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The Director of Central Intelligence

Washington, D.C. 20505

Intelligence Community Staff

1 April 1982

MEMORANDUM FOR: Dr. Victor H. Reis
Assistant Director, Office of Science and
Technology Policy

SUBJECT: "Open Skies" Task Force Report

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Vie.

1. I am forwarding herewith the report of the "Open Skies" Task Force. Organizations represented in the Task Force review included: NASA, Commerce, State, OMB, Defense, ACDA, OSTP and the Intelligence Community Staff. Our conclusions and recommendations outlined in paragraph 3, while not necessarily unanimous in every case, reflect the general consensus of the Task Force.

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2. The Task Force examined the following topics:

a. "Open Skies" -- whether this concept is a viable national space policy option.

b. Imagery Declassification -- whether, as a corollary of "Open Skies," an active program for declassification of satellite photoreconnaissance imagery should be adopted.

c. Constraints on Civil Earth Satellite Remote Sensing Systems -- whether the limitations specified under current policy should be continued or relaxed.

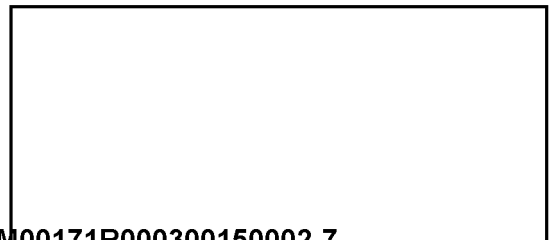
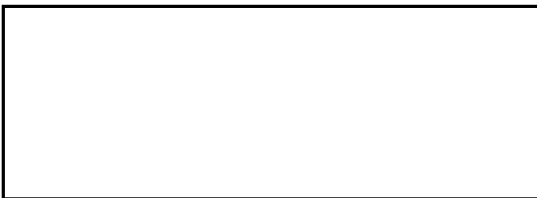
d. Nondiscriminatory Data Dissemination -- whether the current affirmative policy on civil system data dissemination should be continued or modified.

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3. The results of the Task Force's deliberations are provided in Annexes A through D to this report. The Task Force's conclusions and recommendations on the questions and issues reviewed may be summarized as follows:

a. A new interagency study on the "Open Skies" proposal is not appropriate or realistic for inclusion in the ongoing National Space Policy Review being conducted under OSTP aegis.

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b. Current basic policy on continued security protection for satellite imagery materials and on enhancing the availability of those materials for U.S. intelligence, military, and civil federal agency uses should be affirmed and reiterated. In addition, however, a study should be conducted by the DCI to determine the feasibility of establishing a mechanism and applicable criteria for U.S. nonfederal users to seek access to selected imagery materials in those specific instances that are judged to be in the national interest.

c. Current national policy regarding controls on civil remote sensing satellites should be continued.

d. The policy stated in PD/NSC-37 that "federal civil earth imaging from space, at resolutions at or better than ten meters, will be permitted under controls and when such needs are justified and assessed in relation to civil benefits, national security, and foreign policy" should be affirmed. The added stipulation should now be provided calling for periodic review of these resolution constraints to determine when there is need for threshold change.

e. The Department of Commerce should be charged, in coordination with the DCI and other departments and agencies with interest in remote sensing, to study the scope of legislation that may be required to assure the means for federal control over private sector satellites. In conjunction with this study the DCI should examine whether controls in addition to those on ground resolution are now required for other aspects of space data, such as substantive content, timeliness, spectral resolution, etc.

f. Present policy of nondiscriminatory access should be affirmed in principle and extended to the private sector. It is believed that the costs, particularly in the international arena, of change or reversal of the policy would substantially outweigh possible benefits.

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Chairman
"Open Skies" Task Force

Attachments:
As stated

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QUESTION REVIEWED

25X1 Should the U.S. Adopt an "Open Skies" Space Policy to Include Intelligence Photoreconnaissance Imagery?

Background

1. The original "Open Skies" plan was advanced by President Eisenhower as a potential bilateral arrangement at the 1955 Geneva Conference of Heads of Government and applied at that time solely to aircraft photographic reconnaissance. Since 1960 the "Open Skies" concept essentially applies to space satellites as these became the primary vehicles or "national technical means" for overhead imagery reconnaissance.

