

421. Report by the Committee on Satellite Reconnaissance Policy/1/

Washington, undated.

/1/Source: National Archives and Records Administration, RG 59, S/S-NSC Files: Lot 72 D 316, NSAM No. 156. Top Secret. The report was forwarded under cover of a July 2 memorandum from Secretary Rusk to President Kennedy. Rusk observed that the committee had not reached an agreement on Recommendations 18 and 19, and recommended that the President's principal advisers on national security and arms control meet for further discussion of these points.

REPORT ON POLITICAL AND INFORMATIONAL ASPECTS OF SATELLITE RECONNAISSANCE POLICY

Note

This report and its recommendations do *not* include examination of possible private disclosure of US reconnaissance satellite capabilities to the Soviet leadership.

The Problem

To develop a policy with respect to United States reconnaissance programs which will:

- A. Maintain our freedom of action unilaterally to conduct reconnaissance satellite operations.
- B. Prevent foreign political and physical interference with the conduct of these operations.
- C. Prevent accidental or forced disclosure of details of the operations or end products of the US satellite reconnaissance program.
- D. Avoid situations, statements or actions which, in the context of our satellite reconnaissance program, could later be exploited as evidence either of alleged US aggressiveness or duplicity.
- E. Facilitate the resolution of any conflicts which might arise between the essential technical and security requirements of the US satellite reconnaissance program and the international commitments and foreign policy objectives of the United States in a manner which is in the over-all best interests of the national security of the United States.

Discussion

1. The reconnaissance satellite program is extremely important to Free World security, and will continue to be necessary to provide crucial information about Soviet activities, capabilities, and targets.
2. Complex international attitudes toward this program pose significant problems for the US. In the first place, other governments and peoples are in varying degrees of ignorance about whether the US has a reconnaissance satellite program, about the capabilities of such satellites, about the implications of such a program, about its relation to various space and disarmament negotiations, and about the propriety and justification for peacetime reconnaissance activities. There are, of course, differences both of knowledge and attitude on the part of various allied, neutral and Communist states. Regardless of what the US does, or does not, say about this program, it is clearly military and it is related to the "Cold War." There are confused views on pairing the distinction between "peaceful," "military," "non-prohibited" and "legal" on

the one hand, and "aggressive," "civilian," "prohibited" and "illegal," on the other. For example, the connotations of the UN General Assembly Resolution 1721 (XVI) on "International Cooperation in the Peaceful Uses of Outer Space," as distinguished from its actual operative provisions, may seem to many to militate against any "military" use of space.

3. There is, strictly speaking, no settled regime of law governing activities in outer space. There have been no authoritative statements by authoritative bodies. This is a developing field and the legitimacy of the use of observation satellites in outer space, like other space activities, must, consequently, be argued largely on the basis of analogies from other areas of international law and of emerging practice.

Arguments have been advanced, on the premise that a reconnaissance satellite program is a "military" (as opposed to "peaceful") program, that the use of such satellites in outer space is an aggressive act and thus a violation of international law. The confusions over legality, propriety and peacefulness earlier noted can be exploited for use against space reconnaissance. Thus it could be argued, with considerable appeal, that the military uses of outer space, such as satellite reconnaissance, should be proscribed as non-peaceful.

On the other hand, strong arguments are available to support the conclusion that the gathering of information by means of reconnaissance satellites is permissible:

(a) There is no reasonable basis for considering unarmed satellites as constituting either a threat or the use of force (proscribed by Article 2(4) of the UN Charter), and there is nothing in the Charter which could be construed as prohibiting the essentially non-aggressive activities of an observation satellite.

(b) It is well established that areas subject to the jurisdiction of a state may be freely observed from points outside that jurisdiction, e.g., from a ship on the high seas. Observation from outer space, which is not subject to territorial claims, also cannot be considered to constitute a violation of international law.

(c) In terms of practice to date, there have been no objections to visual and photographic observation during manned space flights; nor to Tiros photographic satellites. Although there is a difference in the degree of performance, this practice helps us to sustain the argument that photographic satellites of any kind are permissible.

On balance, the arguments in favor of the legitimacy of satellite reconnaissance are sounder from a technical legal standpoint.

