Case Number: 2016-0152-F

FOIA MARKER

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Folder Title:				
Chron File - June 1994 #1 [2]				
Staff Office-Individual:				
Defense Policy-Bell, Robert				
Original OA/ID Number:				
265				
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31	3	4	3	V

Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Legislative Referral Memorandum LRM #M-1500. [CIA Act] [partial] (1 page)	05/27/1994	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
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FOLDER TITLE:

Chron File - June 1994 #1 [2]

2016-0152-F
vz4578

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]

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9404319
RECEIVED: 01 JUN 94 14

TO: JUKES, J

FROM: ITOH

DOC DATE: 03 JUN 94
SOURCE REF:

KEYWORDS: SPACE PROGRAMS   LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: NASA PROPOSED DRAFT BILL ON AMENDMENTS TO LAND REMOTE SENSING POLICY ACT OF 1992

ACTION: KENNEY SGD MEMO   DUE DATE: 03 JUN 94   STATUS: C

STAFF OFFICER: JONES   LOGREF:

FILES: WH   NSCP: CODES:

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

FOR ACTION	FOR CONCURRENCE	FOR INFO
		BELL
		EXECSEC
		JONES
		ROSNER

COMMENTS: ______________________

DISPATCHED BY ____ DATE 6/4 BY HAND W/ATTCH

OPENED BY: NSMBN   CLOSED BY: NSKDB   DOC 3 OF 3

UNCLASSIFIED

NATIONAL SECURITY COUNCIL
WASHINGTON D C 20506

June 3, 1994

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: NASA Proposed Draft Bill on Amendments to the Land Remote Sensing Policy Act of 1992 (LRM #M-1500)

The NSC staff has no objections to the draft amendment on land remote sensing, as modified by NASA.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 3, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL

FROM: STEVEN R. JONES

SUBJECT: NASA Proposed Draft Bill on Amendments to the Land Remote Sensing Policy Act of 1992 (LRM #M-1500)

OMB requests NSC views on the attached draft amendments intended to implement PDD/NSTC-3 on land remote sensing. The draft amendment, as modified by NASA, appears consistent with the NSTC PDD which, among other actions, transitions Landsat 7 responsibility from DoD to NASA.

Concurrences by: Jeremy Rosner

RECOMMENDATION

That you sign the Memorandum at Tab I.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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25 pgs

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

May 27, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #M-1500

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
INTERIOR - Danny Consenstein - (202)208-6706 - 329
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
COMMERCE - Michael A. Levitt - (202)482-3151 - 324
CIA - (b)(3) [001]
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
OSTP - Roselis D'Allessandro - (202)456-6014 - 288

FROM: JAMES J. JUKES (for) JJ
Assistant Director for Legislative Reference

OMB CONTACT: Jeffrey WEINBERG (395-3657)
Secretary's line (for simple responses): 395-3454

SUBJECT: NASA Proposed Draft Bill on Amendments to the Land Remote Sensing Policy Act of 1992

DEADLINE: Noon June 3, 1994

COMMENTS: NASA advises that the draft amendments are intended to carry out the Presidential Decision Directive of May 5th. See the enclosed fact sheet.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Kathy Peroff	Bruce Beard
Jack Fellows	Scott Cameron
Sarah Horrigan	Ed Rea
Ken Schwartz	ArtStigile
Harry Meyers	Tony Wu
Jeff Payne	

LRM #M-1500

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Jeffrey WEINBERG (395-3457)
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)
______________________ (Name)
______________________ (Agency)
______________________ (Telephone)

SUBJECT: NASA Proposed Draft Bill on Amendments to the Land Remote Sensing Policy Act of 1992

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Office of Legislative Affairs

National Aeronautics and Space Administration

Date: 5/24/94
To: Jeff Weinberg , Sarah Horrigan
Fax #:

From: Ms. Barbara Cherry
Legislative Affairs Office

Voice: (202) 358-1055
Fax: (202) 358-4340

MESSAGE

Attached are suggested changes to P. L. 102-555, the Land Remote Sensing Policy Act of 1992. The attached comments are the results from a joint meeting between NASA and NOAA with some additional comments from USGS.

These changes represent a consensus among these agencies, however, I must point out that NOAA does have some changes which they intend to propose with respect to the definition under section 3 (2) "cost of fulfilling user requests". NASA 's position would be toleave the language as it was passed in P.L. 102-555.

I anticipate that these differences will be worked out in the interagency process.

Both the House and Senate authorizers are anxious to receive Administration approved changes to the Landsat Act which they intend to mark up within the next few weeks. I would like to be able to forward copies of the suggested changes to the act immediately following the Memorial Day Holiday.

Barbara Cherry

Number of Pages (including cover):

Public Law 102-555
102d Congress

An Act

To enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, to establish a new national land remote sensing policy, and for other purposes. — Oct. 28, 1992 [H.R. 6133]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Land Remote Sensing Policy Act of 1992. National defense. 15 USC 5601 note.

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Land Remote Sensing Policy Act of 1992".

SEC. 2. FINDINGS.

15 USC 5601.

The Congress finds and declares the following:

(1) The continuous collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, in carrying out national security functions, and in planning and conducting many other activities of scientific, economic, and social importance.

(2) The Federal Government's Landsat system established the United States as the world leader in land remote sensing technology.

(3) The national interest of the United States lies in maintaining international leadership in satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data.

(4) The cost of Landsat data has impeded the use of such data for scientific purposes, such as for global environmental change research, as well as for other public sector applications.

(5) Given the importance of the Landsat program to the United States, urgent actions, including expedited procurement procedures, are required to ensure data continuity.

(6) Full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing; however, commercialization of land remote sensing should remain a long-term goal of United States policy.

(7) Despite the success and importance of the Landsat system, funding and organizational uncertainties over the past several years have placed its future in doubt and have jeopardized United States leadership in land remote sensing.

(8) Recognizing the importance of the Landsat program in helping to meet national and commercial objectives, the President approved ~~a National Space Policy Directive, which was developed by the National Space Council~~ and commits the United States to ensuring the continuity of Landsat coverage into the 21st century.

on May 5, 1994, a Presidential Decision Directive/NSTC-3 and other U.S. Government purposes,

Department of the Interior under the policy guidance of the National Science and Technology Council..

(9) Because Landsat data are particularly important for national security ~~purposes and~~ global environmental change research, management responsibilities for the program should be transferred from the Department of Commerce to an integrated program management involving the ~~Department of Defense and~~ the National Aeronautics and Space Administration, the Department of Commerce and the

(10) Regardless of management responsibilities for the Landsat program, the Nation's broad civilian, national security, commercial, and foreign policy interests in remote sensing will best be served by ensuring that Landsat remains an unclassified program that operates according to the principles of open skies and nondiscriminatory access.

(11) Technological advances aimed at reducing the size and weight of satellite systems hold the potential for dramatic reductions in the cost, and substantial improvements in the capabilities, of future land remote sensing systems, but such technological advances have not been demonstrated for land remote sensing and therefore cannot be relied upon as the sole means of achieving data continuity for the Landsat program.

(12) A technology demonstration program involving advanced remote sensing technologies could serve a vital role in determining the design of a follow-on spacecraft to Landsat 7, while also helping to determine whether such a spacecraft should be funded by the United States Government, by the private sector, or by an international consortium.

(13) To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 ~~through 6~~ and data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be made available to all users at the cost of fulfilling user requests.

(14) To stimulate development of the commercial market for unenhanced data and value-added services, the United States Government should adopt a data policy for Landsat 7 which allows competition within the private sector for distribution of unenhanced data and value-added services.

(15) Development of the remote sensing market and the provision of commercial value-added services based on remote sensing data should remain exclusively the function of the private sector.

(16) It is in the best interest of the United States to maintain a permanent, comprehensive Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

15 USC 5602

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "cost of fulfilling user requests" means the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortiza-

tion, or depreciation of capital assets originally paid for by the United States Government or other costs not specifically attributable to fulfilling user requests.

(3) The term "data continuity" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user—

(A) sufficiently consistent (in terms of acquisition geometry, coverage characteristics, and spectral characteristics) with previous Landsat data to allow comparisons for global and regional change detection and characterization; and

(B) compatible with such data and with methods used to receive and process such data.

(4) The term "data preprocessing" may include—

(A) rectification of system and sensor distortions in land remote sensing data as it is received directly from the satellite in preparation for delivery to a user;

(B) registration of such data with respect to features of the Earth; and

(C) calibration of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data.

(5) The term "land remote sensing" means the collection of data which can be processed into imagery of surface features of the Earth from an unclassified satellite or satellites, other than an operational United States Government weather satellite.

(6) The term "Landsat Program Management" means the integrated program management structure—

(A) established by, and responsible to, the Administrator, ~~and the Secretary of Defense~~ pursuant to section 101(a); and

(B) consisting of appropriate officers and employees of the National Aeronautics and Space Administration, the Department ~~of Defense~~, and any other United States Government agencies the President designates as responsible for the Landsat program.

*and the Secretary of the Interior and the heads of any other United States Government Agency designated by the President.

**of Commerce and the Department of the Interior

(7) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, and 6, and any follow-on land remote sensing system operated and owned by the United States Government, along with any related ground equipment, systems, and facilities owned by the United States Government.

(8) The term "Landsat 6 contractor" means the private sector entity which was awarded the contract for spacecraft construction, operations, and data marketing rights for the Landsat 6 spacecraft.

(9) The term "Landsat 7" means the follow-on satellite to Landsat 6.

(10) The term "National Satellite Land Remote Sensing Data Archive" means the archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in section 502.

(11) The term "noncommercial purposes" refers to those activities undertaken by individuals or entities on the condition, upon receipt of unenhanced data, that—

(A) such data shall not be used in connection with any bid for a commercial contract, development of a commercial product, or any other non-United States Government activity that is expected, or has the potential, to be profitmaking;

(B) the results of such activities are disclosed in a timely and complete fashion in the open technical literature or other method of public release, except when such disclosure by the United States Government or its contractors would adversely affect the national security or foreign policy of the United States or violate a provision of law or regulation; and

(C) such data shall not be distributed in competition with unenhanced data provided by the Landsat 6 contractor.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "unenhanced data" means land remote sensing signals or imagery products that are unprocessed or subject only to data preprocessing.

(14) The term "United States Government and its affiliated users" means—

(A) United States Government agencies;

(B) researchers involved with the United States Global Change Research Program and its international counterpart programs; and

(C) other researchers and international entities that have signed with the United States Government a cooperative agreement involving the use of Landsat data for noncommercial purposes.