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2. The present "Open Skies" issue is based on Dr. Teller's concept, originally outlined in 1976, broadly proposing that all photographs taken by U.S. satellites--and particularly surveillance quality imagery from intelligence reconnaissance space systems--be declared to be in the public domain and that procedures be established to inform the public of what photos are available and provide them on request. The proposal was for U.S. unilateral action that in effect would place U.S. satellite imagery collection systems at the disposal of the international community and would stress the open publication of imagery products for beneficial purposes such as conflict avoidance and resolution, discovery and checkmate of aggression, disarmament and peace treaty monitoring and verification, national resource surveys, as well as warning and assistance in case of natural disasters.

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Discussion

3. This proposal has from the outset posed serious problem for U.S. national security and foreign policy interests generally and for the national overhead reconnaissance intelligence collection program in particular. Major objections to the proposal continue to be:

a. Such a disclosure policy could conceivably lead not only to loss of photoreconnaissance from space, but to more severe vulnerability,

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b. Open "publicity" concerning our photoreconnaissance activities might make the photo satellites appear as more of a threat to the Soviets (and possibly the underdeveloped nations as well) resulting in increased pressure to extend the concept of national sovereignty to include "outer space" and to restrict the "right" of one nation to remotely sense the territory of another nation without consent.

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d. Satellite photography is both ambiguous and controversial, and interpretation of such photography could emerge as a source of controversy so large as to overshadow any real benefits from the "Open Skies" proposal. It is not clear that public disclosure would substantially change the overall public confidence in our intelligence process. []

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4. The "Open Skies" concept for space photography and its ramifications for the national intelligence reconnaissance effort have been repeatedly considered in studies and assessments carried out in the course of the several interagency space policy reviews over the past five years. Consistently, the concept has been found to be not feasible or practical as national policy. Such reviews have included the extensive assessment submitted by the PRM-23 Study Group in August 1977, followed by the further studies incident to issuance of PD/NSC-37 in May 1978 and PD/NSC-42 in October 1978. PD-42 specifically called for an in-depth assessment, completed in March 1979, on the question of declassification of photo-reconnaissance imagery--the essential prerequisite underlying the "Open Skies" proposal. That study affirmed the extensive national security risks inherent in any broad declassification of intelligence satellite imagery but did show merit in some selective declassification approaches. []

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Conclusion

5. The Task Force* concludes, on balance, that the "Open Skies" proposal is not appropriate or realistic for inclusion in the ongoing National Space Policy Review being conducted under OSTP aegis. []

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*Exclusive of the OSTP member



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QUESTION REVIEWED

Should the Imagery Products Derived from Intelligence Photoreconnaissance Satellites be Declassified?

Background

1. Present policy is based on Presidential Directive/NSC-37, "National Space Policy", dated 11 May 1978. That directive provides as follows:

- a. Protection of Sensitive Information. The nature, the attributable collected information, and the operational details of intelligence space activities will be classified, and as necessary to protect sensitive aspects, will be controlled in special compartmented security channels. Collected information that cannot be attributed to space systems will be classified according to its content.
- b. Security restrictions on intelligence space satellite products will be selectively relaxed by the DCI to implement the following changes to permit wider use of space-derived intelligence information.
- o The fact that the United States conducts satellite reconnaissance for intelligence purposes, without disclosing the generic type of activity, will be classified CONFIDENTIAL* and handled outside the special security control system.
 - o The existing special product controls will be used sparingly, and then only for those products and data that reveal sensitive aspects of the program as determined by the DCI.
 - o Operational aspects of intelligence space activities shall be afforded strict security protection within a special access program system as determined by the DCI.
 - o Strict control over public statements and background concerning space reconnaissance will be maintained.
 - o Further changes to the space intelligence security policy can be authorized only by the President.



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*Subsequently, the fact that the U.S. conducts satellite reconnaissance specifically for intelligence purposes relating to arms control matters was declassified by President Carter on 1 October 1978.

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c. Selected space-related products and technology shall be made available to civil agencies within appropriate security constraints.

