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WITHDRAWAL SHEET

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Collection Name Roberts, John: Files

Withdrawer

LOJ 7/31/2005

File Folder [INTERNATIONAL COMMUNICATIONS SATELLITE
SYSTEMS SEPARATE FROM INTELSAT]

FOIA

2005-139

Box Number CFOA0578

COOKE

1011

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
19472	MEMO	H. LAWRENCE GARRETT, III TO FRED FIELDING, RE PROPOSED PRESIDENTIAL DECISION CONCERNING INTERNATIONAL COMMUNICATIONS SATELLITE SEPARATE FROM INTELSAT	3	4/18/1984	B1
19473	MEMO	FRED F. FIELDING TO RICHARD DARMAN, RE PROPOSED PRESIDENTIAL DECISION CONCERNING INTERNATIONAL COMMUNICATIONS SATELLITE SEPARATE FROM INTELSAT	1	4/18/1984	B1
19474	MEMO	GEORGE P. SHULTZ TO THE PRESIDENT, RE INTERNATIONAL COMMUNICATIONS SATELLITE SYSTEMS SEPARATE FROM INTELSAT	3	3/29/1984	B1

R 6/22/2006

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]

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19472 MEMO

3 4/18/1984 B1

H. LAWRENCE GARRETT, III TO FRED FIELDING,
RE PROPOSED PRESIDENTIAL DECISION
CONCERNING INTERNATIONAL
COMMUNICATIONS SATELLITE SEPARATE
FROM INTELSAT

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19473 MEMO

1 4/18/1984 B1

FRED F. FIELDING TO RICHARD DARMAN, RE
PROPOSED PRESIDENTIAL DECISION
CONCERNING INTERNATIONAL
COMMUNICATIONS SATELLITE SEPARATE
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~~CONFIDENTIAL~~

Document No. 186816CS

ATTACHMENT

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/17/84 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY

SUBJECT: INTERNATIONAL COMMUNICATIONS SATELLITE SYSTEMS SEPARATE FROM INTELSAT
PROPOSED PRESIDENTIAL DECISION

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☐	McFARLANE	☐	☐
MEESE	☐	☐	McMANUS	☐	☐
BAKER	☐	☐	MURPHY	☐	☐
DEAVER	☐	☐	OGLESBY	☐	☐
STOCKMAN	☐	☐	ROGERS	☐	☐
DARMAN	☐	☐	SPEAKES	☐	☐
FELDSTEIN	☐	☐	SVAHN	☐	☐
FIELDING	☒	☐	VERSTANDIG	☐	☐
FULLER	☐	☐	WHITTLESEY	☐	☐
HERRINGTON	☐	☐		☐	☐
HICKEY	☐	☐		☐	☐
JENKINS	☐	☐		☐	☐

REMARKS:

May we have your comments on the attached by close of business today.
Thank you.

~~CONFIDENTIAL~~

ATTACHMENT

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ENCLOSURE(S)

101 7/31/05

RESPONSE:

Richard G. Darman
Assistant to the President
Ext. 2702

1984 APR 18 AM 9:12

THE WHITE HOUSE
WASHINGTON

DRAFT

April 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
JOHN A. SVAHN
FRED KHEDOURI
GILBERT D. RYE

FROM: CRAIG L. FULLER

SUBJECT: International Communications Satellite
Systems Separate from INTELSAT

I have attached a draft decision memo on the INTELSAT matter.
Please review it and provide any comments you may have.

On the next page is a summary of the differences between
Commerce and State.

THE WHITE HOUSE
WASHINGTON

April 17, 1984

MEMORANDUM FOR THE PRESIDENT

FROM: CRAIG L. FULLER

SUBJECT: International Communications Satellite Systems
Separate from INTELSAT

ISSUE

1. Is it in our national interest to allow the establishment of international satellite systems separate from INTELSAT to serve the North Atlantic Region?
2. Should the President make this determination or has the authority to make such a determination been delegated to the Secretary of Commerce by Executive Order 12046?