SEC. 4. REPEAL OF LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984.

The Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) is repealed.

TITLE I—LANDSAT

15 USC 5611.

SEC. 101. LANDSAT PROGRAM MANAGEMENT.

(a) ESTABLISHMENT.—The Administrator and the Secretary of Defense shall be responsible for management of the Landsat program. Such responsibility shall be carried out by establishing an integrated program management structure for the Landsat system.

(b) MANAGEMENT PLAN.—The Administrator, the Secretary of Defense, and any other United States Government official the President designates as responsible for part of the Landsat program, shall establish, through a management plan, the roles, responsibilities, and funding expectations for the Landsat Program of the appropriate United States Government agencies. The management plan shall—

(1) specify that the fundamental goal of the Landsat Program Management is the continuity of unenhanced Landsat data through the acquisition and operation of a Landsat 7 satellite as quickly as practicable which is, at a minimum, functionally equivalent to the Landsat 6 satellite, with the addition of a tracking and data relay satellite communications capability;

(2) include a baseline funding profile that— is mutually agreeable to the agencies comprising the Landsat Program Management.

~~(1) is mutually acceptable to the National Aeronautics and Space Administration and the Department of Defense for the period covering the development and operation of Landsat 7;~~

~~(2) [illegible] funding responsibility of the National Aeronautics and Space Administration and the Department of Defense, respectively, to be approximately equal to the funding responsibility of the other as spread over the development and operational life of Landsat 7;~~

(3) specify that any improvements over the Landsat 6 functional equivalent capability for Landsat 7 will be funded by a specific sponsoring agency or agencies, in a manner agreed to by the Landsat Program Management, if the required funding exceeds the baseline funding profile required by paragraph (2), and that additional improvements will be sought only if the improvements will not jeopardize data continuity; and

(4) provide for a technology demonstration program whose objective shall be the demonstration of advanced land remote sensing technologies that may potentially yield a system which is less expensive to build and operate, and more responsive to data users, than is the current Landsat system.

5) The Director of the Office of Science and Technology Policy shall, no later than Oct. 1, 1994, transmit the management plan to the Committee on Science, Space and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

(c) RESPONSIBILITIES.—The Landsat Program Management shall be responsible for—

(1) Landsat 7 procurement, launch, and operations;

(2) ensuring that the operation of the Landsat system is responsive to the broad interests of the civilian, national security, commercial, and foreign users of the Landsat system;

(3) ensuring that all unenhanced Landsat data remain unclassified and that, except as provided in section ~~506~~ 507 (a) and (b), no restrictions are placed on the availability of unenhanced data;

(4) ensuring that land remote sensing data of high priority locations will be acquired by the Landsat 7 system as required to meet the needs of the United States Global Change Research Program, as established in the Global Change Research Act of 1990, and to meet the needs of national security users;

(5) Landsat data responsibilities pursuant to this Act;

(6) oversight of Landsat contracts entered into under sections 102 and 108;

(7) coordination of a technology demonstration program, pursuant to section 303; and

(8) ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

(e) ~~(d)~~ AUTHORITY TO CONTRACT.—The Landsat Program Management may, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, enter into contracts with the private sector for services such as, but not limited to, satellite operations and data preprocessing.

(f) ~~(e)~~ LANDSAT ADVISORY PROCESS.—

(1) ESTABLISHMENT.—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(d) Authority to Retain Fees - The Landsat Program Management Member responsible for operation of the Landsat 7 system is authorized to retain the fees collected from foreign ground stations and for Landsat 7 data sales to offset the costs of operating the Landsat 7 system.

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data;

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public; and

(C) a broad diversity of age groups, sexes, and races.

(2) REPORTS.—Within 1 year after the date of the enactment of this Act and biennially thereafter, the Landsat Program Management shall prepare and submit a report to the Congress which—

(A) reports the public comments received pursuant to paragraph (1); and

(B) includes—

(i) a response to the public comments received pursuant to paragraph (1);

(ii) information on the volume of use, by category, of data from the Landsat system; and

(iii) any recommendations for policy or programmatic changes to improve the utility and operation of the Landsat system.

15 USC 5612. **SEC. 102. PROCUREMENT OF LANDSAT 7.**

(a) CONTRACT NEGOTIATIONS.—The Landsat Program Management shall, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, expeditiously contract with a United States private sector entity for the development and delivery of Landsat 7.

(b) DEVELOPMENT AND DELIVERY CONSIDERATIONS.—In negotiating a contract under this section for the development and delivery of Landsat 7, the Landsat Program Management shall—

(1) seek, as a fundamental objective, to have Landsat 7 operational ~~by the expected end of the design life of Landsat 6;~~ on a schedule that supports continuity of Landsat data;

(2) seek to ensure data continuity by the development and delivery of a satellite which is, at a minimum, functionally equivalent to the Landsat 6 satellite; and

(3) seek to incorporate in Landsat 7 any performance improvements required to meet United States Government needs that would not jeopardize data continuity.

(c) NOTIFICATION OF COST AND SCHEDULE CHANGES.—The Landsat Program Management shall promptly notify the Congress of any significant deviations from the expected cost, delivery date, and launch date of Landsat 7, that are specified by the Landsat Program Management upon award of the contract under this section.

(d) UNITED STATES PRIVATE SECTOR ENTITIES.—The Landsat Program Management shall, for purposes of this Act, define the term "United States private sector entities", taking into account the location of operations, assets, personnel, and other such factors.

15 USC 5613. **SEC. 103. DATA POLICY FOR LANDSAT 4 THROUGH ~~6~~. and 5**

(a) CONTRACT NEGOTIATIONS.—Within 30 days after the date of enactment of this Act, the Landsat Program Management shall

enter into negotiations with the Landsat 6 contractor to formalize an arrangement with respect to pricing, distribution, acquisition, archiving, and availability of unenhanced data for which the Landsat 6 contractor has responsibility under its contract. Such arrangement shall provide for a phased transition to a data policy consistent with the Landsat 7 data policy (developed pursuant
104 to section 105) by the date of initial operation of Landsat 7. Conditions of the phased arrangement should require that the Landsat 6 contractor adopt provisions so that by the final phase of the transition period—

(1) such unenhanced data shall be provided, at a minimum, to the United States Government and its affiliated users at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes;

(2) instructional data sets, selected from the Landsat data archives, will be made available to educational institutions exclusively for noncommercial, educational purposes at the cost of fulfilling user requests;

(3) Landsat data users are able to acquire unenhanced data contained in the collective archives of foreign ground stations as easily and affordably as practicable;

(4) adequate data necessary to meet the needs of global environmental change researchers and national security users are acquired;

(5) the United States Government and its affiliated users shall not be prohibited from reproduction or dissemination of unenhanced data to other agencies of the United States Government and other affiliated users, on the condition that such unenhanced data are used solely for noncommercial purposes;

(6) nonprofit, public interest entities receive vouchers, data grants, or other such means of providing them with unenhanced data at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes;

(7) a viable role for the private sector in the promotion and development of the commercial market for value added and other services using unenhanced data from the Landsat system is preserved; and

(8) unenhanced data from the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive at no more than the cost of fulfilling user requests.

(b) FAILURE TO REACH AGREEMENT.—If negotiations under subsection (a) have not, by September 30, 1993, resulted in an agreement that the Landsat Program Management determines generally achieves the goals stated in subsection (a) (1) through (8), the Administrator and the Secretary of Defense shall, within 30 days after the date of such determination, jointly certify and report such determination to the Congress. The report shall include a review of options and projected costs for achieving such goals, and shall include recommendations for achieving such goals. The options reviewed shall include— Reports.

(1) retaining the existing or modified contract with the Landsat 6 contractor;

(2) the termination of existing contracts for the exclusive right to market unenhanced Landsat data; and

(3) the establishment of an alternative private sector mechanism for the marketing and commercial distribution of such data.

15 USC 5614. ~~SEC. 104. TRANSFER OF LANDSAT 6 PROGRAM RESPONSIBILITIES.~~

~~The responsibilities of the Secretary with respect to Landsat 6 shall be transferred to the Landsat Program Management, as agreed to between the Secretary and the Landsat Program Management, pursuant to section 101.~~

104

15 USC 5615. SEC. 105. DATA POLICY FOR LANDSAT 7.

(a) LANDSAT 7 DATA POLICY.—The Landsat Program Management, in consultation with other appropriate United States Government agencies, shall develop a data policy for Landsat 7 which should—

(1) ensure that unenhanced data are available to all users at the cost of fulfilling user requests;

(2) ensure timely and dependable delivery of unenhanced data to the full spectrum of civilian, national security, commercial, and foreign users and the National Satellite Land Remote Sensing Data Archive;

(3) ensure that the United States retains ownership of all unenhanced data generated by Landsat 7;

(4) support the development of the commercial market for remote sensing data;

(5) ensure that the provision of commercial value-added services based on remote sensing data remains exclusively the function of the private sector; and

(6) to the extent possible, ensure that the data distribution system for Landsat 7 is compatible with the Earth Observing System Data and Information System.

(b) In addition, the data policy for Landsat 7 may provide for—

(1) United States private sector entities to operate ground receiving stations in the United States for Landsat 7 data;

(2) other means for direct access by private sector entities to unenhanced data from Landsat 7; and

(3) the United States Government to charge a per image fee, license fee, or other such fee to entities operating ground receiving stations or distributing Landsat 7 data.

Reports (c) LANDSAT 7 DATA POLICY PLAN.—Not later than ~~October 1,~~ Oct. 1, 1994, the Landsat Program Management shall develop and submit to Congress a report that contains a Landsat 7 Data Policy Plan. This plan shall define the roles and responsibilities of the various public and private sector entities that would be involved in the acquisition, processing, distribution, and archiving of Landsat 7 data and in operations of the Landsat 7 spacecraft.

(d) REPORTS.—Not later than 12 months after submission of the Landsat 7 Data Policy Plan, required by subsection (c), and annually thereafter until the launch of Landsat 7, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall prepare and submit a report to the Congress which—

(1) provides justification for the Landsat 7 data policy in terms of the civilian, national security, commercial, and foreign policy needs of the United States; and

(2) provides justification for any elements of the Landsat 7 data policy which are not consistent with the provisions of subsection (a).

TITLE II—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 201. GENERAL LICENSING AUTHORITY. 15 USC 5621.

