

ROUTING AND TRANSMITTAL SLIP

Date **9/7/83**

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REMARKS

~~**SECRET**~~

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FROM: (Name, org. symbol, Agency/Post) Jim Chamberlin ACDA	Room No.—Bldg.
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OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.606

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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

DCI/IO 83-5535

September 7, 1983

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(with SECRET Attachment)

14 SEP 1983
LOGGED

MEMORANDUM

TO: SIG (Space) ELV Working Group
FROM: ACDA - Jim Chamberlin
SUBJECT: Soviet Interest in ELV Commercialization

The Soviet Union made a demarche on July 7 regarding ELV commercialization. The US replied on August 24 (see attached cables).

The Soviet Union also apparently has factored concerns about ELV commercialization into their "Draft Treaty Banning the Use of Force in Space" submitted for the upcoming UN session (attached).

Article 3 of the draft treaty states that parties to the treaty shall not "help, encourage, or incite ... physical or legal persons to engage in activity prohibited by this treaty." The reference to "legal persons" appears to be a reference to corporations engaged in space launch activities.

Article 6 calls for the parties to take necessary internal measures to insure compliance. This article also appears to be aimed at US commercialization of ELVs. No similar provision appeared in the Soviets' 1981 draft treaty on outer space.

If the Soviets should make an issue of private ELV operators at the UN (e.g., by explaining why they added article 6 to their draft), we should be prepared to explain and defend our procedures.

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Department of State

OUTGOING
TELEGRAM

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ORIGIN EUR-08

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C O N F I D E N T I A L STATE 239933

E.O. 12356: DECL: OADR
TAGS: TSPA, UR, US
SUBJECT: REPLY TO SOVIET DEMARCHE ON PRIVATE SECTOR
LAUNCH ACTIVITIES

REF: STATE 189728

1. C - ENTIRE TEXT.

2. DAS PALMER CALLED IN SOVIET CHARGE SOKOLOV TODAY AND DELIVERED US REPLY TO JULY 7 SOVIET DEMARCHE ON COMMERCIALIZATION OF LAUNCH ACTIVITIES. TEXT OF NONPAPER FOLLOWS IN PARA 3.

3. BEGIN TEXT. THE UNITED STATES REFERS TO THE JULY 7 REMARKS OF CHARGE SOKOLOV TO DEPUTY ASSISTANT SECRETARY PALMER AND WISHES TO ADDRESS CERTAIN POINTS RAISED BY THE SOVIET UNION CONCERNING PRIVATE SECTOR SPACE ACTIVITIES.

THE 1967 OUTER SPACE TREATY EXPLICITLY RECOGNIZES THAT NONGOVERNMENTAL SPACE ACTIVITIES MAY OCCUR. ARTICLE VI PROVIDES THAT STATES PARTY TO THE TREATY BEAR INTERNATIONAL RESPONSIBILITY FOR SUCH ACTIVITIES AND THAT SUCH ACTIVITIES REQUIRE AUTHORIZATION AND

CONTINUING SUPERVISION BY THE STATE CONCERNED. THE UNITED STATES IS FULLY COGNIZANT OF ITS INTERNATIONAL OBLIGATIONS AND WILL CONTINUE TO CARRY THEM OUT.

ALL COMMERCIAL LAUNCH ACTIVITIES OF THE UNITED STATES PRIVATE SECTOR WILL BE CARRIED OUT UNDER CLOSE GOVERNMENT SUPERVISION, TO ASSURE THAT THESE ACTIVITIES COMPLY WITH UNITED STATES LAWS AND REGULATIONS AND WITH ALL INTERNATIONAL OBLIGATIONS UNDERTAKEN BY THE UNITED STATES. THE GOVERNMENT'S LEGAL CONTROL OVER ACCESS TO TECHNOLOGY WILL NOT BE AFFECTED BY THE DECISION TO ALLOW COMMERCIALIZATION OF EXPENDABLE LAUNCH VEHICLES.

REGARDING SPECIFIC POINTS, THE UNITED STATES GOVERNMENT REQUIRES PRIVATE SPACE LAUNCH OPERATORS TO OBTAIN PRIOR APPROVAL FOR ALL PROPOSED LAUNCHES. THE UNITED STATES GOVERNMENT CAREFULLY REVIEWS ALL SUCH PROPOSALS TO ENSURE THEIR COMPATIBILITY WITH DOMESTIC GUIDELINES AS WELL AS WITH INTERNATIONAL OBLIGATIONS. MOREOVER, THE UNITED STATES REQUIRES THAT ALL PRIVATE SECTOR LAUNCH OPERATORS MEET VEHICLE AND LAUNCH SAFETY STANDARDS SIMILAR TO THOSE NOW APPLIED TO AMERICAN GOVERNMENTAL LAUNCHES. APPROPRIATE ELEMENTS OF THE UNITED STATES GOVERNMENT MONITOR SPACE OBJECTS; PRIVATE OBJECTS WILL NOT BE EXCLUDED FROM THIS MONITORING.