4. The US is not at present legally bound to observe any commitments regarding the use of outer space. However, as a matter of national policy, the US does consider itself bound to comply with the United Nations General Assembly Resolution 1721 (XVI), which the US drafted and sponsored and which was unanimously adopted by the UNGA on December 20, 1961. That Resolution "commends to States for their guidance in the exploration and use of outer space" two principles:

(a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;

(b) Outer space and celestial bodies are free for exploration and the use by all States in conformity with international law, and are not subject to national appropriation.

Pursuant to UNGA Resolution 1721, the United States now registers all satellite launchings with the UN. There is no internationally agreed formula governing the data provided for registration with the United Nations.

5. At the recent meetings of the UN Outer Space Committee's Legal Subcommittee in Geneva,^{/2/} the US proposed:

^{/2/}The classified report of the U.S. Delegation to the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space is *ibid.*, SCI Files: Lot 65 D 473, September 1962-December 1963.

(a) A draft General Assembly resolution regarding assistance to and return of space vehicles and their occupants, and

(b) A draft resolution requesting the Secretary General of the United Nations to constitute a panel of experts to draft an international agreement dealing with liability of launching states and international organizations for injury, loss or damage caused by space vehicles.

Those proposals were carefully framed so as not to affect the US reconnaissance satellite program. It should be noted, however, that the issue of banning reconnaissance satellites was specifically raised by the Soviets in a Draft Declaration of Principles. The question of exempting reconnaissance satellites from any agreement to return space vehicles inadvertently landing on the territory of other states was also raised not only by the Bloc, but by some other countries as well. The Legal Subcommittee was unable to reach agreement on any substantive issues. The US Delegation in the Outer Space Technical Subcommittee, which met concurrently, proposed that reports on general national plans for international space activities be submitted to the Outer Space Committee and agreement was reached on this point. It was made clear by the United States (and by the Soviet Union) that such information will be submitted on a purely voluntary basis and at the discretion of the reporting state.

6. The US proposed Treaty Outline on General and Complete Disarmament of April 18, 1962,^{/3/} includes as a measure in Stage One provision for prohibition of "the placing into orbit of weapons capable of producing mass destruction." For verification of this measure, inspection of vehicles and advance notification of all launchings of space vehicles or missiles, would be provided. In addition, the International Disarmament Organization would establish any arrangements necessary for detecting unreported launchings. Finally, the production, stockpiling and testing of boosters for space vehicles would be subject to agreed limitations. The US is also committed to consideration of a possible separate disarmament agreement limited to banning weapons of mass destruction from outer space along the general lines of the provisions contained in the April 18 Treaty Outline.

^{/3/}For text of the U.S. treaty outline submitted to the Eighteen-Nation Disarmament Committee on April 18 (UN doc. ENDC/30), see Documents on Disarmament, 1962, pp. 351-382. U.S. Representative Dean's statement before the Committee when he presented the outline is printed in *American Foreign Policy: Current Documents, 1962*, pp. 1156-1165.

7. It is clear that in negotiations involving outer space and disarmament certain issues have been or will be raised that have serious implications for the US reconnaissance satellite program and on which the US position must be carefully formulated and vigorously defended. Our negotiating posture is weakened, however, by current practices with respect to security that prevent us from making a convincing explanation of our position to allies and friendly neutrals. We are increasingly in danger of being isolated in negotiations on seemingly minor issues, whose implications are better understood by our enemies than by our friends.

A careful review of official statements on US plans for a reconnaissance satellite program, of present free world attitudes toward the concept of satellite reconnaissance, and of the probable extent of Soviet knowledge of our program, indicates that the US might privately seek support from allies and certain neutrals by impressing upon them the importance of the program to the free world, the requirements it

imposes on US negotiating positions on outer space and disarmament matters, and US determination to protect and pursue the program.

8. Public official statements, budgetary funding of the reconnaissance satellite program, and limited publicity about launching of developmental vehicles associated with the program, have committed the US to some degree of public acknowledgment of this program, and in addition there has been an undesirable amount of press commentary and speculation on US reconnaissance activities. Intent to develop a reconnaissance capability is on record. No official statement has indicated what results might have been achieved or information obtained from satellite reconnaissance.