(a) LICENSING AUTHORITY OF SECRETARY.—(1) In consultation with other appropriate United States Government agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) COMPLIANCE WITH THE LAW, REGULATIONS, INTERNATIONAL OBLIGATIONS, AND NATIONAL SECURITY.—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) DEADLINE FOR ACTION ON APPLICATION.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) IMPROPER BASIS FOR DENIAL.—The Secretary shall not deny such license in order to protect any existing licensee from competition.

(e) REQUIREMENT TO PROVIDE UNENHANCED DATA.—(1) The Secretary, in consultation with other appropriate United States Government agencies and pursuant to paragraph (2), shall designate in a license issued pursuant to this title any unenhanced data required to be provided by the licensee under section 202(b)(3).

(2) The Secretary shall make a designation under paragraph (1) after determining that—

(A) such data are generated by a system for which all or a substantial part of the development, fabrication, launch, or operations costs have been or will be directly funded by the United States Government; or

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 202(b)(3), after considering the impact on the licensee and the importance of promoting widespread access to remote sensing data from United States and foreign systems.

(3) A designation made by the Secretary under paragraph (1) shall not be inconsistent with any contract or other arrangement entered into between a United States Government agency and the licensee.

15 USC 5622. **SEC. 202. CONDITIONS FOR OPERATION.**

(a) LICENSE REQUIRED FOR OPERATION.—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 201.

(b) LICENSING REQUIREMENTS.—Any license issued pursuant to this title shall specify that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve the national security of the United States and to observe the international obligations of the United States in accordance with section 506; 507

(2) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions;

(3) make unenhanced data designated by the Secretary in the license pursuant to section 201(e) available in accordance with section 501;

(4) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, and inform the Secretary immediately of any deviation; and

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

(c) ADDITIONAL LICENSING REQUIREMENTS FOR LANDSAT 6 CONTRACTOR.—In addition to the requirements of paragraph (b), any license issued pursuant to this title to the Landsat 6 contractor shall specify that the Landsat 6 contractor shall—

(1) notify the Secretary of any value added activities (as defined by the Secretary by regulation) that will be conducted by the Landsat 6 contractor or by a subsidiary or affiliate; and

(2) if such activities are to be conducted, provide the Secretary with a plan for compliance with section 501 of this Act.

15 USC 5623. **SEC. 203. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.**

(a) FUNCTIONS.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, condition, or transfer licenses under this Act;

(2) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses under this title and to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation

in violation of such license or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report pursuant to a warrant from a magistrate based on a showing of probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) REVIEW OF AGENCY ACTION.—Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), (a)(5), or (a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for any agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

SEC. 204. REGULATORY AUTHORITY OF THE SECRETARY. 15 USC 5624.

The Secretary may issue regulations to carry out this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 205. AGENCY ACTIVITIES. 15 USC 5625.

(a) LICENSE APPLICATION AND ISSUANCE.—A private sector party may apply for a license to operate a private remote sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government in a timely manner for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) ASSISTANCE.—The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any United States Government agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) APPLICABILITY.—This section does not apply to activities carried out under title III.

(e) EFFECT ON FCC AUTHORITY.—Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

TITLE III—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

15 USC 5621.

SEC. 301. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) ROLES OF NASA AND DEPARTMENT OF DEFENSE.—(1) The Administrator and the Secretary of Defense are directed to continue and to enhance programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other United States Government agencies and with public and private research entities (including private industry, universities, non-profit organizations, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) ROLES OF DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF INTERIOR.—

(1) In order to enhance the ability of the United States to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) ROLE OF OTHER FEDERAL AGENCIES.—Other United States Government agencies are authorized and encouraged to conduct research and development on the use of remote sensing in the fulfillment of their authorized missions, using funds appropriated for such purposes.

15 USC 5622.

SEC. 302. AVAILABILITY OF FEDERALLY GATHERED UNENHANCED DATA.

(a) GENERAL RULE.—All unenhanced land remote sensing data gathered and owned by the United States Government, including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303, shall be made available to users in a timely fashion.

President.

~~(b) PROTECTION FOR COMMERCIAL DATA DISTRIBUTOR.—The President shall seek to ensure that unenhanced data gathered under the technology demonstration program carried out pursuant to section 303 shall, to the extent practicable, be made available on terms that would not adversely affect the commercial market for unenhanced data gathered by the Landsat 6 spacecraft.~~

15 USC 5623.

President.

SEC. 303. TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—As a fundamental component of a national land remote sensing strategy, the President shall establish, through appropriate United States Government agencies, a technology demonstration program. The goals of such programs shall be to—

(1) seek to launch advanced land remote sensing system components ~~within 5 years after the date of the enactment of this Act~~;

(2) demonstrate ~~within such 5-year period~~ advanced sensor capabilities suitable for use in the anticipated land remote sensing program; and

(3) demonstrate ~~within such 5-year period~~ an advanced land remote sensing system design that could be less expensive to procure and operate than the Landsat system projected to be in operation through the year 2000, and that therefore holds greater potential for private sector investment and control.

(b) EXECUTION OF PROGRAM.—In executing the technology demonstration program, the President shall seek to apply technologies associated with United States National Technical Means of intelligence gathering, to the extent that such technologies are appropriate for the technology demonstration and can be declassified for such purposes without causing adverse harm to United States national security interests. President.

(c) BROAD APPLICATION.—To the greatest extent practicable, the technology demonstration program established under subsection (a) shall be designed to be responsive to the broad civilian, national security, commercial, and foreign policy needs of the United States.

(d) PRIVATE SECTOR FUNDING.—The technology demonstration program under this section may be carried out in part with private sector funding.

(e) LANDSAT PROGRAM MANAGEMENT COORDINATION.—The Landsat Program Management shall have a coordinating role in the technology demonstration program carried out under this section.

(f) REPORT TO CONGRESS.—The President shall assess the progress of the technology demonstration program under this section and, within 2 years after the date of enactment of this Act, submit a report to the Congress on such progress. President.

TITLE IV—ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM

SEC. 401. ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM. 15 USC 5641.

(a) ASSESSMENT.—Within 5 years after the date of the enactment of this Act, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall assess and report to the Congress on the options for a successor land remote sensing system to Landsat 7. The report shall include a full assessment of the advantages and disadvantages of— Reports.

(1) private sector funding and management of a successor land remote sensing system;

(2) establishing an international consortium for the funding and management of a successor land remote sensing system;

(3) funding and management of a successor land remote sensing system by the United States Government; and

(4) a cooperative effort between the United States Government and the private sector for the funding and management of a successor land remote sensing system.

(b) GOALS.—In carrying out subsection (a), the Landsat Program Management shall consider the ability of each of the options to—

(1) encourage the development, launch, and operation of a land remote sensing system that adequately serves the civilian, national security, commercial, and foreign policy interests of the United States;

(2) encourage the development, launch, and operation of a land remote sensing system that maintains data continuity with the Landsat system; and

(3) incorporate system enhancements, including any such enhancements developed under the technology demonstration program under section 303, which may potentially yield a system that is less expensive to build and operate, and more responsive to data users, than is the Landsat system projected to be in operation through the year 2000.

(c) PREFERENCE FOR PRIVATE SECTOR SYSTEM.—If a successor land remote sensing system to Landsat 7 can be funded and managed by the private sector while still achieving the goals stated in subsection (b) without jeopardizing the domestic, national security, and foreign policy interests of the United States, preference should be given to the development of such a system by the private sector without competition from the United States Government.

TITLE V—GENERAL PROVISIONS

15 USC 5651.

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) GENERAL RULE.—Except as provided in subsection (b) of this section, any unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government shall be made available to all users without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 506) 507 regarding delivery, format, pricing, or technical considerations which would favor one customer or class of customers over another.

(b) EXCEPTION.—Unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government may be made available to the United States Government and its affiliated users at reduced prices, in accordance with this Act, on the condition that such unenhanced data are used solely for noncommercial purposes.

15 USC 5652

SEC. 502. ARCHIVING OF DATA.

(a) PUBLIC INTEREST.—It is in the public interest for the United States Government to—

(1) maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) control the content and scope of the archive; and

(3) assure the quality, integrity, and continuity of the archive.

(b) ARCHIVING PRACTICES.—The Secretary of the Interior, ~~in consultation with the Landsat Program Management,~~ shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data.

(c) DETERMINATION OF CONTENT OF BASIC DATA SET.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of Interior shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs, paying particular attention to the anticipated data requirements of global environmental change research;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary of the Interior considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title I, or by licensees under title II;

(6) include, as the Secretary of the Interior considers appropriate, data collected by foreign ground stations or by foreign remote sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with ~~section 602~~ 507.

(d) PUBLIC DOMAIN.—After the expiration of any exclusive right to sell, or after relinquishment of such right, the data provided to the National Satellite Land Remote Sensing Data Archive shall be in the public domain and shall be made available to requesting parties by the Secretary of the Interior at the cost of fulfilling user requests.

SEC. 503. NONREPRODUCTION. 15 USC 5653.

Unenhanced data distributed by any licensee under title II of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser for commercial purposes.

SEC. 504. ~~REIMBURSEMENT FOR ASSISTANCE.~~ 15 USC 5654.

The ~~Administrator, the Secretary of Commerce,~~ Landsat Program Management, and the heads of other United States Government agencies may provide assistance to land remote sensing system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

SEC. 505. ACQUISITION OF EQUIPMENT. 15 USC 5655.

The Landsat Program Management may, by means of a competitive process, allow a licensee under title II or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other United States Government civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out this section.

SEC. 506. RADIO FREQUENCY ALLOCATION. 15 USC 5656.

(a) APPLICATION TO FEDERAL COMMUNICATIONS COMMISSION.—To the extent required by the Communications Act of 1934 (47

U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with commercial remote sensing space systems licensed under title II.

Licensing.

(b) DEADLINE FOR FCC ACTION.—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(c) DEVELOPMENT AND CONSTRUCTION OF UNITED STATES SYSTEMS.—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(d) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND PUBLIC INTEREST.—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

15 USC 5657.

SEC. 507. CONSULTATION.

(a) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary and the Landsat Program Management shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary and the Landsat Program Management promptly of such conditions.

(b) CONSULTATION WITH SECRETARY OF STATE.—(1) The Secretary and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary and the Landsat Program Management of such conditions.

(2) Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

Reports.