BACKGROUND

Applications to establish separate satellite systems separate from INTELSAT are now before the Federal Communications Commission (FCC). The FCC is waiting for comments from the Executive Branch to include in its review process.

The Department of Commerce and the State Department have reviewed the issue of establishing separate satellite systems from INTELSAT. Both believe it would be in the national interest for the FCC to approve the establishment of such systems, subject to certain operational limitations. And, Commerce agrees with State that coordination under the INTELSAT agreements is appropriate.

The area of disagreement concerns the question of making the national interest determination and transmitting the views of the Executive Branch to the FCC. Commerce believes that it has been delegated the authority to make such a determination by Executive Order 12046. State believes that the President should make the determination and that State should transmit the views of the Executive Branch to the FCC.

OPTIONS

1. Concur in the recommendation from Commerce to support international satellite communications systems separate from INTELSAT (Tab A), transmit the package to the Secretary of Commerce to make the determination and the appropriate notifications concerning of the Executive Branch position.
2. Concur in the recommendation from Commerce to support international satellite communications systems separate from INTELSAT (Tab B), but make a Presidential determination and return the package to Commerce requesting the Secretary of Commerce to make the appropriate notifications of the Executive Branch position.
3. Concur in the recommendation from State (Tab C) to support international satellite communications systems separate from INTELSAT, make a Presidential determination of national interest and return the package to the Department of State with a request that the Secretary of State make the appropriate notifications.

RECOMMENDATION

This matter was reviewed by senior members of NSC, OPD and OMB in addition to Dick Darman and myself. We recommend that you approve option number 1.

Both State and Commerce have legitimate concerns about national and international telecommunications policy. Commerce will work to improve the level of competition that exists in the telecommunications field. In doing so, it must continue to coordinate with State on appropriate international considerations.

The principal issue needing to be resolved now is which of the two departments should have lead responsibility on this particular telecommunications matter. We favor the Department of Commerce. Additionally, since Commerce has the authority to make the national interest determination in this matter, there is no need for a Presidential determination unless you prefer to make one.

DECISION

_____ Option 1. _____ Option 2. _____ Option 3.

<u>Issue</u>	<u>DOC</u>	<u>DOS</u>
Determination Made By	Commerce/The President	The President
President's Instructions to State and Commerce	1. Memo to DOC/DOS 2. Require authorization for use of system by one or more foreign authorities 3. Enter into coordination procedures with U.S. Party under terms of agreement establishing INTELSAT 4. Not mentioned	1. Same 2. Same 3. Same 4. Require system to be authorized by FCC
Communication from Executive Branch to FCC	1. By Commerce 2. Determination made by Commerce 3. Systems should be subject to two conditions (spelled out) 4. Recommend FCC accord direct cost-based carrier access to INTELSAT through COMSAT acting as ministerial agent 5. Not referred to	1. By State 2. Determination made by President 3. Same (language identical) 4. Not referred to 5. Recommend applicants commit to procurement policy to afford U.S. suppliers of spacecraft and launch services opportunities in the proposed system no less than they would receive from open international bids
Attachments for FCC	1. Same 2. Commerce report on "New International Satellite Systems and Policies That Should Govern"	1. Memo of Law from State's Legal Advisor 2. Not mentioned



March 28, 1984

MEMORANDUM FOR THE PRESIDENT

FROM: Malcolm Baldrige

SUBJECT: International Communications Satellite
Systems Separate from INTELSAT

ISSUE FOR DECISION

Sections 201(a) and 102(d) of the Communications Satellite Act of 1962 permit international satellite communications systems separate from the International Telecommunications Satellite Organization (INTELSAT) if they are in the national interest. The determination of national interest has been delegated to the Department of Commerce under Executive Order 12046. Because of the importance of this issue, you may wish to make the determination. A draft determination is enclosed.

BACKGROUND

Two applications were made in 1983 to the Federal Communications Commission (FCC) to establish separate international satellite systems serving the North Atlantic region. The applications are Orion Satellite Corp. and International Satellite, Inc. They propose to provide specialized corporate networks and international video relay services to meet the increasingly specialized demands of U.S. multinational corporations. Such services are not now generally available. The FCC was advised that the Executive would review the issues raised and asked to take no action pending completion of that review. RCA Corp. recently filed an analogous application.

