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(S) NATIONAL RECONNAISSANCE OFFICE
WASHINGTON, D.C.

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THE NRO STAFF

18 November 1974

MEMORANDUM FOR MR. AMROM KATZ

SUBJECT: Observation or Espionage

Reference our conversation on 11 October 1974. At that time I stated I felt I could show documentation for the thesis that although the Soviets may have tacitly agreed to overflight by "observation satellites" they have steadfastly distinguished, externally to the world, that satellite information gathering which could be used for aggressive military purposes, i.e. space espionage, is intelligence gathering and is illegal according to the international law.

Those who maintain that the Soviet acceptance of overflight by photo satellites not only is tacit but further can even be "proved" by referring to statements by Soviet chiefs-of-state, or by noting their signatures on UN treaties or the SAL Treaty or Interim Agreement, have not read the words carefully. Let me build a case to show my point.

The Soviets agreed to United Nations General Assembly Resolution 1962 (XVIII) (Atch 1). The resolution says that, "...exploration and use of space shall be carried on in accordance with international law including the Charter of the United Nations...." (Underlining added). Prior to signing, the Soviets tried very hard to include statements outlawing space espionage.

The Soviet writer G. Zhukov in the Soviet magazine, International Affairs, No. 10, October 1960, pages 9 and 10 uses Article 36 of the Chicago Convention of 1944 to state, "...there is absolutely no ground for alleging that espionage at a high altitude, with the aid of artificial earth satellites, is quite lawful under the existing rules of international law...." (Atch 2) (Underlining added).

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Premier Khrushchev is said to have admitted to C. L. Sulzberger of the New York Times, 15 July 1963, that satellites can be used for disarmament inspection. (Atch 3) (Underlining added).

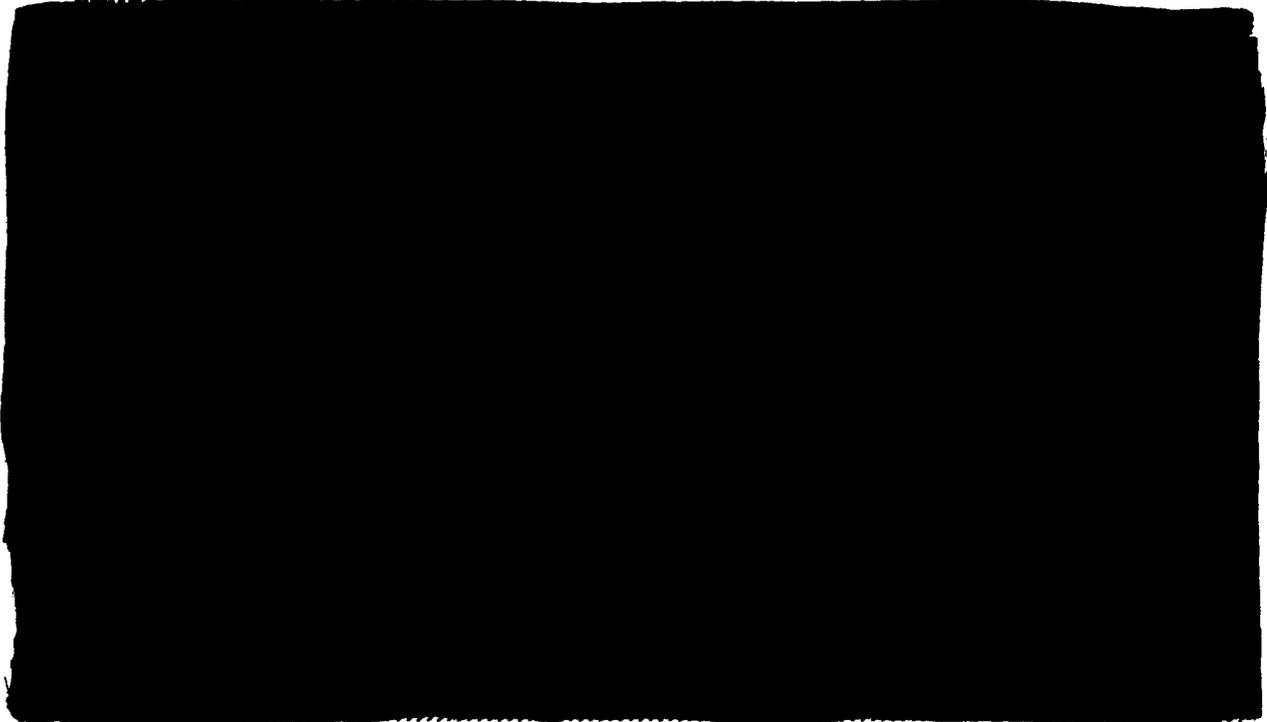
Even as recently as September 1974, G. A. Trofimenko, in the Soviet USA Institute Journal, stated that SALT verification by national means is intended to mean, "primarily by satellite, but also by other technical observation systems." (Atch 4) (Underlining added).

The SAL Treaty and Interim Agreement (Atchs 5 and 6) say, "...each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law." (Underlining added).

Recapping, after we flew our first successful reconnaissance satellite in August 1960, the Russians tried to have satellite reconnaissance outlawed at the UN. They appeared to have caved in on this policy when they agreed to UN Resolution 1962 (XVIII). They didn't. The wording in the resolution talked about exploration and use of space in accordance with international law. Therefore, based on this, statements by the writer Zhukov that the Chicago Convention was the law and the law says that espionage is illegal is still an "operative statement" to use today's terminology. In that same article, page 6, (Atch 2), Premier Khrushchev says as much. Needless to say we have tangible proof of Soviet policy regarding espionage overflights by their downing of Gary Powers' U-2 aircraft.

All of the preceding citations and quotes except one, are quite old. Some would argue that both countries' reconnaissance photo satellites have been operating in an unimpeded manner, and have been allowed to perform in an unimpeded manner, for about 14 years. Thus, it is argued a custom has been established and this custom is therefore international law (Atch 7). As the following words in the attachment states the custom [rule], "...that the rule involved... is in accordance with a constant and uniform usage practiced by the States in question...." I contend that the Soviets have never agreed to espionage from space based upon the preceding arguments.

As you well know, most people in our government believe our best satellite photography, which as a resolution of less than 1012 feet is better than the intelligence estimate of the Soviet's best--3 feet. I submit that the Soviets have carefully articulated a case, over the years, that could have grave consequences for allowing for negation of US reconnaissance satellites, if politically, the timing of such negation is appropriate to their major objectives. Such a circumstance could be motivated for a variety of international considerations or even the disclosure of our above cited capability, inadvertently or otherwise.



That just about tells the story except I'd like to include one last attachment (Atch 8). Paragraph 10, page 7,

*An analogous issue is being addressed presently by a COMIREX study. In that instance the question is: How much do the Soviets know about our overhead space reconnaissance capability? If they were to find out what would they do about it.

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does a good job of summarizing the Soviet view, as of October 1965. I feel their view still holds and has never changed over the years. Since you have a good set of files on this subject you may want to check out my contentions.



Major, USAF
Assistant Deputy Director
for Plans and Programs

- 8 Attachments
- 1-6 Unclassified
- 7 Top Secret (TS63-332)
xerox pgs 9, 13, 19, 21,
22, and 26.
- 8 Secret



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(S) NATIONAL RECONNAISSANCE OFFICE
WASHINGTON, D.C.

18 December 1974

MEMORANDUM FOR [REDACTED]

SUBJECT: ACDA SALT Verification Projection Study

1. I recommend that the NRO participate as an observer to the subject study and consider active participation only after the SALT III scenario or requirement is more clearly identified. My objection to initial active participation is the fact that we would be expending valuable NRO staff effort before a definition of SALT III is established. I find it difficult to see how the NRO could consider factors which affect U.S. collection before ACDA knows what they want us to collect against. Moreover, ACDA cannot define a SALT III scenario until anticipated improvement in collection technology are addressed so it appears that meaningful NRO participation would not be necessary until much later in the study.
2. Another reason for not jumping into this study at first is the lack of participation by other interested agencies. If CIA, DIA, STATE, ARPA, and DNR&E, NSA were participating I think the study would receive community acceptance and certainly more worthy of NRO support. I feel that the NRO should suggest to ACDA wider community participation.
3. The terms of reference should also be refined so as to first address a broad SALT III scenario then modulate the scenario with the anticipated technologies and other factors. Finally, the study should consider factors which affect U.S. collection capability. In block diagram, the terms of reference would be as follows:

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