(3) The Secretary of State shall promptly report to the Secretary and Landsat Program Management any instances outside the United States of discriminatory distribution of Landsat data.

(c) STATUS REPORT.—The Landsat Program Management shall, as often as necessary, provide to the Congress complete and updated information about the status of ongoing operations of the Landsat system, including timely notification of decisions made with respect to the Landsat system in order to meet national security concerns and international obligations and policies of the United States Government.

(d) REIMBURSEMENTS.—If, as a result of technical modifications imposed on a licensee under title II on the basis of national security concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

SEC. 508. ENFORCEMENT. 15 USC 5658.

(a) IN GENERAL.—In order to ensure that unenhanced data from the Landsat system received solely for noncommercial purposes are not used for any commercial purpose, the Secretary (in collaboration with private sector entities responsible for the marketing and distribution of unenhanced data generated by the Landsat system) shall develop and implement a system for enforcing this prohibition, in the event that unenhanced data from the Landsat system are made available for noncommercial purposes at a different price than such data are made available for other purposes. 4 & 5 4 & 5

(b) AUTHORITY OF SECRETARY.—Subject to subsection (d), the Secretary may impose any of the enforcement mechanisms described in subsection (c) against a person who— 4 & 5

(1) receives unenhanced data from the Landsat system under this Act solely for noncommercial purposes (and at a different price than the price at which such data are made available for other purposes); and

(2) uses such data for other than noncommercial purposes.

(c) ENFORCEMENT MECHANISMS.—Enforcement mechanisms referred to in subsection (b) may include civil penalties of not more than $10,000 (per day per violation), denial of further unenhanced data purchasing privileges, and any other penalties or restrictions the Secretary considers necessary to ensure, to the greatest extent practicable, that unenhanced data provided for noncommercial purposes are not used to unfairly compete in the commercial market against private sector entities not eligible for data at the cost of fulfilling user requests.

(d) PROCEDURES AND REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section and shall establish standards and procedures governing the imposition of enforcement mechanisms under subsection (b). The standards and procedures shall include a procedure for potentially aggrieved parties to file formal protests with the Secretary alleging instances where such unenhanced data has been, or is being, used for commercial purposes in violation of the terms of receipt of such data. The Secretary shall promptly act to investigate any such protest, and shall report annually to the Congress on instances of such violations. Reports.

TITLE VI—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

SEC. 601. PROHIBITION. 15 USC 5671.

Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, or commercialize, any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

15 USC 5672. **SEC. 602. FUTURE CONSIDERATIONS.**

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 601 unless this title has first been repealed.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6133:

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed House.

Oct. 7, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

WHITE HOUSE

Office of the Press Secretary

For Immediate Release May 10, 1994

FACT SHEET

LANDSAT REMOTE SENSING STRATEGY

I. Introduction

The Landsat program has provided over 20 years of calibrated data to a broad user community including the agricultural community, global change researchers, state and local governments, commercial users, and the military. The Landsat 6 satellite, which failed to reach orbit in 1993, was intended to replace the existing Landsat satellites 4 and 5. Landsat 4 and 5, which were launched in 1982 and 1984 respectively and are operating well beyond their three year design lives, represent the only source of a global calibrated high spatial resolution measurements of the Earth's surface that can be compared to previous data records.

In 1993, the joint Department of Defense and National Aeronautics and Space Administration Landsat 7 program was being reevaluated due to severe budgetary constraints. This fact, coupled with the advanced age of Landsat satellites 4 and 5, resulted in a re-assessment of the Landsat program by representatives of the National Science and Technology Council. The outcome of the National Science and Technology Council's assessment is a new strategy which is designed to continue the Landsat program and extend the 20-year Landsat data set. The details of the strategy are provided below.

II. Policy Goals

A remote sensing capability, such as is currently being provided by Landsat satellites 4 and 5, benefits the civil, commercial, and national security interests of the United States and makes contributions to the private sector which are in the public interest. For these reasons, the United States Government will seek to maintain the continuity of Landsat-type data. The U.S. Government will:

(a) Provide unenhanced data which are sufficiently consistent in terms of acquisition geometry, coverage characteristics, and spectral characteristics with previous Landsat data to allow quantitative comparisons for change detection and characterization;

(b) Make government-owned Landsat data available to meet the needs of all users at no more than the cost of fulfilling user requests consistent with data policy goals of P. L. 102-555; and,

(c) Promote and not preclude private sector commercial opportunities in Landsat-type remote sensing.

III. Landsat Strategy

a. The Landsat strategy is composed of the following elements:

(1) Ensuring that Landsat satellites 4 and 5 continue to provide data as long as they are technically capable of doing so.

(2) Acquiring a Landsat 7 satellite that maintains the continuity of Landsat-type data, minimizes development risk, minimizes cost, and achieves the most favorable launch schedule to mitigate the loss of Landsat 6.

(3) Maintaining an archive within the United States for existing and future Landsat-type data.

(4) Ensuring that unenhanced data from Landsat 7 are available to all users at no more than the cost of fulfilling user requests.

(5) Providing data for use in global change research in a manner consistent with the Global Change Research Policy Statements for Data Management.

(6) Considering alternatives for maintaining the continuity of data beyond Landsat 7.

(7) Fostering the development of advanced remote sensing technologies, with the goal of reducing the cost and increasing the performance of future Landsat-type satellites to meet U.S. Government needs, and potentially, enabling substantially greater opportunities for commercialization.

b. These strategy elements will be implemented within the overall resource and policy guidance provided by the President.

IV. Implementing Guidelines

Affected agencies will identify funds necessary to implement the National Strategy for Landsat Remote Sensing within the overall resource and policy guidance provided by the President. {In order to effectuate the strategy enumerated herein, the Secretary of Commerce and the Secretary of the Interior are hereby designated as members of the Landsat Program Management in accordance with section 101(b) of the Landsat Remote Sensing Policy Act of 1992, 15 U.S.C. 5602(6) and 5611(b).} Specific agency responsibilities are provided below.

a. The Department of Commerce/NOAA will:

(1) In participation with other appropriate government agencies arrange for the continued operation of Landsat satellites 4 and 5 and the routine operation of future Landsat satellites after their placement in orbit.

(2) Seek better access to data collected at foreign ground stations for U.S. Government private users of Landsat data.

(3) In cooperation with NASA, manage the development of and provide a share of the funding for the Landsat 7 ground system.

(4) Operate the Landsat 7 spacecraft and ground system in cooperation with the Department of the Interior.

(5) Seek to offset operations costs through use of access fees from foreign ground stations and/or the cost of fulfilling user requests.

(6) Aggregate future Federal requirements for civil operational land remote sensing data.

b. The National Aeronautics and Space Administration will

(1) Ensure data continuity by the development and launch of a Landsat 7 satellite system which is at a minimum functionally equivalent to the Landsat 6 satellite in accordance with section 102, P. L. 102-555.

(2) In coordination with DOC and DOI, develop a Landsat 7 ground system compatible with the Landsat 7 spacecraft.

(3) In coordination with DOC, DOI, and DOD, revise the current Management plan to reflect the changes implemented through this directive, including programmatic, technical, schedule, and budget information.

(4) Implement the joint NASA/DOD transition plan to transfer the DOD Landsat 7 responsibilities to NASA.

(5) In coordination with other appropriate agencies of the U. S. Government develop a strategy for maintaining continuity of Landsat-type data beyond Landsat 7.

(6) Conduct a coordinated technology demonstration program with other appropriate agencies to improve the performance and reduce the cost for future unclassified earth remote sensing systems.

c. The Department of Defense will implement the joint NASA/DOD transition plan to transfer the DOD Landsat 7 responsibilities to NASA.

d. The Department of the Interior will continue to maintain a national archive of existing and future Landsat-type remote sensing data within the United States and make such data available to U. S. Government and other users.

e. Affected agencies will identify the funding, and funding transfers for FY 1994, required to implement this strategy that are within their approved fiscal year 1994 budgets and subsequent budget requests.

V. Reporting Requirements

U. S. Government agencies affected by the strategy guidelines are directed to report no later than 30 days following the issuance of this directive, to the National Science and Technology Council on their implementation. The agencies will address management and funding responsibilities, government and contractor operations, data management, archiving, and dissemination, necessary changes to P. L. 102-555 and commercial considerations associated with the Landsat program.

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9420704
RECEIVED: 06 JUN 94 13

TO: ITOH

FROM: STARR, B

DOC DATE: 03 JUN 94
SOURCE REF:

KEYWORDS: NON PROLIFERATION
PUBLIC DIPLOMACY
AGENDA
ARMS CONTROL
IWG

PERSONS:

SUBJECT: AGENDA FOR IWG MTG ON PUBLIC DIPLOMACY FOR ARMS CONTROL & NONPROLIFERATION

ACTION: FOR RECORD PURPOSES   DUE DATE: 09 JUN 94   STATUS: C

STAFF OFFICER: NONE   LOGREF:

FILES: IFG   NSCP: CODES:

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

FOR ACTION	FOR CONCURRENCE	FOR INFO
		AOKI
		BELL
		CLARKE
		GOTTEMOELLER
		ITOH
		KRECZKO
		NSC CHRON
		PONEMAN
		ROSNER
		SCHIFTER
		WALKER
		WITKOWSKY

COMMENTS:

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OPENED BY: NSJEB   CLOSED BY: NSJEB   DOC 1 OF 1

UNCLASSIFIED

RECORD ID: 9420704

ACTION DATA SUMMARY REPORT

DOC	ACTION OFFICER	CAO	ASSIGNED	ACTION REQUIRED
001		X	94060613	FOR RECORD PURPOSES

Staff

20704

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Washington, D.C. 20451

OFFICE OF
THE DIRECTOR

JUN 3 1994

MEMORANDUM FOR:

MR. WILLIAM H. ITOH
Executive Secretary
National Security Council

MR. MARC GROSSMAN
Executive Secretary
Department of State

COL ROBERT P. MCALEER
Executive Secretary
Department of Defense

MS. ANN W. LAVIN
Director, Executive Secretariat
Department of Energy

MR. DOUGLAS F. GARTHOFF
Executive Secretary
Central Intelligence Agency

COL T. R. PATRICK
Secretary, Joint Staff
Joint Chiefs of Staff

MR. ANTHONY A. DAS
Executive Secretary
Department of Commerce

MS. MARY ELLEN CONNELL
Executive Secretary
U.S. Information Agency

SUBJECT: AGENDA FOR THE NEXT MEETING OF THE INTERAGENCY WORKING GROUP ON PUBLIC DIPLOMACY FOR ARMS CONTROL AND NONPROLIFERATION

Please forward to your principals the attached Agenda for the next meeting of the Interagency Working Group on Public Diplomacy for Arms Control and Nonproliferation to be held Wednesday, June 8, 1994 from 2:15 p.m. to 4:00 p.m. in the ACDA Conference Room, Room 5941, New State. Agencies should call in names of new attendees and clearance information to Matt Murphy in ACDA's Office of Public Information at (202) 647-8677 by COB Tuesday, June 6, 1994.

