AS SOON AS POSSIBLE.

TO: AGENCIES

FROM: PRESIDENT

DOC DATE: 09 MAR 94
SOURCE REF:

KEYWORDS: SPACE PROGRAMS
PDD

INTELLIGENCE

PERSONS:

SUBJECT: PDD-23 US POLICY ON FORN ACCESS TO REMOTE SENSING SPACE CAPABILITIES

ACTION: PRES SGD PDD 23

DUE DATE: 07 MAR 94 STATUS: C

STAFF OFFICER: GENTON

LOGREF: 9420189 9420255

FILES: IFD 0

NSCP: PDD0023

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO

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COMMENTS:

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DATE

3/10/94

BY HAND

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OPENED BY: NSJDA

CLOSED BY: NSBTM

DOC 3 OF 3

ACTION DATA SUMMARY REPORT

DOC ACTION OFFICERCAO ASSIGNED ACTION REQUIRED

001 BERGER
002 PRESIDENT
003

Z 94030312 FWD TO PRESIDENT FOR SIG
Z 94030320 FOR SIGNATURE
X 94030919 PRES SGD PDD 23

DISPATCH DATA SUMMARY REPORT

<u>DOC</u>	<u>DATE</u>	<u>DISPATCH FOR ACTION</u>	<u>DISPATCH FOR INFO</u>
002	940303		VICE PRESIDENT
002	940303		WH CHIEF OF STAFF
003	940309	GORE, A	
003	940309	CHRISTOPHER, W	
003	940309	BENTSEN, L	
003	940309	PERRY, W	
003	940309	RENO, J	
003	940309	BROWN, R	
003	940309	PANETTA, L	
003	940309	ALBRIGHT, M	
003	940309	MCLARTY, T	
003	940309	LAKE	
003	940309	WOOLSEY, R	
003	940309	RUBIN, R	
003	940309	SHALIKASHVILI, J	
003	940309	HOLUM, J	
003	940309	GIBBONS, J	
003	940309	GOLDIN, D	
003	940309	NSC CHRON	

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20283

No. PDD 23

COPY ORIGINAL

NATIONAL SECURITY COUNCIL INFORMATION

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Persons handling this document acknowledge he or she knows and understands the security law relating thereto and will cooperate fully with any lawful investigation by the United States Government into any unauthorized disclosure of classified information contained herein.

Access List

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E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KBH/NARA, Date 4/28/08
2008-1017-M

THE WHITE HOUSE

WASHINGTON

March 9, 1994

PRESIDENTIAL DECISION DIRECTIVE/NSC-23

MEMORANDUM FOR THE VICE PRESIDENT
 THE SECRETARY OF STATE
 THE SECRETARY OF THE TREASURY
 THE SECRETARY OF DEFENSE
 THE ATTORNEY GENERAL
 THE SECRETARY OF COMMERCE
 DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
 U.S. REPRESENTATIVE TO THE UNITED NATIONS
 CHIEF OF STAFF TO THE PRESIDENT
 ASSISTANT TO THE PRESIDENT FOR NATIONAL
 SECURITY AFFAIRS
 DIRECTOR OF CENTRAL INTELLIGENCE
 ASSISTANT TO THE PRESIDENT FOR ECONOMIC POLICY
 CHAIRMAN OF THE JOINT CHIEFS OF STAFF
 DIRECTOR OF THE ARMS CONTROL AND
 DISARMAMENT AGENCY
 DIRECTOR OF THE OFFICE OF SCIENCE AND
 TECHNOLOGY POLICY
 ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE
 ADMINISTRATION

SUBJECT: US Policy on Foreign Access to Remote Sensing
 Space Capabilities (U)

This Presidential Decision Directive (PDD) establishes and directs the implementation of US policy on foreign access to remote sensing space capabilities.¹ (U)

Background

Remote sensing² from space provides scientific, industrial, civil governmental, military and individual users with the capacity to gather data for a variety of useful purposes. The US Government operates very high resolution space-based

¹"Remote sensing space capabilities" refers to all remote sensing space systems, technology, products, and data, other than those used for signals intelligence. In this context, "space system" consists of the spacecraft, the mission package(s), ground stations, data links, and associated command and control facilities and may include data processing and exploitation hardware and software. (S)

²Throughout this policy, "remote sensing" refers in a general sense to observation or information gathering, which can support a wide variety of purposes. (U)

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 AS AMENDED

2008-1018-m
 5/12/04 MS

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reconnaissance³ systems for intelligence and military purposes. These systems are among the most valuable US national security assets because of their high quality data collection, timeliness, and coverage and the capability they provide to monitor events around the world on a near real-time basis. More nations have discovered the value of these satellites and are developing their own indigenous capabilities, or are seeking the purchase of data or systems. (U)

Policy Goal

The fundamental goal of our policy is to support and to enhance US industrial competitiveness in the field of remote sensing space capabilities while at the same time protecting US national security and foreign policy interests. Success in this endeavor will contribute to maintaining our critical industrial base, advancing US technology, creating economic opportunities, strengthening the US balance of payments, enhancing national influence, and promoting regional stability. (U)

Scope of Policy

The policy covers foreign access to remote sensing space systems, technology, products, and data, other than those used for signals intelligence. With respect to commercial licenses, this would include operating licenses granted under the Land Remote Sensing Policy Act of 1992 and export licenses for certain items controlled on the US Munitions List (USML). While the policy will define certain restrictions for export of items on the USML, export of items on either the USML or the Commerce Control List (CCL) would continue to be licensed in accord with existing law and regulations. ~~(S)~~

