

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).

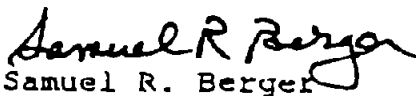
The Remote Sensing IWG, to guide its work, will within 60 days conduct an assessment of remote sensing capabilities currently commercially available or planned for availability in the world

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

## BACKGROUND POINTS ON REMOTE SENSING GUIDANCE MEMO

**Background:** On March 18, 1998, Dr. Gibbons and Mr. Berger signed a memo to the Secretaries of State, Defense, and Commerce and the Director of Central Intelligence, providing implementation guidance on NSC/PD-23. This guidance applies to the process by which the agencies of the Federal Government will determine whether requests to export commercial remote sensing systems will require government-to-government agreements, as described in the President's policy.

- On March 18, the President's National Security Advisor, Sandy Berger, and his Science Advisor, Jack Gibbons, signed a memo to Cabinet secretaries to provide implementation guidance on the President's 1994 policy on the export of remote sensing space systems.
- The President's policy says the U.S. government 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 entity may be subject to a formal government-to-government agreement.
- This guidance memo creates a State Department-chaired interagency working group and designates it as the focal point within the U.S. government for industry's questions on export of remote sensing systems.
- The guidance requires this working group to initiate a U.S. government assessment of remote sensing capabilities currently commercially available or planned for availability on the world market.
- It also establishes timelines for the working group so U.S. companies will be able to find out whether their proposed system exports will require government-to-government agreements.
- In cases where government-to-government agreements are required, it establishes a goal for the State Department to complete development and negotiation of such agreements within 6 months.

### Implementation Guidance on Remote Sensing Policy

In March 1994, the President issued a policy directive on remote sensing 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. On March 18, 1998, the White House issued additional guidance on select aspects of policy implementation, particularly as it relates to proposals for potential export of advanced remote sensing systems.

The 1994 policy 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 established policy, 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).

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