Barbara Starr
Barbara Starr
Executive Secretary

Attachment:
As stated

INTERAGENCY WORKING GROUP ON PUBLIC DIPLOMACY FOR ARMS CONTROL AND NONPROLIFERATION

June 6, 1994

AGENDA

I. Minutes of Previous Meeting

II. Status of PD Implementation Activities

A. The American Association for the Advancement of Science's (AAAS) Summer Orientation Program, "U.S. Arms Control and Nonproliferation Policy": Discuss-ion of draft Agenda and proposed participants

B. Treaty Implementation Briefing for Kazakh Officials: status report by Ms. Lynn Rusten, Briefing Project Officer (ACDA/SEA)

C. Interagency and NGO Speakers Lists for Arms Control and Nonproliferation: to be handed out

D. Arms Control Symposium in Conjunction with the University of Maryland, (January, 1995)

E. Other New Initiatives: Seminar on Proliferation and Arms Technology Needs, (December, 1994)

F. Fact Sheets: "Nuclear Safety and Cooperation": at NSC for clearance; "INF Treaty Update": to be handed out

G. Completed Public Diplomacy Materials to be handed out: Fact Sheet "Parties and Signatories of The Biological Weapons Convention"; Fact Sheet "Chemical Weapons Convention Signatories and Parties"; Fact Sheet "The Anti-Ballistic Missile Treaty" and "Some Reflections on Transparency", the remarks of ACDA Director John D. Holum on May 19, 1994 at The National Press Club

III. Looking Ahead

A. "Heads Up"

B. "Arms Control and Nonproliferation Calendar"

C. UNCLASSIFIED "Arms Control and Nonproliferation Calendar"

IV. Next Meeting

Wednesday, June 22, 1994 at 2:15 p.m. in the ACDA

Chron

066561
066560

Document No. ____________

4478

WHITE HOUSE STAFFING MEMORANDUM

DATE: 06/06/94 **ACTION/CONCURRENCE/COMMENT DUE BY:** COB 06/10/94

SUBJECT: MILITARY NOMINATION: 1. LTGEN WILLIAM W. CROUCH, USA
2. MAJ GEN RICHARD F. TIMMONS, USA

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	MYERS	☐	☐
McLARTY	☐	☐	QUINN	☐	☐
LADER	☐	☐	RASCO	☐	☐
ICKES	☐	☐	RUBIN	☐	☐
PANETTA	☐	☐	SEGAL	☐	☐
BAGGETT	☐	☐	SEIDMAN	☐	☐
CUTLER	☐	☐	STEPHANOPOULOS	☐	☐
EMANUEL	☐	☐	TYSON	☐	☐
GEARAN	☐	☐	VARNEY	☐	☐
GERGEN	☐	☐	WATKINS	☐	☐
GIBBONS	☐	☐	WILLIAMS	☐	☐
GRIFFIN	☐	☐	BELL	~~✓~~	☐
HALE	☐	☐	CLERK	☐	✓
HERMAN	☐	☐		☐	☐
LAKE	☐	☐		☐	☐
LINDSEY	☐	☐		☐	☐
McGINTY	☐	☐		☐	☐

REMARKS:

Do you have any objections?

RESPONSE:
The National Security Council staff concurs in the attached military nominations.

Anthony Lake

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702

THE WHITE HOUSE

WASHINGTON

June 3, 1994

94 JUN 6 P1:13

MEMORANDUM FOR THE PRESIDENT

FROM: ALPHONSO MALDON, JR. AMaldon
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: General Officer Nomination

Forwarded for your approval and signature is the nomination of Lieutenant General William W. Crouch, United States Army, for appointment to the grade of general and a recommendation for his assignment as Commander in Chief, United States Army Europe and Seventh Army.

The Secretary of Defense has attached an evaluation of General Crouch's performance in joint duty assignments from the Chairman of the Joint Chiefs of Staff.

This nomination was staffed by the Secretary of the Army and approved by the Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1000

3 1 MAY 1994

MEMORANDUM FOR THE PRESIDENT

SUBJECT: General Officer Nomination

I recommend you assign Lieutenant General William W. Crouch, United States Army, as Commander in Chief, United States Army Europe and Seventh Army, a position of importance and responsibility previously designated to carry the grade of general, and nominate him for appointment to the grade of general. General Crouch, age 52, currently serves as Commanding General, Eighth United States Army/Chief of Staff, United Nations Command/Combined Forces Command/United States Forces Korea. He succeeds General David M. Maddox, United States Army, who is retiring.

In order to carry out the duties and responsibilities of the proposed assignment, a general officer must have demonstrated highly effective performance in senior leadership positions. He must thoroughly understand the requirements of the European theater of operations, including operations, plans, and the political environment. He must have the ability to work well with senior officials of Germany. General Crouch meets these requirements.

As required by title 10, United States Code, section 601(d)(1), I have attached an evaluation of General Crouch from the Chairman of the Joint Chiefs of Staff while assigned to joint duty.

This action will not cause the Army to exceed the number of officers authorized to be serving in the grade of general.

Attachments

THE CHAIRMAN, JOINT CHIEFS OF STAFF
WASHINGTON, D.C. 20318

CN-264-94
6 May 1994

MEMORANDUM FOR: SECRETARY OF DEFENSE
DEPUTY SECRETARY OF DEFENSE

Subject: General Officer Nomination

1. In accordance with the provisions of title 10, United States Code, and DOD Instruction 1320.4, the Secretary of the Army has recommended Lieutenant General William W. Crouch for assignment as Commander in Chief, US Army Europe and Seventh Army, and appointment to the grade of general.

2. I have reviewed Lieutenant General Crouch's performance in two joint assignments. As District Senior Advisor Team 18, US Military Assistance Command, Vietman, he effectively coordinated, implemented, and evaluated all civil and military support programs, and provided sound advice to the District Chief regarding operations, training, and logistics. In his current capacity as the Chief of Staff, United Nations Command/Combined Forces Command/US Forces Korea, he has effectively contributed to the accomplishment of the Combined Forces Command mission and directed the US Forces Korea staff consisting of Army, Air Force, Navy, Marine Corps, and DOD civilian personnel. He has also served as the principal coordinator of logistic support, construction, repair and maintenance, troop and family support activities, master planning, resource management, and readiness for Korea. I am confident he is well qualified for this assignment and advancement.

3. I concur in the Secretary's nomination of Lieutenant General Crouch for this assignment and appointment to the grade of general and recommend you forward the enclosed nomination to the President for approval.

JOHN M. SHALIKASHVILI
Chairman
of the Joint Chiefs of Staff

Enclosure

THE WHITE HOUSE

WASHINGTON

June 3, 1994

94 JUN 6 P1:13

MEMORANDUM FOR THE PRESIDENT

FROM: ALPHONSO MALDON, JR. AMaldon
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: General Officer Nomination

Forwarded for your approval and signature is the nomination of Major General Richard F. Timmons, United States Army, for appointment to the grade of lieutenant general and a recommendation for his assignment as Chief of Staff, United Nations Command/Combined Forces Command/United States Forces Korea, and Commanding General, Eighth United States Army.

The Secretary of Defense has attached an evaluation of General Timmons' performance while assigned to joint duty.

This nomination was staffed by the Secretary of the Army and approved by the Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

3 1 MAY 1994

MEMORANDUM FOR THE PRESIDENT

SUBJECT: General Officer Nomination

I recommend you assign Major General Richard F. Timmons, United States Army, as Chief of Staff, United Nations Command/Combined Forces Command/United States Forces Korea, and Commanding General, Eighth United States Army, a position of importance and responsibility previously designated to carry the grade of lieutenant general, and nominate him for appointment to the grade of lieutenant general. General Timmons, age 51, currently serves as Commanding General, 7th Infantry Division (Light). He succeeds Lieutenant General William W. Crouch, United States Army, whom I am nominating for another position.

In order to carry out the duties and responsibilities of the proposed assignment, a general officer must have demonstrated highly effective performance in senior leadership positions. He must be able to formulate and execute actions which require the integration of different doctrines of two sovereign nations, two cultures, and eight military departments. He must be able to maintain wartime readiness for this combined war-fighting headquarters while responding to sometimes competing requirements of the national interests of the two nations. He must be able to direct and supervise the activities of nine major subordinate commands and prepare them for wartime operations. General Timmons meets these requirements.

As required by title 10, United States Code, section 601(d)(1), I have attached an evaluation of General Timmons from the Chairman of the Joint Chiefs of Staff while assigned to joint duty.

This action will not cause the Army to exceed the number of officers authorized to be serving in the grade of lieutenant general.

Attachments

THE CHAIRMAN, JOINT CHIEFS OF STAFF

WASHINGTON, D.C. 20318

CN-265-94
6 May 1994

MEMORANDUM FOR: SECRETARY OF DEFENSE
DEPUTY SECRETARY OF DEFENSE

Subject: General Officer Nomination

1. In accordance with the provisions of title 10, United States Code, and DOD Instruction 1320.4, the Secretary of the Army has recommended Major General Richard F. Timmons for assignment as Commanding General, Eighth US Army and Chief of Staff, United Nations Command/Combined Forces Command/US Forces Korea, and appointment to the grade of lieutenant general.

2. I have reviewed Major General Timmons' performance in one joint equivalent and one joint assignment. As Congressional Liaison Officer, Senate Liaison Division, US Army, Washington, DC, he effectively worked with Senators, Senate committees, and their staffs to include coordinating and supervising all administrative logistic support for numerous trips. As the Assistant Division Commander (Operations), 82d Airborne Division, XVIII Airborne Corps, Operations DESERT SHIELD/STORM, he was the first US ground combat force general officer to be deployed to Saudi Arabia. He coordinated daily with other US Service commanders and Saudi officials to develop and execute defensive plans and arrange for the logistic requirements of the deploying XVIII Airborne Corps units. During the offensive phase, he worked extensively with French forces and US Air Force planners to plan and execute the Division's deep attack into Iraq. I am confident he is well qualified for this assignment and advancement.