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Discussion

2. PD/NSC-37 basically reaffirms the policies vigorously implemented by the DCI since 1973 (a) to facilitate and broaden the availability and use of satellite imagery materials outside special security control channels and (b) to support expanded use by the federal civil agencies of satellite imagery products. Pursuant to these policies, extensive guidelines and procedures for decompartmentation and sanitization of satellite imagery materials have been developed and disseminated worldwide to the Federal Government imagery user community. In order to maximize the use of imagery-derived products outside of special control channels, the established current policy is for the initial preparation and dissemination at standard levels of classification of the bulk of products derived from reconnaissance satellite imagery. Presently, virtually all of the derived information on areas throughout the world and the great majority of the imagery products are initially issued at standard classifications outside of special compartmented controls. Also, virtually all nonsensitive derived information and some imagery on U.S. areas are authorized for standing use at the unclassified level on a nonattributable basis.

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3. Under aegis of the DCI, mechanisms--including COMIREX and the Committee for Civil Applications of Classified Overhead Imagery of the United States--exist to consider expanded uses of classified imagery to meet specific needs of the federal imagery user community. These arrangements, however, do not provide for direct access to classified imagery by nonfederal users such as state and local governments, industry, or the academic community. Limited public access is provided by dissemination of imagery-derived information to users through such mechanisms as the use of maps compiled from unattributed imagery sources and the authorization permitting federal mapping agencies to publish UNCLASSIFIED photomaps derived from classified imagery of the U.S. in accordance with specific guidelines.

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4. Under present policy any special requests for private sector use of materials derived from classified imagery satellite systems would have to be processed through the appropriate federal component of the national imagery user community. The effectiveness of these channels is restricted at this time, however, since open acknowledgement of the fact of U.S. satellite photoreconnaissance is authorized only for the specific purpose of arms control verification.

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5. On the basic question of broader declassification and public release of satellite imagery, an exhaustive interagency study was carried out in early 1979 pursuant to a charge under PD/NSC-42 for an options paper

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on the question of a selective and phased public release of photore-connaissance imagery or information. That study affirmed the judgments and policies contained in PD/NSC-37 on the continued need for classification of satellite imagery materials while selectively relaxing security restrictions to facilitate wider uses of such materials. There is no apparent need to repeat that effort in conjunction with the OSTP Space Policy Review.

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Conclusion

6. The current basic policy on continued security protection for satellite imagery materials and on enhancing the availability of those materials for U.S. intelligence, military, and civil federal agency uses should be affirmed and reiterated. In addition, however, a study should be conducted by the DCI to determine the feasibility of establishing a mechanism and applicable criteria for U.S. nonfederal users to seek access to selected imagery materials in those specific instances that are judged to be in the national interest.

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ISSUE ASSESSED

Should U.S. Private and Federal Civil Remote Sensing (Imaging) Satellite Capabilities be Restricted in the Interest of National Security. If so, how?

Background

1. Current national policies impose restrictions on federal civil remote sensing satellite capabilities and activities in three areas: transfer of classified technology, quality of remotely sensed data (better than 10-meter spatial resolution requiring review and approval) and radio frequency mapping. National policy now requires U.S. Government authorization and supervision or regulation of all U.S. earth-oriented remote sensing satellites. International treaty obligations also require U.S. Government supervision of private sector space activity. The national policy restrictions were imposed to:

- a. Protect satellite intelligence collection and exploitation from foreign knowledge or interference.
- b. Preclude potential revelation of sensitive information regarding U.S. defense facilities and activities (national and tactical).
- c. Preclude distribution of data which could reveal details on imaged nations of military intelligence value to third countries, or use of data for purposes not in the U.S. interest.
- d. Avoid adverse international reactions which would result from open nondiscriminatory availability of remote sensing data of a depth and detail which the sensed nation would judge to be intrusive and threatening.
- e. Preclude revelation of sensitive intelligence capabilities, technologies and techniques, and risks incurred thereby.

2. Restrictions are now an issue both because new private remote sensing satellite programs are within technical reach by the private sector and since it remains unclear to what degree the government currently has the legal means to control private sector remote sensing programs.

- a. Outer space treaties and current national policy require U.S. Government authorization and supervision or regulation of all U.S. earth satellite remote sensing. To what degree national policy control can be extended to the private sector without additional legislation is an unresolved question. It

should be noted, however, that current munitions export control laws could be utilized as a control mechanism. These laws require licensing for export of spacecraft, spacecraft electronics, and electronic equipment, cameras and photogrammetry equipment. Export controls would include taking such equipment and technology out of the U.S. in any manner.

b. New remote sensing techniques and technologies available to the private sector, if applied, would create considerably higher quality and new types of information. Resolutions better than 10 meters could impinge on national security and foreign policy interests.

c. On the other hand, foreign technological capabilities are now threatening to surpass present and planned U.S. civil capabilities and in the process may mitigate the above national security concerns.



Alternatives

3. Alternative A: Continue existing national policy of imposing technological constraints on civil remote sensing satellites while placing no constraints on the geographic areas that may be imaged.

a. PRO:

(1) Precludes open distribution of sensitive data on U.S. facilities, activities and interests.

(2) Avoids international confrontations and adverse reactions over distribution of data considered sensitive and intrusive by sensed foreign nations. Foreign reactions* to the nondiscriminatory distribution of imagery approximating the current 10-meter ground resolution limit has not yet been tested but should be before the limitation is removed or reduced.

(3) Avoids foreign challenge to intelligence satellites and U.S. position of free passage in and unconstrained remote sensing from space.

(4) Government regulation could assure Federal Government access to privately sensed data, which could be denied without regulation.

(5) Facilitate continuation of the policy of non-discriminatory access to remote sensing products.



*A more detailed discussion of the impact of a significant reduction or removal of resolution constraints on Soviet attitudes and arms control is given in the attachment to this annex.

b. CON:

(1) May require new legislation to impose constraints on the private sector. Discussion or debate on legislation would incur substantial risks of exposing sensitive information.

(2) Acts as a disincentive for private sector participation. Therefore, tends to erode competitive position of U.S. private sector vis-a-vis the foreign sector.

(3) New remote sensing technologies require new methods of measurement to determine sensitivity thresholds which will be more difficult to apply and enforce.

(4) Does not take into consideration the trend and availability of technology, both domestic and foreign, that permits higher resolution imagery capabilities from space.



4. Alternative B: Relax present technological controls on civil remote sensor capabilities and apply future controls only by constraints on the geographic areas that may be imaged.

a. PRO:

(1) Encourages private domestic participation in remote earth sensing in that it removes some existing barriers to commercial opportunities and is consistent with efforts to transfer the federal remote sensing program to the private sector.

(2) Avoids trying to define an arbitrary technological restraint that may be difficult to maintain in the face of modern technology development.

(3) Gives the U.S. private sector more of a free hand in competing with increasingly aggressive foreign remote sensing activities.

(4) Makes benefits from earth resource sensing in the areas of renewable and nonrenewable resources available to the private sector and the public, subject to such geographic collection restraints as may be defined.

(5) Emphasizes the peaceful nature and purpose of the remote sensing systems.

(6) May avoid international confrontation on "consent regime" issue by appropriate definition of restricted areas--since by not tasking an area the imagery is nonexistent and therefore not subject to free and open dissemination arguments.



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(7) Provides a means to limit the collection of sensitive data to our national security sensor systems while allowing civil systems to collect freely in nonsensitive areas.

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b. CON:

(1) Encourages private activities to pursue a goal of achieving high resolution imagery.

(2) Nondiscriminatory distribution of data determined to be excessively intrusive could jeopardize the status of intelligence satellites and evoke threats of hostile actions against satellite vehicles.

(3) Will require public reversal of carefully constructed U.S. public policy opposing prior consent to acquisition and dissemination of remote sensing data.

(4) Enables the private sector to impose proprietary constraints on data distribution and use, contrary to current policy of nondiscriminatory distribution of remote sensing data.

(5) Invites challenges to the private sector regarding legality of data acquisitions, distributions and use.

(6) Definition of restricted areas, especially domestic, would be subject to continual debate and perhaps FOIA challenges.

(7) Would make available high resolution and timely imagery data of significant intelligence value to adversaries of all sensed nations. Sensitive U.S. facilities and activities could be publicly exposed without government recourse.

(8) May conflict with U.S. treaty obligations for continuing supervision of the activities of nongovernment organizations in space.