Licensing and Operation of Private Remote Sensing Systems

License requests by US firms to operate private remote sensing space systems will be reviewed on a case-by-case basis in accordance with the Land Remote Sensing Policy Act of 1992 (the Act). There is a presumption that remote sensing space systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace (e.g., SPOT, Landsat, etc.) will be favorably considered, and that the following conditions will apply to any US entity that receives an operating license under the Act. (U)

1. The licensee will be required to maintain a record of all satellite tasking for the previous year and to allow the USG access to this record. (U)

³"Reconnaissance" refers to remote sensing to support military or intelligence purposes. (U)

2. The licensee will not change the operational characteristics of the satellite system from the application as submitted without formal notification and approval of the Department of Commerce, which would coordinate with other interested agencies. (U)
3. The license being granted does not relieve the licensee of the obligation to obtain export license(s) pursuant to applicable statutes. (U)
4. The license is valid only for a finite period, and is neither transferable nor subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce. (U)
5. All encryption devices must be approved by the US Government for the purpose of denying unauthorized access to others during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act. (U)
6. A licensee must use a data downlink format that allows the US Government access and use of the data during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act. (U)
7. During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary of Commerce may, after consultation with the appropriate agency(ies), require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce in consultation with the Secretary of Defense or the Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President. The Secretaries of State, Defense and Commerce shall develop their own internal mechanisms to enable them to carry out their statutory responsibilities. (U)
8. Pursuant to the Act, the US Government requires US companies that have been issued operating licenses under the Act to notify the US Government of its intent to enter into significant or substantial agreements with new foreign customers. Interested agencies shall be given advance notice of such agreements to allow them the opportunity to review the proposed agreement in light of the national security, international obligations and foreign policy concerns of the US Government. The definition of a significant or substantial agreement, as well as the time frames and other details of this process, will be defined in later

Commerce regulations in consultation with appropriate agencies. (U)

Transfer of Advanced Remote Sensing Capabilities

1. Advanced Remote Sensing System Exports: The United States will consider requests to export advanced remote sensing systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace on a case-by-case basis. (U)

The details of these potential sales should take into account the following:

- the proposed foreign recipient's willingness and ability to accept commitments to the US Government concerning sharing, protection, and denial of products and data; (U)
- constraints on resolution, geographic coverage, timeliness, spectral coverage, data processing and exploitation techniques, tasking capabilities, and ground architectures; and (U)
- the ability of the United States to counter or defeat foreign use of such capabilities, if national security conditions warrant. ~~(S)~~

The following conditions will apply to any license for a turn-key system export:

- Any system which is approved for export shall ensure positive control over the system and prevent reception by entities other than the foreign recipient to whom the system is sold. ~~(S)~~
- Any system with significant military or intelligence utility which is approved for export must have characteristics that guarantee US access and use of the data and enable the United States to deny its data to an adversary in the event of crisis or conflict. ~~(S)~~
- Approval of requests for exports of systems would also require certain diplomatic steps be taken, such as informing other close friends in the region of the request, and the conditions we would likely attach to any sale; and informing the recipient of our decision and the conditions we would require as part of the sale. (U)
- Any system made available to a foreign government or other foreign entity may be subject to a formal government-to-government agreement. (U)

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Transfer of Sensitive Technology

The United States will consider applications to export sensitive components, subsystems, and information concerning remote sensing space capabilities on a restricted basis because it is not in the national security interests of the United States to assist foreign nations or entities to attain autonomous capabilities. Sensitive technology in this situation consists of items of technology on the US Munitions List necessary to develop or to support advanced remote sensing space capabilities and which are uniquely available in the United States. Such sensitive technology shall be made available to foreign entities only on the basis of a government-to-government agreement. This agreement may be in the form of end-use and retransfer assurances which can be tailored to ensure the protection of US technology.

~~(S)~~

Government-to-Government Intelligence and Defense Partnerships

Proposals for intelligence or defense partnerships with foreign countries regarding remote sensing that would raise questions about US Government competition with the private sector or would change the US Government's use of funds generated pursuant to a US-foreign government partnership arrangement shall be submitted for interagency review. (U)

Implementing Actions

- The State Department, with the participation of the Secretaries of Defense and Commerce, the Director of Central Intelligence, the Chairman of the Joint Chiefs of Staff, and other members of the Executive Branch as appropriate, shall develop an approach to use with potential foreign suppliers of remote sensing space capabilities to discuss possible mutual constraints on foreign access for review by the Deputies Committee. (U)
- The State Department, with the participation of the Secretaries of Defense and Commerce and the Director of Central Intelligence and other members of the Executive Branch as appropriate, shall prepare a list of those remote sensing space technologies deemed to be sensitive. They shall ensure the list is updated on an annual basis. (U)

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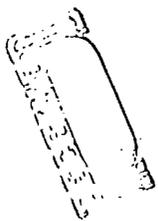
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Itoh			
Soderberg			
Berger			
Lake			
Situation Room			<u>TO MERCHANT</u>
West Wing Desk	<u>5</u>	<u>48K 3/9</u>	<u>D</u>
NSC Secretariat	<u>6</u>	<u>BC</u> <u>3/10/94</u>	<u>DR</u>

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(Date/Time)

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Date: March 9, 1994

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Done BR

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Itoh	_____	_____	_____
Soderberg	_____	_____	_____
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Lake	_____	_____	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>3</u>	<u>[Signature]</u> 3/3	<u>[Signature]</u> TO POTUS
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(Date/Time)

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COMMENTS:
PDD on Foreign Access to
Remote Sensing Space
Capabilities

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THE WHITE HOUSE THE PRESIDENT HAS SEEN
WASHINGTON 3.9.94

March 9, 1994

MR. PRESIDENT:

Enclosed is a decision memo from Sandy Berger recommending that you sign the attached Presidential Decision Directive allowing for the expanded sale of images taken from space. Under the PDD, U.S. companies licensed by the Commerce Department could sell such images to foreign and domestic customers. In addition, the State Department could license the export of the satellite systems. National security concerns would be protected by specific conditions in the licenses.

This PDD would allow the U.S. to compete more effectively in a fast-growing international market and would consequently be very popular with business.

This memo was initially cleared through on March 3, but then pulled back when first State and then DOD raised objections. Their problems have now been resolved and all relevant agencies have cleared the PDD, as have all relevant White House offices.

If you approve, please sign the attached PDD.


Todd Stern

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WASHINGTON

94 MAR 9 All : 17

March 3, 1994

94 MAR 3 P5: 27

ACTION

MEMORANDUM FOR THE PRESIDENT

SIGNED

FROM: SAMUEL R. BERGER 

SUBJECT: US Policy on Foreign Access to Remote Sensing
Space Capabilities

Purpose

To approve a Presidential Decision Directive on US policy on foreign access to remote sensing space capabilities.

Background

The attached PDD represents a significant change in current policy by allowing for the expansion of the commercial sale of images taken from space and the export of the systems themselves. This policy is intended to open the way for US firms to compete aggressively in a growing international market, which Commerce estimates could be a \$5 to \$15 billion industry by the turn of the century.

This new policy should aid the defense industry in its efforts to find new commercial applications for defense technologies and enhance US global competitiveness in the international remote sensing marketplace. The policy also represents an example of an emerging commercial information technology being used as a catalyst to create a new 21st century industry and long-term jobs for Americans.

Under the terms of the policy, US companies will be licensed by the Secretary of Commerce to operate private remote sensing systems and sell those images to domestic and foreign customers. The export of entire satellite systems and technology--licensed by the State Department--will also be considered under this policy. National security will be protected through specific conditions in the license. For US owned and operated systems, the Secretary of Defense or the Secretary of State, for national security or foreign policy reasons, can seek an interruption in service or restrictions on the dissemination of data. For exported systems, the United States will ensure that it retains the ability to counter or defeat foreign use of such capabilities, if national security conditions warrant.

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Agencies disagree about whether the Land Remote Sensing Policy Act of 1992 grants the Secretary of Commerce discretion to issue a license or permit exercise of a license after the Secretary of Defense and/or State have determined conditions necessary to meet US national security, international obligations and/or foreign policies. The statute is subject to different interpretations on this point. The PDD is not intended to resolve this issue.

It has been US Government practice both to deny the export of remote sensing space systems and the technology which could lead to the development of highly capable "spy-like" systems by other countries, and to not encourage the operation of private US systems that would sell high-quality imagery data and products commercially. A number of factors has forced the US Government to undertake a review of its policy in this area.

- Space-based images and imaging systems are increasingly being recognized by commercial entities as a means of significantly improving their productivity and business operations. Farmers, city planners, environmentalists, news organizations, map makers, surveyors, geologists, mining companies, oil companies, timber harvesters, taxing authorities, as well as foreign governments have all recognized the utility of high-quality space-based images for purely commercial purposes.
- Satellite collection capabilities that once were the monopoly of a few countries are spreading to many countries and the US lead is eroding. In addition to the United States, Russia, France, China, Japan and the European Space Agency already have an indigenous space industry. Several others--Israel, India, South Africa, Canada and South Korea--are on their way to developing such a capability.
- As the technology has spread, fewer intelligence sources and methods remain truly sensitive, making it harder to justify withholding exports on traditional national security grounds.

As the Executive Branch has struggled with developing a policy that would balance economic and national security concerns, the market has made commercial ventures more economically feasible and a backlog of license applications has been generated. This policy will allow agencies to make expeditious decisions on these pending licenses.

RECOMMENDATION

That you sign the Presidential Decision Directive at Tab A.

Attachment
Tab A PDD on Remote Sensing

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NATIONAL SECURITY COUNCIL

JANDY

Rollout strategy with the VP
is still unclear.

9.11



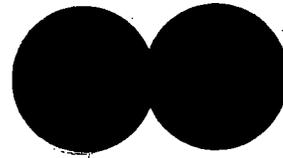
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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 9, 1994



ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: GEORGE J. TENET *GT*
FROM: REGINA A. GENTON *RAG*
SUBJECT: PDD on Remote Sensing

SIGNED

Attached are a revised memo to the President and a revised PDD on remote sensing which reflect the agreement you reached with John Deutch last night. Specifically, the following changes have been made:

1. Page 2 of the Memo to the President has been revised to reflect that the PDD is not intended to resolve the outstanding legal dispute concerning the authorities of the Secretary of Commerce to permit exercise of a license after the Secretary of Defense and/or State have determined that national security or foreign policy interests of the United States may be compromised.
2. A sentence has been added to condition seven on page 3 of the PDD to state explicitly that in the event of a disagreement between Cabinet secretaries concerning whether a commercial satellite system should be turned off or interrupted, an appeal may be made to the President.

If you agree with these changes, we recommend that you send the memo forward to the President. We need to have approval today so that we can make the public announcement and brief the Hill and industry tomorrow.

RECOMMENDATION

That you send the memo forward to the President.

Attachments:

- Tab I Memo for the President
- Tab A PDD on Remote Sensing

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WASHINGTON, D.C. 20506

March 3, 1994

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: GEORGE J. TENET *GT*

FROM: REGINA A. GENTON *RAG*

SUBJECT: US Policy on Foreign Access to Remote Sensing
Space Capabilities

SIGNED

Attached is a memorandum to the President recommending his approval of a Presidential Decision Directive on US policy on remote sensing. A Deputies Committee meeting recommended adoption of the PDD earlier this week, and all Principals from the relevant agencies have concurred.

Concurrences by: Alan Kreczko ^{by JC}, William Leary *WL*

RECOMMENDATION

That you sign the Memorandum to the President at Tab I.

Attachments

Tab I Memo to the President

Tab A PDD on Remote Sensing Policy

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2008-1017-M

TO: MEMO FOR RECORD

FROM: WHITE HOUSE

DOC DATE: 10 MAR 94
SOURCE REF:

KEYWORDS: SPACE POLICY
PDD

SPACE PROGRAMS
MEDIA

PERSONS:

SUBJECT: FACT SHEET & WH PRESS STATEMENT RE FORN ACCESS TO REMOTE SENSING
SPACE CAPABILITIES - PDD-23

ACTION: FOR RECORD PURPOSES

DUE DATE: 15 MAR 94 STATUS: C

STAFF OFFICER: NONE

LOGREF: 9420189 9420255

FILES: IFD 0

NSCP: PDD0023

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FOR ACTION

FOR CONCURRENCE

FOR INFO

GENTON
NSC CHRON

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 10, 1994

FACT SHEET

FOREIGN ACCESS TO REMOTE SENSING SPACE CAPABILITIES

Background

Remote sensing from space provides scientific, industrial, civil governmental, military and individual users with the capacity to gather data for a variety of useful purposes. The US Government operates very high resolution space-based reconnaissance systems for intelligence and military purposes. These systems are among the most valuable US national security assets because of their high quality data collection, timeliness, and coverage and the capability they provide to monitor events around the world on a near real-time basis. More nations have discovered the value of these satellites and are developing their own indigenous capabilities, or are seeking the purchase of data or systems.

Policy Goal

The fundamental goal of our policy is to support and to enhance US industrial competitiveness in the field of remote sensing space capabilities while at the same time protecting US national security and foreign policy interests. Success in this endeavor will contribute to maintaining our critical industrial base, advancing US technology, creating economic opportunities, strengthening the US balance of payments, enhancing national influence, and promoting regional stability.

Scope of Policy

The policy covers foreign access to remote sensing space systems, technology, products, and data. With respect to commercial licenses, this would include operating licenses granted under the Land Remote Sensing Policy Act of 1992 and export licenses for certain items controlled on the US Munitions List (USML). While the policy will define certain restrictions for export of items on the USML, export of items on either the USML or the Commerce Control List (CCL) would continue to be licensed in accord with existing law and regulations.

Licensing and Operation of Private Remote Sensing Systems

License requests by US firms to operate private remote sensing space systems will be reviewed on a case-by-case basis in accordance with the Land Remote Sensing Policy Act of 1992 (the Act). There is a presumption that remote sensing space systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace (e.g., SPOT, Landsat, etc.) will be favorably considered, and that the following conditions will apply to any US entity that receives an operating license under the Act.

1. The licensee will be required to maintain a record of all satellite tasking for the previous year and to allow the USG access to this record.
2. The licensee will not change the operational characteristics of the satellite system from the application as submitted without formal notification and approval of the Department of Commerce, which would coordinate with other interested agencies.
3. The license being granted does not relieve the licensee of the obligation to obtain export license(s) pursuant to applicable statutes.
4. The license is valid only for a finite period, and is neither transferable nor subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce.
5. All encryption devices must be approved by the US Government for the purpose of denying unauthorized access to others during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act.
6. A licensee must use a data downlink format that allows the US Government access and use of the data during periods when national security, international obligations and/or foreign policies may be compromised as provided for in the Act.
7. During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary of Commerce may, after consultation with the appropriate agency(ies), require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce

in consultation with the Secretary of Defense or the Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President. The Secretaries of State, Defense and Commerce shall develop their own internal mechanisms to enable them to carry out their statutory responsibilities.

8. Pursuant to the Act, the US Government requires US companies that have been issued operating licenses under the Act to notify the US Government of its intent to enter into significant or substantial agreements with new foreign customers. Interested agencies shall be given advance notice of such agreements to allow them the opportunity to review the proposed agreement in light of the national security, international obligations and foreign policy concerns of the US Government. The definition of a significant or substantial agreement, as well as the time frames and other details of this process, will be defined in later Commerce regulations in consultation with appropriate agencies.

Transfer of Advanced Remote Sensing Capabilities

1. Advanced Remote Sensing System Exports: The United States will consider requests to export advanced remote sensing systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace on a case-by-case basis.

The details of these potential sales should take into account the following:

- the proposed foreign recipient's willingness and ability to accept commitments to the US Government concerning sharing, protection, and denial of products and data; and
- constraints on resolution, geographic coverage, timeliness, spectral coverage, data processing and exploitation techniques, tasking capabilities, and ground architectures.

Approval of requests for exports of systems would also require certain diplomatic steps be taken, such as informing other close friends in the region of the request, and the

conditions we would likely attach to any sale; and informing the recipient of our decision and the conditions we would require as part of the sale.

Any system made available to a foreign government or other foreign entity may be subject to a formal government-to-government agreement.

Transfer of Sensitive Technology

The United States will consider applications to export sensitive components, subsystems, and information concerning remote sensing space capabilities on a restricted basis. Sensitive technology in this situation consists of items of technology on the US Munitions List necessary to develop or to support advanced remote sensing space capabilities and which are uniquely available in the United States. Such sensitive technology shall be made available to foreign entities only on the basis of a government-to-government agreement. This agreement may be in the form of end-use and retransfer assurances which can be tailored to ensure the protection of US technology.

Government-to-Government Intelligence and Defense Partnerships

Proposals for intelligence or defense partnerships with foreign countries regarding remote sensing that would raise questions about US Government competition with the private sector or would change the US Government's use of funds generated pursuant to a US-foreign government partnership arrangement shall be submitted for interagency review.

#

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 10, 1994

STATEMENT BY THE PRESS SECRETARY

The President today announced that the Administration will allow for the expansion of the sale of images taken from space and the export of the systems themselves. This decision is expected to expand American jobs and business opportunities by enabling U.S. firms to compete aggressively in the growing international market for remote sensing, which already accounts for nearly \$400 million worldwide and is expected to grow to more than \$2 billion by the turn of the century.

Under the policy, U.S. companies will be licensed by the Secretary of Commerce to operate private remote sensing systems and sell those images to domestic and foreign entities. The export of turn-key remote sensing systems will also be considered under this policy on a case-by-case basis under an export license issued by the State Department. National security and international obligations will be protected through specific licensing conditions. Export of sensitive technologies will be considered on a restricted basis.

Vice President Gore also highlighted the decision's importance to maintaining the competitiveness of America's aerospace industry. "Removing some of our barriers to the sale of space-based remote sensing systems and data products is a major contribution to the ability of U.S. industry, which sets the world standard for these systems, to compete successfully in this rapidly emerging global commercial market," he said.

Equally important, the Vice President said, is the contribution which data from such satellites will make to our knowledge of the planet: "Timely, high quality data which we expect to become available from these systems will include global change and environmental information which will form a vital part of this country's National Information Infrastructure."

Space-based images and imaging systems are increasingly being recognized by commercial entities as a means of dramatically improving their productivity and business operations. Farmers, city planners, environmentalists, news organizations, map makers, surveyors, geologists, mining

companies, oil companies, timber harvesters, taxing authorities, as well as foreign governments have all recognized the utility of high quality space-based images for purely commercial purposes.

This new policy should also aid the U.S. defense industry in its efforts to find new commercial applications for defense technologies and enhance U.S. global competitiveness in the international remote sensing market. Including the market for images incorporating demographic or technical data with digital maps, or geographic information systems, the market for space-based imagery could be up to \$15 billion by the year 2000.

#

TO: BELLINGER, J

FROM: SENS

DOC DATE: 11 AUG 95
SOURCE REF:

KEYWORDS: ACCESS PDD
SPACE PROGRAMS SPACE POLICY
TECHNOLOGY TRANSFERS

PERSONS:

SUBJECT: PDD-23 W/ FACT SHEET & PRESS RELEASE

ACTION: DOHSE SGD MEMO DUE DATE: 08 AUG 95 STATUS: C

STAFF OFFICER: MERCHANT LOGREF: 9420131 9420152

FILES: IFD 0 NSCP: PDD0023 CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO
NSC CHRON

COMMENTS: _____

DISPATCHED BY BG DATE 8/11/95 BY HAND [Signature] W/ATTCH

OPENED BY: NSBTM CLOSED BY: NSBTM DOC 3 OF 3

ACTION DATA SUMMARY REPORT

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

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002 SENS
003

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Z 95081111 FOR SIGNATURE
X 95081111 DOHSE SGD MEMO

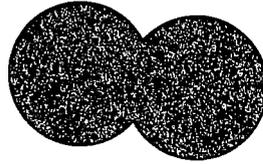
DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

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003 950811 BELLINGER, J

National Security Council
The White House



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11 AUG 95 11:29

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Records Mgt.	<u>3</u>	<u>GR</u> <u>8/11/95</u>	<u>D/R</u>
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A = Action I = Information ~~D = Dispatch~~ ~~R = Retain~~ N = No Further Action

CC:

COMMENTS: Need ASAP
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SUBJECT: PDD-23 W/ FACT SHEET & PRESS RELEASE
DOCUMENT CLASSIFICATION: UNCLASSIFIED

EXTERNAL DISTRIBUTION:

DATE TIME

SIGNATURE

MR. JOHN B. BELLINGER, III

8/11/95

12:15



COMMISSION ON ROLES & CAPABILITIES OF US INTELLIGENCE

SUITE 3201

PRINT LAST NAME:

John Bellinger

725 17TH STREET, NW

WASHINGTON, DC 20503

COPY: ORIGINAL

DATE, TIME, SIGN THE RECEIPT AND RETURN TO: NSC SECRETARIAT, ROOM 379 OEOB

PAGE 01 OF 01 PAGES

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8/11/95

TIME

12:15

SIGNATURE

John Bellinger

PRINT LAST NAME:

John Bellinger

COPY: #19:20:21

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E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KB/NARA, Date 4/28/08
2008 - 1017 - M

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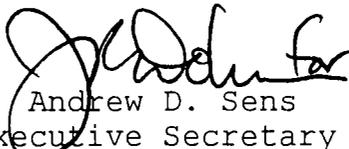
PAGE 01 OF 01 PAGES

August 11, 1995

MEMORANDUM FOR MR. JOHN B. BELLINGER, III
General Counsel
Commission on the Roles and Capabilities of the
United States Intelligence Community

SUBJECT: Request for PDD-23

Pursuant to your request, enclosed for your information and retention are three copies of PDD-23. Also included are copies of the fact sheet and White House press release on this PDD.