3. I concur in the Secretary's nomination of Major General Timmons for this assignment and appointment to the grade of lieutenant general and recommend you forward the enclosed nomination to the President for approval.

JOHN M. SHALIKASHVILI
Chairman
of the Joint Chiefs of Staff

Enclosure

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9404427
RECEIVED: 03 JUN 94 16

TO: JUKES, J

FROM: ITOH

DOC DATE: 06 JUN 94
SOURCE REF:

KEYWORDS: SPACE PROGRAMS

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: REVISED NASA PROPOSED RPT RE S-1881 NASA TECHNOLOGY INVESTMENT ACT LRM #I-2876

ACTION: KENNEY SGD MEMO

DUE DATE: 07 JUN 94 STATUS: C

STAFF OFFICER: JONES

LOGREF:

FILES: WH NSCP: CODES:

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

FOR ACTION	FOR CONCURRENCE	FOR INFO
		BELL
		EXECSEC
		JONES
		ROSNER

COMMENTS:

DISPATCHED BY ____________ DATE ________ BY HAND W/ATTCH

OPENED BY: NSMBN CLOSED BY: NSGP DOC 3 OF 3

UNCLASSIFIED

RECORD ID: 9404427

ACTION DATA SUMMARY REPORT

DOC	ACTION OFFICER	CAO	ASSIGNED	ACTION REQUIRED
001	JONES	Z	94060316	PREPARE MEMO ITOH TO JUKES
002	ITOH	Z	94060618	FOR SIGNATURE
003		X	94060619	KENNEY SGD MEMO

DISPATCH DATA SUMMARY REPORT

DOC	DATE	DISPATCH FOR ACTION	DISPATCH FOR INFO
003	940606	JUKES, J	

NATIONAL SECURITY COUNCIL
WASHINGTON D C 20506

June 6, 1994

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: Revised NASA Proposed Report RE: S. 1881, NASA Technology Investment Act (LRM #I-2876)

The NSC staff has no objections to the revised NASA report on S.1181, NASA Technology Investment Act.

30 pgs
4427

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

June 3, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2876

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
ENERGY - Bob Rabben - (202)586-6718 - 209
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
OPM - James N. Woodruff - (202)606-1424 - 331
OSTP - Roselis D'Allessandro - (202)456-6014 - 288
SBA - Kris Swedin - (202)205-6702 - 315
USTR - Fred Montgomery - (202)395-3475 - 223
GSA - William R. Ratchford - (202)501-0563 - 237
OGE - Jane Ley - (202)523-5377 - 261

FROM: JAMES J. JUKES (for) Jim
Assistant Director for Legislative Reference

OMB CONTACT: Jeffrey WEINBERG (395-3457)
Secretary's line (for simple responses): 395-3454

SUBJECT: REVISED NASA Proposed Report RE: S 1881, NASA Technology Investment Act

DEADLINE: NOON June 10, 1994

COMMENTS: NASA has provided its responses to agency comments on its original report that was circualted on March 31st with LRM #I-2831.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Kathy Peroff	Ray Kogut
Jack Fellows	Bob Damus/Mac Reed
Steve Isakowitz	Brad Kyser
Bruce Campbell	Louisa Koch
emphi Nor in	Greg Henry
ill Coleman, OFPP	

LRM #I-2876

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Jeffrey WEINBERG
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: REVISED NASA Proposed Report RE:
S 1881, NASA Technology Investment Act

The following is the response of our agency to your request for views on the above-captioned subject:

_______ Concur

_______ No objection

_______ No comment

_______ See proposed edits on pages ______________

_______ Other: ______________________

_______ FAX RETURN of _____ pages, attached to this response sheet

National Aeronautics and
Space Administration
Headquarters
Washington, DC 20546-0001

NASA

Reply to Attn of: L

May 27, 1994

To: Jeffrey Weinberg
Legislative Reference Division
Office of Management and Budget

From: Karl Stehmer
Legislation Division
Office of Legislative Affairs
(202) 358-1925

Subject: NASA's Response to Agency Comments on Our Proposed Report on S. 1881, the NASA Technology Investment Act of 1994

We have reviewed the comments from various other departments and agencies on our proposed report on S. 1881, and provide the following responses to each, by department or agency. I am also attaching a "mark up" of our proposed report, including specific language we have inserted consistent with our comments below.

<u>**DEPARTMENT OF JUSTICE**</u>

1. **Section 108**
(Also in response to the Office of Government Ethics' comment)

Both the Justice Department and the Office of Government Ethics disagree with our request for statutory relief from criminal sanctions which could be implicated by personnel incentives required by this section. Both suggest that this section can be implemented without necessarily exposing employees to criminal sanctions, but provide no examples. They also oppose any amendments on a "piecemeal" basis.

NASA has proposed a limited, NASA-specific exemption for this legislation only. We are, of course, willing to work with the OGE and Justice to better understand incentive programs which will not put employees at such risk. It may be possible to devise carefully tailored and administered personnel incentives which are consistent with 18 U.S.C. 203, 205, and 208. However, such incentives programs are not apparent to us. Indeed, this type of incentive program for employees who work with the private sector seems inherently in conflict with the statutory restrictions noted above. We have revised our letter somewhat, but continue to express our concern and desire for legislative relief. (See page 10 of our letter).

2. Section 103

a. Agrees with NASA.

b. We agree with Justice. See change on page 4, last paragraph.

c. We agree with Justice. See change on page 6.

3. Proposed Section 312

We agree with Justice. See revisions to proposed language on page 14.

OSTP

Specific comments.

1. Deleted and made changes, see pages 1 and 2.

2. Agree with OSTP. See changes on pages 4 and 5.

3. Deleted per their comment. See page 1.

4. We have made the changes. See pages 1 and 2.

Section 3. Agrees with NASA.

Section 101.

1. We agree, and have deleted the comment concerning use of the word "materially", on page 3.

2. OSTP agrees with our comment on "planned". Note the additional explanation concerning usage of "funded" on page 3.

Section 103.

1. OSTP agrees with our comment. We have added language concerning lack of competition if only one proposal meeting qualifications is received. See page 4.

2. OSTP agrees with our comment. We do not agree with their conclusion that "appropriations for this line should be in 'no year dollars'". The fact that appropriated funds for a program have not been used in a particular year does not mean that they become "no year" funds. If funds are properly obligated on a program, they may be used until expended. One-year funds that are not obligated at the close of the

fiscal year are not available for obligation in future years.

3. We agree, and have deleted the comment, as noted on page 5.

4. OSTP agrees with our comment.

5. OSTP agrees with our comment.

6. We disagree. NASA's comment is necessary to clarify the authority provided by section 203(c)(5) of the Space Act. There has been a long-standing misunderstanding of NASA's authority under this provision.

Sections 104, 105, 106, 107

We have included specific recommendations for each comment, see pages 7 and 8.

Sections 106, 111, 201

OSTP agrees with our comments. We have also included additional explanation for section 111. See page 11.

Section 202

1. We have clarified our comment so that issues raised by cost-sharing would be investigated. See page 12.

2. Agreed with our comment.

Section 203

While we would prefer the term "capabilities", we defer to OSTP and will use the terms "strengths and weaknesses". WE do not, however, understand what is meant by the suggestion that we make "more routine use of proprietary and classified information for purposes such as this". There are limitations on the uses for which this information may be used that are not within our discretion. We have also deleted "extremely" before "proprietary" as superfluous.

Space Act Amendment, New Section 312

OSTP agrees subject to Commerce's comments. No comments received from Commerce. (See response above to Department of Justice comments).

DEPARTMENT OF STATE

Section 103(a)(2)

We agree. See proposed deletion of language and explanation on page 5.

Section 111

We disagree. Absent specific instances in which the proposed definition of "eligible firm" violates international agreements, NASA cannot respond further. We have provided additional language to respond to this comment. See page 11.

We also note that the definition of "eligible firm" in this bill is similar to the definition of that term contained in the statute for the Technology Reinvestment Project (10 U.S.C. 2491), copy attached.

Interagency Working Group on Aeronautics

We have included a reference to this working group on page 2 of the cover letter.

DEPARTMENT OF ENERGY

Page 1

Already addressed by previous changes.

Section 102

We have added language to explain the objection to the use of the word "funded". See page 3.

Section 103

DOE agrees with our comment.

Section 105

We disagree with Energy's comment. Subsection 105(a) adds nothing, and should be deleted.

Section 106

DOE agrees with our comment.

DEPARTMENT OF THE TREASURY

Section 103(a)

We disagree with their comment. The proposed alternative language does not resolve the issue, but only delays the determination of the criteria for being considered an eligible firm. We believe the current section 103(a) is preferable, with our proposed changes. See page 5.

OFFICE OF GOVERNMENT ETHICS

Our response to the comment on section 108 is provided above, re Department of Justice.

U.S. TRADE REPRESENTATIVE

Section 103(a)(2)

(We assume that the USTR is objecting to section 103(a)(2), rather than section 101(a)(2).)

See proposed changes on page 4.

Section 111(a)

We disagree. See our response to the State Department's comment on section 111.

NASA DRAFT REPORT TO OMB
103rd Congress, 2nd Session

L:KHS

The Honorable Ernest F. Hollings
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On March 1, Senator Rockefeller, on behalf of himself and Senator Burns, introduced S. 1881, the "National Aeronautics and Space Administration Technology Investment Act of 1994," intended to help strengthen the link between NASA programs and economic growth. In his appearance March 2, before the Subcommittee on Science, Technology, and Space, chaired by Senator Rockefeller, NASA Administrator Goldin expressed his general support of the bill's objectives and told the Subcommittee that after a more complete review NASA would provide the Committee with our recommendations for changes in some of its provisions. We have since had an opportunity to thoroughly review S. 1881 and would like to share our views and comments with your Committee.

The relevance of government and its programs to the economic challenges facing America is a recurrent concern of this Administration, the Congress and the public. The Administration is committed to a government that is relevant to

America. NASA is committed to a balanced space and aeronautics program that supports meaningful science and technology and will contribute to the U.S. economy. We believe that the budget which we have requested for fiscal year 1995 accomplishes these goals. S. 1881 is consistent with the direction NASA has taken in all of its programs.