The Department of Commerce prepared a study analyzing the major communications and information policy matters including economic and trade issues raised by these applications. A Senior Interagency Group on International Communications and International Policy (SIG)* also studied U.S. rights and obligations under the INTELSAT Agreements. The legislative history of the 1962 Act and other national concerns -- trade, defense, and foreign policy -- were reviewed.

* This SIG is composed of State (chair), Commerce (vice chair), and USIA (vice chair), together with AID, BIB, CIA, DOD, Justice, NASA, NSC, OMB, OPD, and OSTP.

The SIG adopted Commerce's conclusion that it is technically feasible, economically desirable and in the national interest to allow entry by new service providers into the international satellite business. The SIG also adopted the limitation on the scope of the license Commerce proposed be granted. The new systems established by the applicants would be restricted to providing services through the sale or long-term lease of transponders on space segment capacity for communications not interconnected with the public switched message network (except for emergency service restoration.)

The Department of State prepared a memorandum of law reviewing the foreign policy implications of these applications and interpreting U.S. obligations under the INTELSAT Agreement of 1971. The SIG adopted the State Department's conclusion that the United States may authorize these applications if the new international satellite systems are coordinated with INTELSAT under Article XIV(d) of the Agreement. Article XIV requires non-binding consultation to ensure technical compatibility and to avoid significant economic harm.

RECOMMENDATION

I recommend that a determination be made and published in the Federal Register that satellite systems separate from INTELSAT are in the national interest.

Option 1: The President makes the determination.

Approve _____

Disapprove _____

Option 2: The Department of Commerce makes the determination.

Approve _____

Disapprove _____



Secretary of Commerce

Enclosures

DETERMINATION REGARDING INTERNATIONAL COMMUNICATIONS
SATELLITE SYSTEMS SEPARATE FROM INTELSAT

By virtue of the authority vested in me by Executive Order 12046 and the sections 102(d) and 201(a) of the Communications Satellite Act of 1962, as amended (47 U.S.C. §§ 701(d), 721(a) (1982)), I hereby determine that it is in the national interest to have international communications satellite systems separate from the International Telecommunications Satellite Organization.


Secretary of Commerce

, 1984



Honorable Mark S. Fowler
Chairman
Federal Communications Commission
Washington, D.C. 20554

Dear Mr. Chairman:

In accordance with section 4-7 of Executive Order 12046 I am transmitting the views of the Executive Branch on the applications of Orion Satellite Corporation and International Satellite, Inc. to operate transatlantic satellite systems separate from INTELSAT.

We have determined that it is in the national interest to have United States satellite systems that operate separately from INTELSAT directly available to United States companies and firms because of the economic benefits to United States commerce of direct access to satellite services. These systems should be subject to two conditions:

- (1) Each system should be restricted to providing services through the sale or longterm lease of transponders or space segment capacity for communications not interconnected with public-switched message networks (except for emergency restoration service); and
- (2) Each system should be coordinated with INTELSAT under Article XIV(d) of the INTELSAT Agreement which requires consultations to ensure technical compatibility and to avoid significant economic harm.

We also recommend that the Commission act promptly to accord direct, cost-based carrier access to INTELSAT through COMSAT acting as ministerial agent.

The Department's report on New International Satellite Systems and the Policies That Should Govern, and the opinion of the Department of State legal advisor on these issues are enclosed to be made a part of the record in this proceeding.

Sincerely,

Malcolm Baldrige
Secretary of Commerce

Enclosures

Presidential Determination
No. _____

DETERMINATION REGARDING INTERNATIONAL COMMUNICATIONS
SATELLITE SYSTEMS SEPARATE FROM INTELSAT

By the President of the United States of America

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Sections 102(d) and 201(a) of the Communications Satellite Act of 1962, as amended (47 U.S.C. §§ 701(d), 721(a) (1982)), I hereby determine that it is in the national interest to have international communications satellite systems separate from the International Telecommunications Satellite Organization.

Ronald Reagan

The White House
 , 1984

MEMORANDUM FOR THE HONORABLE MALCOLM BALDRIGE
The Secretary of Commerce

THE HONORABLE GEORGE P. SHULTZ
The Secretary of State

SUBJECT: International Communications Satellite System
Separate from INTELSAT

I have determined, under Sections 201(a) and 102(d) of the Communications Satellite Act of 1962, that it is in the national interest to have United States international communications satellite systems separate from INTELSAT and not connected to public switched message networks.

The Department of State has determined that under the terms of the Agreement Establishing the International Telecommunications Satellite Organization (INTELSAT) (TIAS 7532) such satellite systems must be authorized for use by one or more foreign authorities and be coordinated with INTELSAT under Article XIV(d). The Secretary of State shall exercise primary authority for such coordination as provided by Section 5-201 of Executive Order 12046.

The Secretary of Commerce shall in accordance with Section 2-407 Executive Order 12046, ensure that the Executive Branch views are effectively presented to the Federal Communication Commission.

Ronald Reagan

THE SECRETARY OF STATE
WASHINGTON

March 29, 1984

~~CONFIDENTIAL~~

MEMORANDUM FOR: THE PRESIDENT
From: George P. Shultz *GPS*
Subject: International Communications Satellite
Systems Separate from INTELSAT

ISSUE FOR DECISION

You are asked to determine, under Section 201(a)(6) of the Communications Satellite Act of 1962, that separate international communications satellite systems are required in the national interest if each:

(1) is authorized for use by one or more foreign authorities and is coordinated with INTELSAT under the terms of the INTELSAT Agreement; and

(2) is authorized by the FCC.

A determination for your signature is attached.

BACKGROUND

Last year two applications were made to the FCC to establish international satellite systems separate from INTELSAT to serve the North Atlantic region (March 1983, Orion Satellite Corporation; August 1983, International Satellite, Inc. (ISI)). The FCC was advised not to take action on these applications pending an Executive Branch review of relevant legal and policy issues to be undertaken by the Senior Interagency Group (SIG) on International Communication and Information Policy.

The legal issues were two: 1) whether such systems could be authorized under the Communications Satellite Act of 1962; and 2) U.S. rights and obligations under the 1972 INTELSAT Agreements.

With regard to the first issue, Sections 102(d) and 201(a)(6) of the Communications Satellite Act of 1962 permit additional international communications satellite systems if determined by the President to be "required in the national interest."

~~CONFIDENTIAL~~
(OADR)

DECLASSIFIED
NLS *F05-139/1 #19474*
BY *LOI* NARA DATE *6/23/06*

~~CONFIDENTIAL~~

- 2 -

In July 1981 Under Secretary of State Buckley advised the FCC that under certain conditions U.S. domestic satellite systems could be used for service with near-by countries. Consistent with this advice, the FCC has approved a number of arrangements for use of domestic satellites for services between the United States and Canada, Bermuda and many Caribbean countries. The two new applications differ significantly from the earlier situation in that they are dedicated international systems proposing transatlantic service. In view of this significant difference and the desire to minimize any legal challenge to this Executive Branch decision, we believe it is necessary for the President to employ the authority granted to him in the 1962 Act. Our assessment of E.O. 12046 and its predecessors is that your authority under Section 201(a)(6) has not been delegated.

With regard to the second issue, we have determined that there is nothing in the INTELSAT Agreement that prohibits such systems, and that such systems can be authorized in a manner which is compatible with our obligations to INTELSAT.

During the policy review, the SIG gave careful study to U.S. national interests, including trade, defense and other foreign policy considerations. The Department of Commerce also prepared a separate report. Several options for policy decision were considered, ranging from denial to approval of the systems with no limitations. Considering the growth potential of the market, the benefits of testing new services in the open market, and the basic U.S. objective of continuing INTELSAT as an effective and financially sound organization, the SIG on January 18 unanimously recommended that such systems be permitted under certain specified conditions.

The SIG's recommendations are reflected in the attached determination for your signature. We have asked you to establish two general criteria: (1) reaffirm the necessity of obtaining foreign concurrence to receive the new services and coordination with INTELSAT; and (2) the necessity of obtaining FCC authorization. After you make the determination, we will advise the FCC of certain limitations on systems and the procedures that will be necessary for coordination with INTELSAT. We will continue Executive Branch review of future FCC applications and alter the limitations as technologies and market conditions change.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- 3 -

The following limitations and procedures are to be applied to Orion and ISI:

(1) the system be restricted to providing services through the sale or long-term lease of transponders or space segment capacity for communications not interconnected with public-switched message networks (except for emergency restoration service); and

(2) the system be coordinated with INTELSAT under Article XIV(d) of the INTELSAT Agreement which requires consultations to ensure technical compatibility and to avoid significant economic harm.

In addition, we propose to notify the FCC that we are concerned about the possibility of other countries conditioning the grant of operating rights on a commitment to foreign procurement. To address this matter we will recommend that applicants commit to a procurement policy which will afford U.S. suppliers of spacecraft and launch service opportunities in the proposed system no less than they would receive from open international bids which award the best combination of quality, price and delivery time.

RECOMMENDATION

That you sign the attached determination which will be published in the Federal Register.

Attachments:

- Tab 1 - Presidential Determination
- Tab 2 - Letter to the FCC
- Tab 3 - SIG report
- Tab 4 - Commerce Report

~~CONFIDENTIAL~~

DRAFT

Presidential Determination
No. _____

MEMORANDUM FOR THE HONORABLE MALCOLM BALDRIGE
The Secretary of Commerce

THE HONORABLE GEORGE P. SHULTZ
The Secretary of State

SUBJECT: International Communications Satellite Systems
Separate from INTELSAT

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Section 201(a)(6) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 721(a)(6)), I hereby determine that separate international communications satellite systems are required in the national interest if each meets the following criteria:

1. That one or more foreign authorities authorize use of the system and enter into coordination procedures with the United States Party under the terms of the Agreement Establishing the International Telecommunications Satellite Organization (INTELSAT) (TIAS 7532);
2. That the system is authorized by the Federal Communications Commission.

These conditions shall be applicable to any applications submitted to the Federal Communications Commission proposing to offer international communications satellite systems separate from INTELSAT.

This Determination shall be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, March , 1984.

United States Department of State

*Under Secretary of State for
Security Assistance, Science and Technology*

Washington, D.C. 20520

Dear Mr. Chairman:

With reference to our previous correspondence regarding the applications of Orion Satellite Corporation (Orion) and International Satellite, Inc. (ISI) pending before the Commission, the Executive Branch has completed its policy review. The President has determined that separate international communications satellite systems are required in the national interest if each meets certain criteria. (Presidential Determination 84-__ (___FR___)).

With reference to the Presidential Determination criterion on coordination with INTELSAT, Executive Branch policy requires that with respect to the Orion and ISI applications:

(1) that each system be restricted to providing services through the sale or long-term lease of transponders or space segment capacity for communications not interconnected with public-switched message networks (except for emergency restoration service); and

(2) that each system be coordinated with INTELSAT under Article XIV(d) of the INTELSAT Agreement which requires consultations to ensure technical compatibility and to avoid significant economic harm.

The Executive Branch is concerned about the possibility of other countries conditioning the grant of operating rights on a commitment to foreign procurement. To address this matter we recommend that applicants commit to a procurement policy which will afford U.S. suppliers of spacecraft and launch services opportunities in the proposed system no less than they would receive from open international bids which award the best combination of quality, price and delivery time.

The Honorable
Mark S. Fowler,
Chairman,
Federal Communications Commission.

A Memorandum of Law from the Legal Adviser of the Department of State supporting coordination under Article XIV(d) for these two applications is enclosed.

Sincerely,

William Schneider, Jr.

Enclosure:

Legal Memorandum.