9. The existence of a US requirement for effective intelligence on the Sino-Soviet bloc is generally clear to the leaders of the principal countries of the free world, as well as the official, military and some other groups in those countries. Available evidence indicates that these elements generally support US efforts to develop reconnaissance satellite systems. In some cases, US activities in connection with satellites (not specifically reconnaissance satellites) have elicited concern. In Japan, for example, there has been reluctance to cooperate with NASA on the establishment of US tracking facilities because of suspicion that military activities might be or become involved. In Zanzibar and Nigeria also some groups have argued that the presence of US tracking stations is inconsistent with a neutralist posture since the stations may involve US activities of a military nature. These scattered evidences of concern suggest that a concerted Sino-Soviet bloc campaign attributing sinister and threatening motives to US military (including reconnaissance) satellite programs might elicit a favorable and sympathetic reaction not only from anti-US elements, but also from some others concerned over heightening of international tension. US private diplomatic efforts to gain support for the concept of the right of space reconnaissance would probably counteract the Soviet campaign to some degree, though it is unlikely that the US could at this time gain widespread support for a positive affirmation in the UN or other international forum of the right to conduct space reconnaissance.

10. It is particularly important that the US avoid public statements about our satellite operations that would pose a direct political challenge to the Soviet Union on the sensitive issue of reconnaissance. The Soviets would feel compelled for reasons of prestige to react very strongly by any of a variety of political means to such statements. Similarly, if the Soviets were able to obtain any convincing evidence of the US activity they might, even if not compelled to do so, use the opportunity to launch a major political offensive against the US in an effort to end the reconnaissance program.

11. There can be little doubt that the USSR is aware that the US is engaged in a reconnaissance satellite program, though they are probably in some doubt as to its precise effectiveness. Even in this respect, by extrapolating from known U-2 photographic equipment, they can probably make a reasonable estimate of the resolution of cameras that such a satellite could have. There is reason to believe that the Soviets are developing an anti-satellite weapons system and they may have some capability for anti-satellite operations by 1963. While the US probably cannot keep the Soviets from attempting physical anti-satellite measures if they decide to do so, our objective should be to create conditions in which the Soviets will not attempt this or would pay a political price for doing so by creating a climate of acceptance of the principle of freedom of space and the unacceptability of forcible interference with the exercise of that freedom. US handling of its public relations on reconnaissance operations, and on US development of anti-satellite capabilities, will have an important bearing on this question. Moreover, there are a series of technical measures which the US can use to counter hostile active countermeasures. On balance, it seems probable that from a technical point of view it should be possible by concerted efforts to maintain an effective reconnaissance program despite hostile countermeasures.

Recommended Policy

1. The United States should maintain the legal position that the principles of international law and the UN Charter apply to activities in outer space and, specifically, that outer space is free, as are the high seas.

2. The US should therefore continue to avoid any position implying that reconnaissance activities in outer space are not legitimate. Similarly, we should avoid any position declaring or implying that such activities are not "peaceful uses."

3. The US should, to the extent feasible, seek to avoid public use of the term "reconnaissance" satellites, and where appropriate use instead such broader and more neutral terms as "observation" or "photographic" satellites (See Tab A)./4/

/4/The tabs were not found.

4. Further studies should be made on an urgent basis to determine whether there are releaseable data, such as mapping information, or procedures such as occasionally calling Tiros and Nimbus vehicles "photographic" satellites, which would help create wider public acceptance of space observation and photography.

5. NASA should study urgently the possibilities of accelerating bilateral international cooperation to develop non-military space activities involving space observation, perhaps including photography.

6. It is recognized that the US cannot entirely avoid or disclaim interest in reconnaissance, so that where feasible the US should also seek to gain acceptance of the principle of the legitimacy of space reconnaissance.

7. When confronted by specific Soviet pressure to outlaw reconnaissance activities in space, the US should continue to take a public stand for the legitimacy of the principle of reconnaissance from outer space, the precise form and extent of which would depend upon the circumstances of the confrontation.

8. *[6 lines of source text not declassified]*

9. The present practice of not identifying individual military space launchings by mission or purpose is sound. We believe, however, that there should also be a more open (but not more detailed) public reference to the general over-all military program. An appropriate nickname for public identification should be given to the over-all military program, with its objectives intentionally stated in broad and general terms (See Tab B, which is illustrative). All military launchings would be described in terms of the general objectives of the over-all military program. No specific mission would be ascribed to any particular launch.

10. The US should not, at this time, publicly disclose the status, extent, effectiveness or operational characteristics of its reconnaissance program.

11. Strict control over public statements and backgrounding concerning reconnaissance satellites should be exercised to ensure consistency with the policy guide-lines suggested in these recommendations.

12. No public attention should be directed toward development of anti-satellite capabilities, and any publicized demonstration of developmental work and any actual test of such a capability should require White House approval, with full account given to the adverse effects for our reconnaissance satellite program. We should avoid any indication that physical countermeasures to reconnaissance vehicles would be justified, and as appropriate the US should make a positive effort to propagate the idea that interference with or attacks on any space vehicle of another country in peacetime are inadmissible and illegal.

13. The US should discreetly disclose to certain allies and neutrals selected information with regard to the US space reconnaissance program, making each disclosure orally and at a time and in a manner that will preserve the essential security of our program while impressing upon them its importance for the security of the Free World. Disclosures should be made in a manner that will preclude acquisition by the Communist Bloc of usable evidence of an official US acknowledgment that we are conducting a satellite reconnaissance program. Proposals for such disclosures should include clearance by the National Reconnaissance Office.

14. The US should in private disclosures emphasize the fact of our determination and ability to pursue such programs because of their great importance to our common security, despite any efforts to dissuade us.

15. The US should note in connection with private disclosures that, except in some cases for specifically defined disarmament agreements, the US cannot agree to (a) declarations of the precise purpose of all satellites, (b) declarations of the equipment of all satellites, (c) general requirements for advance notification of all satellite launchings and the tracks of satellites, (d) pre-launch inspection of the satellites, or (e) a specific definition of peaceful uses of space which does not embrace unlimited observation.

16. The possible roles of space reconnaissance in disarmament inspection arrangements or in creating military stability should be further studied.

17. The US should stand by the disarmament proposal for a provision in Stage One of a Treaty on General and Complete Disarmament banning weapons of mass destruction from being carried in satellites, and providing for advance notification and inspection of all missile and space launchings to insure that ban. The US should continue to exclude any ban on reconnaissance satellites.

18. The US should not make or endorse in the disarmament negotiations any proposal for advance notifications of missile and space launchings as one of a separate group of measures to "reduce the risks of war."

The ACDA does not concur in this recommendation. All members of the Committee recognize that there are arguments pro and con on this proposition, but the other members believe the advantages of such a proposal as an arms control measure are not great enough to outweigh the disadvantage to the reconnaissance satellite program from assistance to passive (and potentially to active) countermeasures which would be provided by advance notification. The ACDA member believes that the value of the whole group of measures to reduce risks of war should be considered, since omission of missile and space launchings would appear to represent an undue and even a suspicious concern by the US. In his view, this consideration outweighs possible ill consequences for the reconnaissance program.

19. It is recommended that a decision be made now as to whether to propose a separate arms control agreement banning weapons of mass destruction from being carried in satellites, with appropriate verification controls. The US has proposed discussion of such an agreement along the general lines of the provisions contained in the April 18 Treaty Outline. The members of this Committee are not agreed on the net advisability of making such a proposal, which of course depends on political considerations apart from its effect on the reconnaissance satellite program. (See Tab C for a summary of the considerations pro and con.) They are agreed that no such proposal should be tabled until the question has been reviewed with you./5/

/5/Following NSC discussion of this report on July 10, President Kennedy issued NSC Action No. 2454, which accepted the Committee's recommendations and referred the question of a separate arms control accord back to the Committee for further study. (National Archives and Records Administration, RG 59,

S/S-NSC (Miscellaneous) Files: Lot 66 D 95, Records of Action by the National Security Council) For further information, see Foreign Relations, 1961-1963, vol. VII, Document 226.

The foregoing Report has, in compliance with National Security Action Memorandum No. 156 of May 26, 1962, been prepared and is concurred in by:

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/6/Printed from a copy that indicates Johnson signed the original; all the other signatures are typed.

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