The Administration has formed an Interagency Working Group on Aeronautics, chaired by OSTP, of which NASA is a member. This Working Group is directly tackling most of the issues addressed in this bill. NASA's aeronautics programs in particular have always been planned and conducted in support of the global competitiveness of United States industry. In addition, we have increased our emphasis on technology transfer beyond the primary mission of our programs, and are utilizing multiple mechanisms--including industry-led consortia--to facilitate such transfer. We are very supportive of the philosophy and concept behind S. 1881 and its application to all aerospace programs.

In fiscal year 1994 NASA was appropriated $20 million for a technology program with industry, which has been titled the Aerospace Industry Technology Program (AITP). The AITP is being planned to include strong and active involvement of industry, with a major focus on creation of industry-led consortia. The projects supported by the AITP will be designed by industry, competitively selected by NASA, managed through cooperative agreements and focus on development of technology which will have high commercial benefit and applicability. The fiscal year 1995 budget request includes $18.9 million for this effort.

The program proposed by S. 1881 would generally provide legislative support for continuation and expansion of this effort. There are, however, difficulties with several of the bill's provisions which should be addressed before this legislation is enacted. We have attached hereto our specific comments on the bill's provisions, and will be happy to work with the Committee to craft a bill that will achieve our common goals and objectives.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely,

SPECIFIC COMMENTS ON

S. 1881, THE "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT OF 1994"

As a general matter, several provisions of the proposed bill require NASA to make assessments which, in our view, are not within NASA's expertise.

- ~~Section 102 requires the Administrator "ensure" that aeronautical and space projects "promote commercial technology applications," without reference to applications of interest to NASA.~~

- ~~The section also requires NASA to "measure and evaluate technology development and the potential for commercialization."~~

- ~~Similarly,~~ Section 103 requires the Administrator invest in projects if the project will "advance the competitiveness of United States industry," and that the Administrator consider "each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets." At minimum, the section should recognize that the Administrator will have the discretion to consult with, or defer to, the U.S. Trade Representative or Secretary of Commerce, as appropriate.

- Finally, in defining "eligible firms" for Title I, Section 111 requires NASA to make assessments of a foreign country's funding of consortia and protection of U.S. intellectual property rights, assessments which would seem to be more properly the responsibility of the United States Trade Representative, State Department, or the Department of Commerce. Not only does NASA lack expertise to make such judgments, but technologies that may meet these provisions may not be technology of interest or relevance to NASA programs, technology, or expertise. At a minimum, this provision should recognize that NASA will consult with these other agencies, and will only make judgments on technologie within NASA's expertise.

Section 3: Technology Investment Policy

This section sets out a Technology Investment Policy. Paragraphs 4 and 5 establish significant direct roles for U.S. industry in this policy, but there is no direction here or elsewhere as to how this is to happen. In addition, paragraph 5 refers to "industry-led" consortia, while all other paragraphs refer only to U.S. industry.

With respect to paragraph (5), we recommend adding "alliances, or other entities" after the word "consortia" in order to avoid any unnecessary constraints that might derive from a narrow definition of a consortium.

TITLE I: ROLE OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

IN TECHNOLOGY INVESTMENT

Section 101: Amendments to National Aeronautics and Space Act

Removing the specific references to ground propulsion systems and advanced automobile propulsion in sections 102(e) and (f) and replacing them with alternative language that addresses the overall goals of economic growth, competitiveness and productivity is a good improvement. NASA, of course, already conducts its activities in such a manner. ~~We are concerned about the requirement that the aeronautical and space activities of the United States contribute "materially" to these objectives. The word "materially" is an unquantifiable, subjective term and should be deleted.~~

Section 102: Technology Development and Commercialization Goals

This section would require that NASA measure and evaluate potential commercialization of technology for funded and "planned" projects. It is not clear how or whether NASA could make such measurements for "planned" projects, or when a project is sufficiently "planned" to be subject to these measures. We suggest deletion of "funded and planned". It is also not clear what would be considered "funded," as opposed to "unfunded," proposals. Projects may be privately or publicly funded, selected for funding, or under consideration for funding. Therefore, The scope and content of the technology plan that would be required by paragraph (1) should be described. Some suggested contents of such a technology plan might include deliverables such as a proof of concept design; a market research and or analysis of probability of commercialization. Finally, the word "ensure should be replaced with the word "require."

Section 103: Technology Investment Program With Industry

It should be noted that the criteria included in this section are similar to those provided for by statute for the Advanced Technology Program (15 C. 278n) and the Technology Reinvestment Project (10 U.S.C. 2491).

Subsection (a) requires the Administrator to establish a "competitive" program, but does not define "competitive." There is the possibility that only one proposal meeting all criteria will be received, in which case, selection should not be subject to a "competitive" requirement. In addition, the competition requirements of the Competition in Contracting Act would apply if contracts are to be awarded under this program, unless there is a statutory exception for the awards pursuant to this program. Finally, this competitive program is not clearly linked to "eligible firms" as defined in Section 111.

As currently worded, subsections 103(a) and (b) are confusing. Subsection (a) requires the Administrator to invest in "<u>any</u> project proposed by an eligible firm" (emphasis added) if that project meets the listed criteria. This could be read as what amounts to an entitlement to an investment, rather than permitting the Administrator to select the best proposals from among those that meet the criteria in subsection 103(a), or permitting the Administrator to impose additional criteria. However, subsection (b) includes additional criteria which the Administrator is to "weigh and consider." In order to clarify this section and to avoid what appears to be three sets of criteria a proposal must meet, we would recommend that the criteria in Section 103(a) be deleted altogether and proposals from eligible firms be selected based on the criteria in section 103(b). In any event, these subsections must be clarified.

With respect to paragraph 103(a)(2), we would recommend that the words following "the United States" be deleted. The words which follow only provide an example of one type of evidence relevant to this determination, and may lead readers to conclude that this is the only evidence relevant to this determination.

~~Subsection 103(a)(2) lists as evidence that a firm's participation would be in the economic interest of the United States "the conduct of a significant level" of research, etc., in the United States. There is no indication of what would constitute such a "significant level" and the measurement or standards by which such a determination will be reached.~~

We recommend replacing the word "funding" in subsection 103(b)(1) with the word "resources." Industry contributions can take many forms in addition to new money, including people, hardware, and facility time.

As an initial matter, the word "ensure" should be replaced with the word "require."

Subsection (c), Cost Sharing, is confusing. The Federal Government's share seems to be limited to 50%; of the amount provided by "non-Federal participants", no less than 25% must be provided by "industry". Where does the other 25% come from? We suggest that a simple 50-50 cost sharing would be more clearly understood. Perhaps it would help if "participants" is defined in Section 111. In addition, there is no discussion as

Based on this con[illegible] ... that this section require only a review or i[illegible]igation of this possibility, to allow NASA and other interested agenci[illegible] departments to resolve how to [illegible] t the intent of this legislation without violating other applicable laws, including the GATT.

to whether "in-kind" contributions may be considered in determining the funding provided by a participant. The relation between this subsection and the GATT is unclear.

Subsection (d) encourages "the use of the authority" of "section 203(c)(5)" of the Space Act. Section 203(c)(5) is NASA's authority for entering into agreements other than procurement contracts. While we have no objection to such a provision, it serves no purpose. However, it may be the case that this subsection was intended to encourage NASA to use the authority in section 203(c)(5) of the Space Act to enter into "other transactions", or agreements commonly referred to as "Space Act Agreements." If this is the case, it is not apparent why a Space Act Agreement is preferable to other types of agreements, or why it is desirable to award such agreements to "non-aerospace firms" as required by this subsection.

Subsection (e) requires NASA to issue regulations. NASA strongly objects to a requirement for regulations. Regulations limit the flexibility available under the Space Act. Any necessary implementing procedures can be explained in a brochure. In addition, the Administration has directed agencies to reduce by 50 percent the number of internal regulations, and such a provision would be inconsistent with the intent if not the letter of the Executive Order.

Section 104: Role of Procurement in Technology Investment

As a general matter, NASA already considers the items listed as a part of the procurement process, and this section is not necessary, and should be deleted

Furthermore, the proposed role of procurement seems to cover all procurement activities undertaken by NASA in furtherance of its mission, including even all small purchases. Such broad application may cause conflicts with other acquisition statutes, regulations, OMB Circulars, OFPP Policy Letters, etc. The proposed language does not limit the contemplated role of procurement to those procurement acquisitions in furtherance of the technology investment objectives of the bill. A bill focusing on a small part of the agency's overall mission should not be used as the vehicle to seek significant agency-wide procurement reform that may subject NASA procurement to procedures not applicable to other agencies.

Section 105 Coordination with Other Federal Programs

Subsection (a) is not necessary, in that NASA already coordinates its technology programs with other programs. Therefore, we recommend that this subsection be deleted.

Subsection (b) requires the Administrator to identify funding received from other Federal agencies "to manage and carry out technology investment and development." This requirement is too vague and ambiguous, making it impossible for NASA to know what funding we are required to identify. More specific language is necessary.

Section 106: Interagency Technology Initiatives

This section requires NASA to submit as part of its annual budget request to Congress a report on the details of each interagency technology project. Many of our programs are conducted in close cooperation with other government agencies, most notably the Department of Defense and the Federal Aviation Administration. Details of these cooperative efforts are already available in other forms. This additional reporting requirement is not necessary nor particularly helpful. We would prefer to draw upon existing reports, and perhaps modify them to achieve the purposes of this section. This section should simply require that NASA meet this reporting requirement through already existing reporting requirements.

Section 107: Coordination With Other NASA Programs

Subsection 107(a) requires coordination with NASA's Small Business Innovation Research program "to increase the effectiveness of funding to small businesses...". This may appear to suggest some form of set-aside for small businesses, contrary to the full and open competition suggested elsewhere. The subsection should be clarified to indicate that no such set-aside is intended.

Subsection 107(b) requires the Administrator to "identify all funds reimbursed to contractors of [NASA] for activities commonly referred to as "Independent Research and Development...". The language seems to misapprehend the nature of "Independent Research and Development" (IR&D). Those amounts are sums invested in R&D by a company and allocated by the company as an indirect General and Anministrative (G&A) cost to its entire business base. Therefore, NASA would not be in a position to "reimburse" funds expended for IR&D. The company, once it expended funds from its IR&D account, could receive some of it back via G&A costs allocated to Government contracts, but the amount would be dependent upon the total IR&D expended, the work, and the percentage of NASA work within the contrator's government business base.