Andrew D. Sens
Executive Secretary

Attachments

Tab A 3 Copies of PDD-23 with fact sheet and press release

A

~~SECRET~~

No. PDD 23

COPY #21

(BROWN COMMISSION)

NATIONAL SECURITY COUNCIL INFORMATION

Notice

The attached document contains classified National Security Council Information. It is to be read and discussed only by persons authorized by law.

Your signature acknowledges you are such a person and you promise you will show or discuss information contained in the document only with persons who are authorized by law to have access to this document.

Persons handling this document acknowledge he or she knows and understands the security law relating thereto and will cooperate fully with any lawful investigation by the United States Government into any unauthorized disclosure of classified information contained herein.

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White House Guidelines, August 28, 1997
By KBH NARA, Date 4/28/08
2008-1017-M

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No. PDD 23

COPY #20

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White House Guidelines, August 28, 1997
By KBH NARA, Date 4/28/08
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No. PDD 23

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White House Guidelines, August 28, 1997
By KBV NARA, Date 4/28/08
2008-1017-M

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 10, 1994

FACT SHEET

FOREIGN ACCESS TO REMOTE SENSING SPACE CAPABILITIES

Background

Remote sensing from space provides scientific, industrial, civil governmental, military and individual users with the capacity to gather data for a variety of useful purposes. The US Government operates very high resolution space-based reconnaissance systems for intelligence and military purposes. These systems are among the most valuable US national security assets because of their high quality data collection, timeliness, and coverage and the capability they provide to monitor events around the world on a near real-time basis. More nations have discovered the value of these satellites and are developing their own indigenous capabilities, or are seeking the purchase of data or systems.

Policy Goal

The fundamental goal of our policy is to support and to enhance US industrial competitiveness in the field of remote sensing space capabilities while at the same time protecting US national security and foreign policy interests. Success in this endeavor will contribute to maintaining our critical industrial base, advancing US technology, creating economic opportunities, strengthening the US balance of payments, enhancing national influence, and promoting regional stability.

Scope of Policy

The policy covers foreign access to remote sensing space systems, technology, products, and data. With respect to commercial licenses, this would include operating licenses granted under the Land Remote Sensing Policy Act of 1992 and export licenses for certain items controlled on the US Munitions List (USML). While the policy will define certain restrictions for export of items on the USML, export of items on either the USML or the Commerce Control List (CCL) would continue to be licensed in accord with existing law and regulations.

Licensing and Operation of Private Remote Sensing Systems

License requests by US firms to operate private remote sensing space systems will be reviewed on a case-by-case basis in accordance with the Land Remote Sensing Policy Act of 1992 (the Act). There is a presumption that remote sensing space systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace (e.g., SPOT, Landsat, etc.) will be favorably considered, and that the following conditions will apply to any US entity that receives an operating license under the Act.

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Transfer of Advanced Remote Sensing Capabilities

1. Advanced Remote Sensing System Exports: The United States will consider requests to export advanced remote sensing systems whose performance capabilities and imagery quality characteristics are available or are planned for availability in the world marketplace on a case-by-case basis.

The details of these potential sales should take into account the following:

- the proposed foreign recipient's willingness and ability to accept commitments to the US Government concerning sharing, protection, and denial of products and data; and
- constraints on resolution, geographic coverage, timeliness, spectral coverage, data processing and exploitation techniques, tasking capabilities, and ground architectures.

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conditions we would likely attach to any sale; and informing the recipient of our decision and the conditions we would require as part of the sale.

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Transfer of Sensitive Technology

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 10, 1994

STATEMENT BY THE PRESS SECRETARY

The President today announced that the Administration will allow for the expansion of the sale of images taken from space and the export of the systems themselves. This decision is expected to expand American jobs and business opportunities by enabling U.S. firms to compete aggressively in the growing international market for remote sensing, which already accounts for nearly \$400 million worldwide and is expected to grow to more than \$2 billion by the turn of the century.

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Equally important, the Vice President said, is the contribution which data from such satellites will make to our knowledge of the planet: "Timely, high quality data which we expect to become available from these systems will include global change and environmental information which will form a vital part of this country's National Information Infrastructure."

Space-based images and imaging systems are increasingly being recognized by commercial entities as a means of dramatically improving their productivity and business operations. Farmers, city planners, environmentalists, news organizations, map makers, surveyors, geologists, mining

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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

UNCLASSIFIED WITH
~~SECRET~~ ATTACHMENTS

20917

August 11, 1995

ACTION

MEMORANDUM FOR ANDREW D. SENS

THROUGH: WILLIAM H. LEARY

FROM: BRIAN T. MERCHANT

SUBJECT: Brown Commission Request for PDD-23



The Commission on the Roles and Capabilities of the United States Intelligence Community (Brown Commission) has requested (Tab II) three copies of PDD-23. NSC staff has no objection to this request (see notation on Tab II by Beers).

Your memorandum (Tab I) conveys three copies to the Brown Commission for information and retention. Also included are copies of the fact sheet and White House press release on this PDD.

Concurrence by:  Randy Beers and Jamie Baker 

RECOMMENDATION

That you sign the memorandum at Tab I.

Attachment

Tab I Memorandum to Bellinger

Tab A 3 Copies of PDD-23 with fact sheet and press release

Tab II Incoming Request

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E.O. 12958, As Amended, Sec. 3.5 (b)
White House Guidelines, August 28, 1997
By KBH/NARA, Date 4/28/08
2008-1017-M



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COMMISSION ON THE ROLES AND CAPABILITIES
OF THE UNITED STATES INTELLIGENCE COMMUNITY

August 4, 1995

BY FACSIMILE (202-456-9340)

Executive Secretary
National Security Council
Washington, D.C. 20504

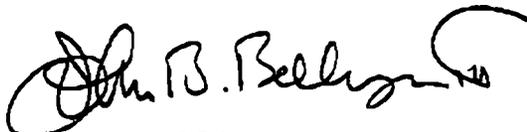
Attn: Mr. Brian Merchant

To the Executive Secretary:

We hereby request three copies of Presidential Decision Directive 23. The document is needed in order for the Commission, which is an independent agency in the Executive Branch, to carry out its responsibilities set forth in Title IX of P.L. 103-359 (copy attached). Access to the document will be limited to those with appropriate clearances.

In light of the short deadline under which our Commission is working, we would appreciate receiving a copy of PDD-23 as soon as possible. If you have any questions, please contact me at 202-414-1142 or John Moseman, Deputy Staff Director, at 202-414-1167.

Sincerely,



John B. Bellinger, III
General Counsel



Attachment

(b) **CHAIRMAN AND VICE CHAIRMAN.**—The President shall designate two of the members appointed from private life to serve as Chairman and Vice Chairman, respectively, of the Commission.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) **DEADLINE FOR APPOINTMENTS.**—The appointments required by subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) **MEETINGS.**—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) **QUORUM.**—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) **SECURITY CLEARANCES.**—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

(h) **APPLICATION OF CERTAIN PROVISIONS OF LAW.**—In light of the extraordinary and sensitive nature of its deliberations, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall not apply to the Commission. Further, the provisions of section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act") shall not apply to the Commission; however, records of the Commission shall be subject to the Federal Records Act and, when transferred to the National Archives and Records Agency, shall no longer be exempt from the provisions of such section 552.

SEC. 903. DUTIES OF THE COMMISSION.

(a) **IN GENERAL.**—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-cold war global environment; and

(2) to prepare and transmit the reports described in section 904.

(b) **IMPLEMENTATION.**—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments and how should these relate to tactical intelligence activities.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include for example, economic issues, environmental issues, and health issues.

TITLE IX—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 901. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. 902. COMPOSITION AND QUALIFICATIONS.

(a) **MEMBERSHIP.**—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community and no more than five of whom shall be members of the same political party.

(B) Two members shall be appointed by the majority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the minority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of the Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(3) What functions, if any, should continue to be assigned to the organizations of the intelligence community, including the Central Intelligence Agency, and what capabilities should these organizations retain for the future.

(4) Whether the existing organization and management framework of the organizations of the intelligence community, including the Central Intelligence Agency, provide the optimal structure for the accomplishment of their missions.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of other countries.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually shared objectives are adequate.

SEC. 904. REPORTS.

(a) **INITIAL REPORT.**—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) **INTERIM REPORTS.**—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) **FINAL REPORT.**—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. 905. POWERS.

(a) **HEARINGS.**—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) **POSTAL, PRINTING AND BINDING SERVICES.**—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **SUBCOMMITTEES.**—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a

panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) **AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

P. 5
SEC. 906. PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission who is a private United States citizen shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) **TRAVEL EXPENSES.**—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The staff director of the Commission shall be appointed from private life, and such appointment shall be subject to the approval of the Commission as a whole. No member of the professional staff may be a current officer or employee of an intelligence agency, except that up to three current employees of intelligence agencies who are on rotational assignment to the Executive Office of the President may serve on the Commission staff, subject to the approval of the Commission as a whole.

(2) **COMPENSATION.**—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairman of the Commission may procure temporary

and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) **ADMINISTRATIVE AND SUPPORT SERVICES.**—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. 907. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. 908. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section 904(c).

SEC. 909. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAN GLICKMAN,
BILL RICHARDSON,
NORMAN D. DICKS,
JULIAN C. DIXON,
ROBERT TORRICELLI,
RONALD COLEMAN,
DAVID E. SKAGGS,
JAMES H. BILBRAY,
NANCY PELOSI,
GREG LAUGHLIN,
BUD CRAMER,
JACK REED,
LARRY COMBEST,
DOUG BEREUTER,
ROBERT K. DORNAN,
BILL YOUNG,
GEORGE W. GEKAS,
JAMES V. HANSEN,
JERRY LEWIS,

**Commission on the Roles and Capabilities
of the U.S. Intelligence Community**

FAX TRANSMISSION

DATE: August 4, 1995

TO: MR. BRIAN MERCHANT

FAX #: 202-456-9340

PHONE #:

COMMENTS:

FROM: Commission on Intelligence -- John B. Bellinger, III (202-414-1142)
(202) 414-1140

Non-Secure FAX: (202) 414-1150

THIS FAX TRANSMISSION CONSISTS OF ^{five} ~~TWO~~ PAGES INCLUDING THIS TRANSMISSION SHEET.

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FROM: BERGER
GIBBONS, J

DOC DATE: 18 MAR 98
SOURCE REF:

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INTELLIGENCE

PDD
REMOTE SENSING

PERSONS:

SUBJECT: IMPLEMENTATION GUIDANCE ON NSC/PDD-23

ACTION: BERGER & GIBBONS SGD MEMO

DUE DATE: 05 MAR 98 STATUS: C

STAFF OFFICER: SEATON

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002	980318	COHEN, W	
002	980318	DAILEY, J	
002	980318	TENET, G	

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National Security Council
The White House

3/11/98

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Kerrick	<u>2</u>	<u>Q 3/14</u>	_____
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Berger	<u>4</u>	<i>[Signature]</i>	_____
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B. Merchant	<u>6</u>	<i>[Signature]</i>	<u>D</u>

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THE WHITE HOUSE

WASHINGTON

March 18, 1998

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF COMMERCE
THE DIRECTOR OF CENTRAL INTELLIGENCE

SUBJECT: Implementation Guidance on NSC/PDD-23

In March 1994, the President issued a policy directive on remote sensing (NSC/PDD-23) which recognizes the critical role that remote sensing from space plays in providing data for a wide variety of civil, commercial and national security uses. The policy supports and enhances U.S. industrial competitiveness in the field of remote sensing while at the same time protecting U.S. national security and foreign policy interests. This memorandum provides guidance on select aspects of NSC/PDD-23 implementation, particularly as it relates to proposals for potential export of advanced remote sensing systems.

NSC/PDD-23 states that the United States will consider requests to export advanced remote sensing systems whose performance capabilities and imagery characteristics are available or planned for availability in the world marketplace on a case-by-case basis. It further stipulates that any system made available to a foreign government or other foreign entity may be subject to a formal government-to-government agreement.

To streamline interagency review of potential exports of advanced remote sensing systems consistent with NSC/PDD-23, the Department of State will chair a standing interagency working group (IWG) with relevant interagency expertise in remote sensing. The Remote Sensing IWG should include the participation of the Department of Defense, Department of Commerce, the Intelligence Community and other agencies as appropriate. Decisions on actual exports of advanced remote sensing systems on the U.S. Munitions List will continue to be made in accord with existing laws and regulations, including in particular the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR).

The Remote Sensing IWG, to guide its work, will within 60 days conduct an assessment of remote sensing capabilities currently commercially available or planned for availability in the world

marketplace. The IWG will make the results of this assessment available to U.S. industry in an appropriate manner.

The Remote Sensing IWG will make a recommendation within 30 days of the U.S. Government's receipt of a formal license request as to whether a proposed export requires a government-to-government agreement or assurances as a condition of the proposed export. The recommendation should take into account means of best satisfying conditions and limitations included in PDD-23, and, as a prerequisite for considering an export, ensure that the performance characteristics of the proposed system may be deemed to be already available commercially or planned for availability on the international market. The Remote Sensing IWG's assessment should also include the proposed foreign recipients' willingness and ability to accept commitments to the U.S. Government concerning desired sharing, protection or denial of products and data, and potential performance constraints that may be required.

If a government-to-government agreement or assurances are required, the Remote Sensing IWG, shall provide recommendations on the form and content of the agreement and on the nature and scope of allowable discussions with the proposed foreign recipient during the negotiation of any required agreement. As the authority for licensing activities for all U.S. munitions list items, including advanced remote sensing systems, the Department of State will provide, upon request by a U.S. company, an advisory opinion which is coordinated through the Remote Sensing IWG on whether the performance characteristics of a proposed system make it potentially exportable consistent with U.S. foreign policy and national security concerns.

Authority to negotiate and conclude any such agreements will be subject to normal interagency review processes. As a general rule, the State Department should seek to ensure that any such agreements are finalized within six months of determining that an agreement is required. If members of the IWG disagree with decisions made in accordance with the above procedures on whether agreements should be required, the issue may be referred to the NSC and OSTP.



Samuel R. Berger
Assistant to the President
for National Security Affairs



John H. Gibbons
Assistant to the President
for Science and Technology

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

20199

March 9, 1998

ACTION

MEMORANDUM FOR SAMUEL BERGER
JOHN GIBBONS

THROUGH: ROBERT BELL *RGB*
DUNCAN MOORE *DTM*

FROM: JIM SEATON *JBS*
JEFFERSON HOFGARD *JH*

SUBJECT: Implementation Guidance for NSC/PDD-23

At Tab I is joint NSC/OSTP implementation guidance for NSC/PDD-23 (*U.S. Policy on Foreign Access to Remote Sensing Space Capabilities*). The 1994 PDD struck the proper balance between national security, foreign policy and commercial remote sensing interests. It is our sense, however, that over the last four years those commercial interests were not upheld in the normal licensing process for advanced, high resolution remote sensing systems. As a result, commercial licensing applications have been submitted, languished for months in the interagency and been returned to commercial providers without action. There is growing congressional and media criticism of the process (or lack of process) and a Senate Commerce, Science & Transportation subcommittee took up the issue on March 5th.

The attached memorandum streamlines the USG process for addressing licensing issues associated with advanced remote sensing systems and provides predictability to commercial remote sensing providers by:

- creating a State Department-led Remote Sensing IWG to serve as the USG focal point;
- establishing timelines whereby companies will know if their applications require government-to-government agreements;
- initiating a USG assessment of remote sensing capabilities currently commercially available or planned for availability in the world marketplace;
- directing the State Department to seek to complete government-to-government agreements within six months of deciding one is required.

State, Defense, Commerce and the Intelligence Community cleared on the language contained in the draft memorandum. Commerce attempted to hold up the memo in the interest of including language directing that State accelerate moving certain remote sensing systems off the munitions list to Commerce export licensing jurisdiction pursuant to a 1994 Commerce-State agreement to do so. Commerce Undersecretary Bill Reinsch subsequently cleared the memo on the condition that the NSC and OSTP initiate a 90-day interagency review to develop recommendations regarding the transfer of export control responsibility for some remote sensing systems from the State Department to the Commerce Department. We will begin developing Terms of Reference for this review once we receive agency inputs on the background associated with this issue.

Concurrence by:

In draft
Maureen Tucker, Newell Highsmith, Jay
Farrar, Mary McCarthy, Gerald Hane

RECOMMENDATION

That you sign the joint memorandum at tab I.

Attachment.

Tab I Memorandum to Cabinet Secretaries

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