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Discussion/Conclusion

5. The Task Force consensus is that there is a national security requirement for continuing controls on civil remote sensing imagery satellites.

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ISSUE ASSESSED

Should the U.S. Continue Its Policy of Nondiscriminatory Access to Data from Civil Earth Satellite Remote Sensing Systems?

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Background

1. The U.S. policy favoring nondiscriminatory access to data acquired by civil remote sensing satellites is one facet of an overall policy, consistently pursued since the late 1960s, of U.S. opposition to so called "consent regimes" for the conduct of remote sensing. As it has evolved over the years, this policy has four principal facets:

a. U.S. insistence on the right to use space for remote sensing without the need for prior notification to, or approval by, the sensed State.

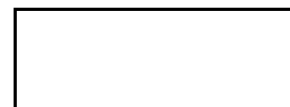
b. U.S. insistence on its right to disseminate or disclose, at its discretion, remotely sensed data without restriction, geographic or technical, (i.e., the right, ultimately to publicly disclose even reconnaissance satellite data if our national interest dictates).

c. With respect to civil remote sensing systems, the U.S. has consistently supported a policy of both unrestricted data acquisition and nondiscriminatory access to the data, subject only to such considerations as fair price, copyright, or preferential access to data for researchers working with data obtained by certain "experimental" remote sensing activities.

d. With respect to civil systems, the U.S. has consistently opposed international proposals to impose resolution or any other technical thresholds on data openly disseminated. However, to facilitate achieving international acceptance of this position, and to protect the classified intelligence systems against international opposition, the U.S. has had a classified unilateral policy of imposing general resolution limits, initially at 20 meters, and more recently (since 1978) at 10 meters. The question of compatibility between the current U.S. policies favoring both nondiscriminatory data dissemination and limited capabilities for civil systems is addressed separately in the attachment to this annex.

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2. In actively implementing its policy on nondiscriminatory data access, the U.S. has over the past decade successfully enlisted direct foreign participation in the U.S. LANDSAT program through the establishment of LANDSAT ground stations in ten foreign countries, the provision of



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direct LANDSAT data readout to foreign ground stations, and the sale of ground station and associated LANDSAT equipment to participating countries. In addition the U.S. has regularly made the data acquired by its civil remote sensing systems available for nondiscriminatory purchase on a worldwide basis, from a central unclassified archive of LANDSAT data. In the area of weather remote sensing international cooperation is very extensive, involving the incorporation of French and English instruments on NOAA satellites and direct reception of U.S. satellite weather data by more than 100 countries.

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3. U.S. support for nondiscriminatory data access has been predicated on the belief that the policy is fully consistent with Article I of the 1967 Outer Space Treaty which specified that the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and that outer space shall be free for exploration and use by all states without discrimination. Other factors which underlay U.S. policy favoring nondiscriminatory data access have been a desire to increase foreign acceptance of remote sensing, and to allay foreign suspicion and fears about the nature of the data acquired and the uses to which such data might be put.

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4. On the whole, the policy has been reasonably successful in achieving these objectives. Over the years since 1969 foreign attitudes, as reflected particularly in the views of some important, but initially suspicious third world countries, have moved closer to the U.S. view although external factors such as the increase in the number of countries who have launched or plan to launch civil remote sensing systems; e.g., India, France, Japan, Canada, etc., no less than U.S. persuasiveness have contributed to this result. Few nations today any longer maintain that remote sensing per se must be subject to specific prior approval of the sensed state. While a number of nations would still favor a regime requiring approval by a sensed state to the dissemination of data to other countries or private parties, some key third world countries have moved closer to the traditional U.S. position of accepting nondiscriminatory access as the most feasible and efficacious way of protecting themselves from unfair economic exploitation.

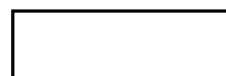
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5. As participation of the private sector in civil remote sensing programs has been more actively explored pursuant to PD/NSC-54, questions have arisen on the necessity to provide for preferential or proprietary interests in remotely sensed data as an investment incentive. To adopt an affirmative policy on this, however, would entail major modification or complete reversal of the long standing national policy of nondiscriminatory access.

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Alternatives

6. The Task Force has reviewed two basic alternatives under this issue.



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a. Reaffirm the present U.S. "policy" position supporting nondiscriminatory access to civil federal remote sensing data and expand that policy to cover private sector activity.

b. In order to stimulate private industry participation in civil remote sensing programs, modify or abandon U.S. policy favoring nondiscriminatory data dissemination.



Assessment

7. If the U.S. modifies or abandons its dissemination policy in order to accommodate private industry desire for preferential or propriety interest in remotely sensed data, we should expect to incur international political costs in the form of:

a. A revival of strong suspicions among third world countries as to U.S. intentions in space.

b. A revival of the now largely dormant interest in imposing regimes of consent not only on data dissemination but on the conduct of remote sensing per se.

c. Some erosion of support for U.S. space policy among nations that have been traditionally supportive.

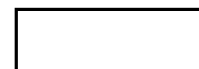
d. Concern and resentment on the part of nations which, at our urging, have purchased LANDSAT ground stations, invested in the training of indigenous personnel and who will see in our change of policy an abandonment of U.S. interest and concern.

e. Reinforcement of the belief that remote sensing data, in the hands of advanced nations, confers unfair economic advantages and thus reinforcement of the tendency among third world nations to regard information about natural resources as "national" and "privileged".

While the above list is not exhaustive and reflects merely considerations by this Task Force, it does point up that there indeed are significant potential international political costs to be incurred if the U.S. moves toward policies favoring preferential or proprietary access to remote sensing data.



8. Some representatives of private enterprise, however, have indicated that without some assurance of government and financial assistance or support, and arrangements for preferential or proprietary access to data for investors, the private sector is unlikely to find remote sensing an attractive investment prospect. On the other hand,



[REDACTED]

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25X1 still other private sector representatives have said that nondiscriminatory access to the raw data from remote sensing systems would not be a problem provided the investors' proprietary access to the analyzed data is assured. [REDACTED]

Conclusion

25X1 9. The Task Force recommends that present policy of nondiscriminatory access be affirmed in principle and extended to the private sector. We believe that the costs, particularly in the international arena, of change or reversal of the policy substantially outweigh possible benefits. [REDACTED]

[REDACTED]

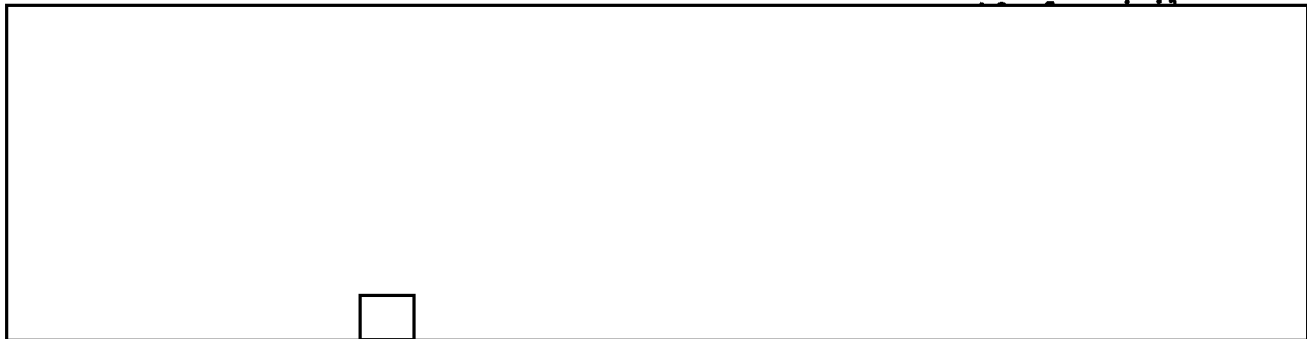
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Are Current U.S. Policies Favoring Both
Nondiscriminatory Data Dissemination and Those Limiting
Capabilities of Civil Systems Compatible Over the Long Run? (S)

1. This question confronted the Task Force at several points during the course of its discussions and is of sufficient importance to be separately highlighted.

2. We believe the answer to this question is basically yes with the possible exception of that facet of our dissemination policy which eschews acceptance of any resolution or technical thresholds on data subject to open dissemination.



4. The Task Force has not had the opportunity in the time available for the present space policy review to explore this potentially troublesome problem adequately, but we believe that it must be considered carefully at some future point.

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