Section 108: Personnel Incentives

Paragraph 3 authorizes the Administrator to provide NASA personnel paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private

sector to pursue technology innovation and development.
X INSERT
Additional language is necessary to address potential allegations of violations of ethics requirements which apply to Federal employees. Language is necessary because it is quite possible that personnel on such technology and innovation and development assignments will have a need to represent an outside entity (such as a university or research institute) before an agency of the U.S. Government. Therefore, we would recommend that the current Section 108 be made subsection (a), with the following language or similar inserted as subsection (b):

"(b) Activities conducted in furtherance of such technology innovation and development assignments shall not be subject to the provisions of sections 203 and 205 of Title 18."

In addition, depending on the nature of financial interests that may be spawned by the cash incentives included in the redesignated subsection (a), it may be ~~desirable~~ necessary to grant some relief to federal employees from 18 U.S.C. § 208 concerning financial interests.

This section is also unclear as to how and from what source the proposed personnel incentives would be funded. Language should be added that specifies that the proposed personnel actions be in accordance with existing agency law and personnel regulations and (OMB)

The Office of Government Ethics and Department of Justice have indicated that they believe it is possible to devi personnel incentives anticipated by this section which are not necessarily inconsistent with the ethics prohibitions which are applicable to Federal government employees at Title 18 of the United States Code, Sections 203, 205, and 208. They have not provided specific examples of incentive programs that would not violate these statutory prohibitions. ~~NASA has serious concerns with this section, and the possiblity that incentive programs it may devise may put~~ its employees at risk of criminal sanctions. We are, of course, willing to work with the Office of Government Ethics and Department of Justice in devising acceptable programs. However, absent more specific guidance, we must strongly object to section.

procedures.

Section 111: Definitions

The definition of "eligible firm," which uses the terms "business entity" and "company" would appear to exclude non-profit organizations which should be eligible.
We take no objection to this definition, other than that noted above, based on the fact that this definition is virtually identical to that for the Advanced Technology Program (15 U.S.C. 278n) and the Technology Reinvestment Project (10 U.S.C. 2491).

TITLE II: NATIONAL AERONAUTICS FACILITIES

Section 201: Findings

We recommend that paragraph (4) be amended as follows, to more accurately reflect the current facilities situation:

"(4) the national civil and military aeronautics facilities of the United States are aging and, with few exceptions, cannot be modified to[~~test new technologies in aircraft and engine design~~] *adequately simulate the flight conditions that will be required for highly productive aircraft design and development;* and"

Section 202: Policy

Paragraph (4) directs that industry and government cost-sharing for facilities construction and use be investigated. ~~Such~~ Issues to be investigated should include ~~joint cost-sharing for facilities construction could create~~ title and property rights issues with regard to the constructed or rehabilitated facilities. It is not clear who would own such facilities. Further, would NASA be authorized to utilize any funds other than the extremely limited Construction of Facilities funds for this purpose? New facilities would require significant investment in fiscal year 1996 and beyond.

We also note that in both section 202 and section 203 the words "aerospace" and "aeronautics" are used. These terms must be clearly understood. "Aerospace" includes both aeronautics and space facilities and is a more inclusive term. This is important because in section 202 the language shifts from "aerospace" to "aeronautics" between paragraphs (1) and (2), and also because paragraph (3) of section 203 asks for a determination of cost savings for closing of aeronautical facilities only. The recent National Facilities Study includes savings achievable by closing of both aeronautics and space facilities.

Section 203: Worldwide Facilities Assessment

This section requires the President to conduct a "Worldwide Facilities Assessment" of aeronautics facilities. As mentioned above, the National Facilities Study, led by NASA and coordinated with other Federal agencies, should be very useful to such a worldwide study.

~~We recommend one amendment to paragraph (2), which requires an analysis of the strengths and weaknesses of each aeronautics facility that impacts aeronautical research and technology objectives of the U.S. government and domestic industry. We recommend that the words "strengths and weaknesses" be replaced with "capabilities".~~ Detailed data on foreign facilities is often ~~extremely~~ proprietary, and it may not be possible to compile an extensive inventory of specific foreign facility strengths and weaknesses. Developing general descriptions of capabilities should not, however, present such problems.

In gathering information to determine "strengths and weaknesses," as contemplated by paragraph (2), it should be recognized that

ADDITIONAL AMENDMENTS TO THE SPACE ACT

To increase access to computer programs developed by Federal employees under Space Act agreements, we recommend inclusion of the following amendment to the Space Act by designating the current provisions in section 101 as subsection (a) and adding the following new subsection:

"(b) The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by adding a new section 312, as follows:

(a) The Administration is authorized to secure copyright on behalf of the United States as author or proprietor in any computer software prepared in whole or in part by employees of the United States Government in the course of work under an agreement entered into under the authority of Sections 203(c)5) and (c)(6) notwithstanding the limitations contained in section 105 of title 17, United States Code; and may grant or agree to grant in advance to a collaborating party, licenses or assignments for such copyrights, or options thereto, and shall ~~may~~ retain a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, prepare derivative works ~~adapt~~, translate, distribute, and publicly perform or display the computer software throughout the world by or on behalf of the Government and such other rights as NASA deems appropriate.

(b) 'Computer program ~~software~~' means a computer program, as defined in section 101 of title 17, United State Code. ~~and any associated documentation, supporting materials, or user instructions.~~

(c) Any royalties or other income received from the licensing or assignment of copyright under agreements shall be retained by NASA and shall be disposed of by the Administration in a like manner to royalties received from the licensing of patents.

ARPA

Program Information Package for Technology Reinvestment Project Focused Competition

Dual Use Technologies • National Security • Economic Growth
TECHNOLOGY REINVESTMENT PROJECT

April 1994

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Appendix A: Defense Technology Conversion Council Policies

A.1. What is an "Eligible Firm?"

The TRP term, "eligible firm," is defined by statute (10 U.S.C. § 2491(9)). The following working definition paraphrases the statutory language:

> An "eligible firm" is a company or other business entity (or a consortium of such companies) owned or controlled by U.S. citizens that conducts a significant level of its research, development, engineering, and manufacturing activities in the United States. However, a company not owned or controlled by U.S. citizens can be eligible if it is a subsidiary of a parent company that is incorporated in a country whose government funds research and development consortia in which foreign owned subsidiaries can participate. That country must also afford adequate and effective protection for the intellectual property rights of companies incorporated in the United States. A foreign-owned company must still conduct a significant level of its research, development, engineering, and manufacturing activities in the United States in order to be eligible.

A.2. Intellectual Property

(1) Intellectual Property in General

Intellectual property consists chiefly of inventions (whether or not patented), copyrights (in technical data or other matter), trade secrets, and trademarks. TRP treatment of intellectual property rights shall be flexible, with due consideration given to the underlying purposes of the programs, particularly the national security objectives of Section 2501 of Title 10, United States Code. However, the starting point will generally be a regime that allows participants to retain ownership of intellectual property, with rights granted to the Government for Government purposes and with "march-in" rights given to the Government in the event productization goals (in Technology Development) are not advanced in a reasonable time.

(2) Rights in Inventions

(a) The disposition of rights in inventions under contracts, grants, and cooperative agreements[1] (including subcontracts) for the performance of experimental, developmental, or research work funded under the programs shall be governed by Chapter 18 of Title 35, United States Code.[2]

(b) In general, inventions must be disclosed to the Government. Inventors then may elect either to retain ownership of each invention or to relinquish ownership to the Government. The Government retains a royalty-free license to practice retained inventions (or have them practiced by others) on its behalf throughout the world. The Government may also exercise "march-in" rights, taking control of the invention if productization is not achieved in a reasonable period of time. Standard clauses mandated by 37 C.F.R. Part 401 shall generally apply to all TRP grants and cooperative agreements unless either: (1) the party to the agreement is not located in the United States or does not have a place of business in the United States or is subject to the control of a foreign government; or (2) the party to the agreement is not a nonprofit organization or an alternate provision is to be used in accordance with 37 C.F.R. 401.3.

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[1]See the discussion below about the various types of funding instruments.

[2]This chapter, by its terms, applies only to small business firms and education and other nonprofit organizations. However, it is applicable by executive order to other kinds of entities as well.

ARPA

Program Information Package for Defense Technology Conversion, Reinvestment, and Transition Assistance

Dual Use Technologies • Technology Reinvestment Project • National Security • Economic Growth

March 10, 1993

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APPENDIX F
STATUTES RELATING TO DEFENSE CONVERSION

F.1. STATUTORY DEFINITIONS OF TERMS (10 U.S.C. § 2491)

"In this chapter:

"(1) The term 'national technology and industrial base' means the persons and organizations that are engaged in research, development, reduction, or maintenance activities conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for military and nonmilitary application.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary applications.

"(4) The term 'technology and industrial base sector' means a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. § 3710a(d)(2)).

"(6) The term 'critical technology" means a technology that is-

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. § 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to [10 U.S.C. § 2505(f)] of this title, in the most recent national technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to [10 U.S.C. § 2506(e)] of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm."

"(b) Transition Provision.—Until the first national technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of title 10, United States Code, as added by section 4216, the term "defense critical technology" for the purposes of chapter 148 of such title, as added by section 4202, shall have the meaning given such term in section 2521 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act."

F.2. CONGRESSIONAL DEFENSE POLICY CONCERNING NATIONAL TECHNOLOGY AND INDUSTRIAL BASE, REINVESTMENT, AND CONVERSION (10 U.S.C. § 2501)

"2501. Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion

"(a) DEFENSE POLICY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve—

"(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a);

"(B) the policy guidance of the Secretary of Defense provided pursuant to [10 U.S.C. § 113(g)]; and

"(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to [10 U.S.C. § 221].

"(2) Sustaining production, maintenance, repair, and logistics for military operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE REINVESTMENT, DIVERSIFICATION, AND CONVERSION.—It is the policy of Congress that, during a period of reduction in defense

4427

NATIONAL SECURITY COUNCIL
WASHINGTON D.C. 20506

June 6, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL

FROM: STEVEN R. JONES

SUBJECT: Revised NASA Proposed Report RE: S. 1881, NASA Technology Investment Act (LRM #I-2876)

OMB has requested NSC views on the revised NASA proposed report regarding the NASA Technology Investment Act. The revised NASA report incorporates comments from various departments and agencies. I have reviewed the revised report and from the NSC perspective have no objections.

Concurrences by: Jeremy Rosner

RECOMMENDATION

That you sign the Memorandum at Tab I.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence