

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)

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)

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)

William Clinton

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