THE UNITED STATES WISHES TO REMIND THE SOVIET UNION THAT THE PRIVATE SECTOR HAS ALWAYS BEEN AN INTEGRAL PART OF THE UNITED STATES SPACE PROGRAM. THE DECISION TO ALLOW THE PRIVATE SECTOR TO OFFER COMMERCIAL LAUNCH SERVICES INVOLVES NO NEW ACCESS TO TECHNOLOGY, SINCE AMERICAN COMPANIES HAVE ALWAYS BEEN DESIGNERS AND MANUFACTURERS OF OUR SPACE SYSTEMS. IT IS INCORRECT TO IMPLY THAT THE UNITED STATES IS ALLOWING NON-GOVERNMENTAL ORGANIZATIONS NEW ACCESS TO POTENTIALLY DANGEROUS TECHNOLOGY, NOR WILL THIS DECISION AFFECT OUR POLICY TOWARD TRANSFER OF LAUNCH OR SPACE-RELATED TECHNOLOGY TO OTHER COUNTRIES. IT IS ALSO INCORRECT TO STATE THAT THIS PRIVATE SECTOR ACTIVITY WILL POSE RISKS TO INTERNATIONAL STABILITY. THE BROADENING OF ACTIVITIES BY THE PRIVATE SECTOR DOES NOT CARRY WITH IT A LESSENING OF CONTROL BY THE UNITED STATES GOVERNMENT, NOR DOES IT PROVIDE THIS SECTOR WITH TECHNOLOGY PREVIOUSLY UNAVAILABLE TO IT. WE TRUST THIS INFORMATION ADEQUATELY ADDRESSES THE ISSUES RAISED BY THE SOVIET UNION. END TEXT.

4. IN SUBSEQUENT REMARKS, PALMER EMPHASIZED THE USG'S REQUIREMENTS FOR PRIOR APPROVAL AND OVERSIGHT OF

PRIVATE SECTOR LAUNCH ACTIVITIES AND NOTED THAT THE US PRIVATE SECTOR HAS ALWAYS BEEN CLOSELY INVOLVED IN DEVELOPMENT AND USE OF US SPACE TECHNOLOGY. HENCE THE COMMERCIALIZATION OF LAUNCH ACTIVITIES GIVES THE PRIVATE SECTOR NO ACCESS TO NEW TECHNOLOGY.

5. PALMER ALSO COMMENTED THAT A SENIOR INTERAGENCY GROUP IS CURRENTLY REVIEWING COMMERCIAL LAUNCH REGULATIONS; HE INFORMED SOKOLOV THAT THE APPROVED GUIDELINES WILL BE PUBLISHED WHEN THE SIG FINISHES DELIBERATIONS.

6. SOKOLOV CLAIMED THAT THE NONPAPER DID NOT ADDRESS THE QUESTION OF ARMS CONTROL IMPLICATIONS OF COMMERCIAL LAUNCH OPERATIONS, WHICH WAS RAISED IN HIS DEMARCHE. PALMER REPLIED THAT THE NONPAPER ANSWERS THE ISSUE IMPLICITLY, BY ASSURING THE SOVIET SIDE THAT THE US WILL CONTINUE TO OBSERVE ALL ITS INTERNATIONAL OBLIGATIONS. HE UNDERScoreD THAT THE US EXERCISES STRICT SUPERVISION OVER THESE PRIVATE SECTOR OPERATIONS. PALMER FURTHER NOTED THAT COMMERCIAL LAUNCH ACTIVITIES ARE STRICTLY NONMILITARY AND AS SUCH, UNRELATED TO ARMS CONTROL QUESTIONS. IN SUM, HE STATED, SOVIET ARMS CONTROL CONCERNS WERE NOT RELEVANT TO THE COMMERCIALIZATION ISSUE.

7. SOKOLOV NOTED PALMER'S POINTS AND REPLIED THAT HE WOULD REPORT THE NONPAPER AND DISCUSSION TO MOSCOW. DAM

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WE WOULD ALSO LIKE TO LEARN HOW THE GRANTING OF THE RIGHT TO PRIVATE COMPANIES TO LAUNCH BALLISTIC MISSILES, THE CONDUCTING BY THOSE COMPANIES OF "DEMONSTRATION OR TEST FLIGHTS OF COMMERCIAL LAUNCH VEHICLES", ETC. IS CONSISTENT WITH THE OBLIGATIONS ASSUMED BY THE US SIDE IN THE AREA OF STRATEGIC ARMS LIMITATIONS OR WITH THE CURRENT NEGOTIATIONS ON THESE MATTERS.

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WE EXPECT THE U.S. TO GIVE APPROPRIATE CONSIDERATION TO THE ISSUES RAISED ABOVE. END TEXT.

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OSLP/WG

E.O. 12356: DECL: OADR
TAGS: TSPA, UR, US
SUBJECT: SOVIET DEMARCHE ON U.S. DECISION ON PRIVATE SECTOR SPACE ACTIVITIES

4. AFTER DELIVERING INSTRUCTED ORAL STATEMENT, SOKOLOV ADDED THAT SOVIETS ARE PARTICULARLY CONCERNED ABOUT REPORTS IN U.S. PRESS THAT PRIVATE CORPORATIONS, SUCH AS FEDERAL EXPRESS AND MARTIN MARIETTA WILL SOON BE GIVEN ACCESS TO LAUNCH FACILITIES AT CAPE CANAVERAL. SOKOLOV NOTED THAT THESE MEDIA REPORTS SEEMED TO INDICATE THAT USG HAD ALREADY MADE DECISION TO MOVE INTO "PRACTICAL PHASE" OF GRANTING PRIVATE SECTOR ACCESS TO U.S. SPACE FACILITIES. SOKOLOV ARGUED THAT THIS WOULD SET AN UNFORTUNATE PRECEDENT BEFORE APPROPRIATE CONSIDERATION HAD BEEN GIVEN TO THE INTERNATIONAL LEGAL IMPLICATIONS OF THE PLANNED U.S. ACTION. IN AN APPARENT REFERENCE TO THE RECENT U.S. PROPOSAL FOR US-SOVIET CONSULTATIONS IN THE

1. S - ENTIRE TEXT.

EVENT OF AN INCIDENT INVOLVING NUCLEAR TERRORISM, SOKOLOV UNDERSCORED THAT SOVIETS SAW THEIR DEMARCHE AS "SOMETHING OF AN ANALOGOUS MATTER", E.G. ONE INVOLVING PREVENTION OF ACCESS TO "TECHNOLOGY SYSTEMS CONSTITUTING A POTENTIAL SOURCE OF DANGER" BY ENTITIES OTHER THAN STATES.

2. SOVIET EMBASSY MINISTER-COUNSELOR SOKOLOV CALLED ON EUR DAS MARK PALMER JULY 7 TO DELIVER ORAL STATEMENT CONCERNING RECENT U.S. DECISIONS ON SPACE ACTIVITIES BY PRIVATE U.S. COMPANIES. TEXT OF ORAL STATEMENT FOLLOWS IN PARA 3 BELOW.

5. IN RESPONSE TO SOKOLOV'S PRESENTATION, PALMER SAID U.S. WOULD CONSIDER SOVIET DEMARCHE CAREFULLY AND PROVIDE A RESPONSE AS SOON AS POSSIBLE.
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3. BEGIN TEXT: THE SOVIET UNION HAS TAKEN NOTE OF THE DIRECTIVE OF THE U.S. PRESIDENT AUTHORIZING THE TRANSFER OF LAUNCH VEHICLES TO PRIVATE COMPANIES AND GRANTING THEM THE RIGHTS TO USE LAUNCH RANGES AND FACILITIES FOR SPACE LAUNCH OPERATIONS.

AS IS KNOWN, THE BASIC AND PRIMARY ROLE IN SPACE EXPLORATION SO FAR HAS BEEN PLAYED BY STATES WHICH, UNDER THE SPACE TREATY OF 1967, BEAR THE INTERNATIONAL RESPONSIBILITY FOR NATIONAL ACTIVITIES IN OUTER SPACE.

NOW ACCESS TO TECHNOLOGY SYSTEMS CONSTITUTING A POTENTIAL SOURCE OF DANGER IS BEING GIVEN, HOWEVER, TO PRIVATE INDIVIDUALS AND CORPORATIONS. ALTHOUGH THE U.S. GOVERNMENT WOULD PROMISE TO MAKE ALL REASONABLE EFFORTS TO MINIMIZE THE CONSEQUENCES OF COMMERCIAL OPERATIONS BY PRIVATE COMPANIES IN OUTER SPACE, IT IS OBVIOUS THAT THE INVOLVEMENT OF NON-GOVERNMENT LEGAL ENTITIES IN SPACE ACTIVITIES INCREASES THE RISK OF VARIOUS TYPES OF INCIDENTS WHICH MAY HAVE UNPREDICTABLE CONSEQUENCES.

SUCH A SITUATION CANNOT BE CONDUCIVE TO STRENGTHENING INTERNATIONAL STABILITY. IT IS KNOWN THAT THE U.S. SIDE ITSELF FEELS CONCERNED OVER THE POSSIBILITIES OF UNAUTHORIZED ACTIVITIES WITH REGARD TO THE SOURCES OF SPECIAL DANGER ON THE PART OF NON-GOVERNMENTAL GROUPS. IN VIEW OF THE ABOVE, WE WOULD LIKE TO RECEIVE APPROPRIATE CLARIFICATIONS.

Chamberlain

IN PARTICULAR, WHAT SPECIFIC MEASURES ARE OR WILL BE TAKEN BY THE U.S. GOVERNMENT IN ACCORDANCE WITH ITS INTERNATIONAL OBLIGATIONS REGARDING THE EXERCISE OF PERMANENT MONITORING AND CONTROL OVER THE USE OF LAUNCH VEHICLES AND LAUNCH RANGES BY PRIVATE COMPANIES? IN WHAT WAY WILL THE FLIGHT OF A SPACE OBJECT LAUNCHED BY A PRIVATE COMPANY BE GUIDED AND MONITORED?

SECRET

III. 22 Aug 83

U S S R I N T E R N A T I O N A L A F F A I R S
DISARMAMENT/START/MBFR

AA 1

PROPOSED SPACE ARMS TREATY SUBMITTED TO UN

Text of Gromyko's Letter

LD211718 Moscow TASS in English 1710 GMT 21 Aug 83

[Text] Moscow August 21 TASS -- Following the full text of a letter from Andrey Gromyko, first deputy chairman of the Council of Ministers of the USSR and minister of foreign affairs of the USSR, to U.N. Secretary General Javier Perez de Cuellar:

"Esteemed Mr Secretary General:

"The Soviet Union suggests that the question 'On Concluding a Treaty on the Prohibition of the Use of Force in Outer Space and From Outer Space With Regard to Earth' be included in the agenda of the 38th session of the U.N. General Assembly.

"In tabling this proposal, the USSR guides itself by the desire to prevent the militarisation of outer space. A particular danger in this respect is posed by the plans to develop and deploy different systems of space weapons capable of hitting targets both in outer space and on earth."

"The Soviet Union believes it imperative to raise a dependable barrier to these plans to turn outer space into a source of mortal danger to mankind as a whole by urgently taking effective measures to prevent the projection of the arms race to where there has so far been none, namely, to outer space.

"Guiding itself by this objective, the USSR tabled at the United Nations in 1981 a proposal on the conclusion of a treaty banning the deployment of weapons of any type in outer space, a proposal approved by the General Assembly. However, work to draw up that treaty has not yet begun in practice because of well-known reasons.

"Time is not waiting, however, and the USSR is now suggesting that a step further be taken right away and agreement be reached to ban altogether the use of force both in outer space and from outer space with regard to earth. It is submitting to the session a draft of an appropriate treaty."

"An important characteristic of this draft treaty is a combination of the political and legal obligations of states to refrain from the use of force against one another in outer space and from outer space and substantive measures intended to prevent the militarisation of outer space.

"Specifically, the Soviet Union stands for banning altogether the testing and deployment in outer space of any space-based weapons intended to hit targets on earth, in the atmosphere and in outer space.

"It also stands for the radical solution of the question of anti-satellite weapons, namely, for the complete renunciation by states of the development of new anti-satellite systems and for the elimination of such systems already in their possession.

"The participants in the treaty would also undertake not to destroy or damage the space objects of other states nor disrupt their normal functioning or change their flight trajectories in any other way."

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AA 2

USSR INTERNATIONAL AFFAIRS
DISARMAMENT/START/MBFR

"In addition, a ban is suggested on the testing and use of manned spacecraft for military purposes, including anti-satellite aims; their use should serve entirely the solution of diverse scientific, technical and economic problems.

"The implementation of the complex of far reaching measures proposed by the Soviet Union would mean a major tangible contribution towards the achievement of a goal approved by the United Nations earlier, the use of outer space exclusively for peaceful purposes.

"I ask you, Mr Secretary General, to regard this letter as a memorandum provided for by the rules of procedure of the General Assembly and to release it jointly with the appended text of the draft treaty as an official document of the U.N. General Assembly.

"Andrey Gromyko.

First deputy chairman of the Council of Ministers of the USSR, minister of foreign affairs of the USSR."

Text of Draft Treaty

PM211953 Moscow PRAVDA in Russian 22 Aug 83 First Edition p 4

["Draft Treaty on Banning the Use of Force in Space and From Space With Respect to the Earth"]

[Text] The states parties to this treaty,

Guided by the principle whereby United Nations members refrain in their international relations from the threat of force or the use of force in any form incompatible with the objectives of the United Nations;

Seeking to prevent an arms race in space and thereby to reduce the danger of nuclear war threatening mankind;

Desiring to contribute to the objective whereby the exploration and use of space, including the moon and other celestial bodies, is effected exclusively for peaceful purposes;

Have agreed as follows:

Article 1

It is prohibited to resort to the use of force and the threat of its use in space, in the atmosphere, and on earth with the employment for this of space objects orbiting the Earth, stationed on celestial bodies, or deployed in space in any other manner as a means of destruction.

It is also prohibited to resort to the use of force or the threat of its use with regard to space objects orbiting the Earth, stationed on celestial bodies, or deployed in space in any other manner.

Article 2

In accordance with the provisions of Article 1 the states parties to this treaty undertake:

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AA 3

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DISARMAMENT/START/MBFR

1. Not to test and not to deploy by putting into orbit around the Earth, deploying on celestial bodies, or in any other manner any space-based weapons intended to hit targets on the Earth, in the atmosphere, or in space.
2. Not to use space objects orbiting the Earth, stationed on celestial bodies, or deployed in space in any other manner as a means for hitting any targets on the Earth, in the atmosphere, and in space.
3. Not to destroy, damage, or disrupt the normal functioning of other states' space objects, nor change their flight trajectories.
4. Not to test or develop new antisatellite systems and to eliminate such systems already in their possession.
5. Not to test or use for military, including antisatellite, purposes, any manned spacecraft.

Article 3

The state parties to this treaty agree not to help, encourage, or incite any states, groups of states, international organizations, and also physical and legal persons to engage in activity prohibited by this treaty.

Article 4

1. To ensure confidence in observance of the provisions of this treaty each state party uses the national technical verification facilities available to it in a way corresponding to generally recognized principles of international law.
2. Each state party to the treaty undertakes not to interfere with [chinit pomekh] the national technical verification facilities of other states parties exercising their functions in accordance with paragraph 1 of this article.

Article 5

1. The states parties to this treaty undertake to consult and cooperate with each other in resolving any questions which may arise with regard to the objectives of the treaty or in connection with the observance of its provisions.
2. Consultations and cooperation in accordance with paragraph 1 of this article may also be effected on the basis of utilization of corresponding international procedures within the framework of the United Nations and in accordance with its Charter. These procedures can include the services of the consultative committee of the states parties to the treaty.
3. The consultative committee of the states parties to the treaty is convened by the depositary within 1 month of the receipt of a request from any state party to this treaty. Any state party may appoint a representative to the committee.

Article 6

Each state party to this treaty undertakes to adopt any internal measures which it considers necessary in accordance with its constitutional procedures to prohibit and prevent any activity contravening the provisions of this treaty which comes under its jurisdiction or control, wherever it may be.

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AA 4

USSR INTERNATIONAL AFFAIRS
DISARMAMENT/START/MBFR

Article 7.

Nothing in this treaty affects the rights and duties of states under the Charter.

Article 8

All disputes which may arise in connection with the operation of this treaty shall be resolved by exclusively peaceful means through the use of procedures envisaged in the UN Charter.

Article 9

This treaty is of unlimited duration.

Article 10

1. This treaty is open for signature to all states at central United Nations offices in New York. Any state which does not sign this treaty prior to its entry into force in accordance with paragraph 3 of this article may accede to it at any time.
2. This treaty is subject to ratification by signatory states. Instruments of ratification and documents of accession shall be deposited with the secretary general of the United Nations.
3. This treaty shall enter into force in relations between states which have deposited instruments of ratification after five instruments of ratification, including the instruments of the USSR and the United States, have been deposited with the secretary general of the United Nations.
4. For states whose instruments of ratification or documents of accession are deposited after the entry into force of this treaty it will enter into force on the day of the deposit of their instruments of ratification or documents of accession.
5. The secretary general of the United Nations shall promptly inform all signatory and acceding states of the date of each signing, the date of deposit of each instrument of ratification and document of accession, the date of entry into force of this treaty, and also other notices.

Article 11

This treaty, of which the Russian, English, Arabic, Spanish, Chinese, and French texts are equally authentic, shall be deposited with the secretary general of the United Nations, who shall transmit duly certified copies of the treaty to the governments of the signatory and acceding states.