

## Annex 2.

### **Center for Defense Information**

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(Ref.: [http://www.cdi.org/program/document.cfm?DocumentID=3692&from\\_page=../index.cfm](http://www.cdi.org/program/document.cfm?DocumentID=3692&from_page=../index.cfm))

*October 13, 2006*

### **The Bush National Space Policy: Contrasts and Contradictions**

#### **Introduction**

After four years of review, the administration of President George W. Bush has finally released a revised U.S. National Space Policy (NSP), superseding the previous 1996 policy crafted by the Clinton administration. The document, signed by Bush on Aug. 31, was released at 5 p.m. on Oct. 6 – the Friday before the Columbus Day weekend – a clear indication that the administration was hoping for as little media attention as possible. Indeed, administration and Pentagon officials have downplayed the new NSP as little more than a continuation of the Clinton policy, aimed in part at clarifying interagency relations that long have been troubled, particularly in the national security arena.

While it is true that much of the previous policy's language has been incorporated into the new version, an analysis of the two texts reveals a number of subtle, but important, differences.<sup>[1]</sup> Taken together, the changes in wording aggregate to a much more unilateralist vision of the U.S. role, particularly its military role, in space. While seeking to assert "unhindered" U.S. rights to act in space, the new policy at best ignores – and at worst, dismisses – any U.S. obligations towards other space-faring nations and under a spectrum of international accords and agreements. A distrust of international instruments or efforts to establish collective security in space – which many would argue are required to support U.S. national security in space – is evident as well. While there are welcome statements regarding the need to cooperate on issues such as Earth observation and space surveillance, the cooperative spirit is undercut by language that indicates any such cooperation will be forthcoming on strictly U.S. terms.

At the same time, the Bush NSP is clearly self-contradictory. While emphasizing U.S. rights in space, including the right of self protection, it uses language that – at least under current international law and practice – applies equally to all other space-faring powers. The commitment to "free access" to, and "freedom of passage" in, space is enshrined in the 1967 Outer Space Treaty, to which the United States is a signatory; as is the concept of non-appropriation of space or territory on celestial bodies. The right to non-interference is also a central tenet of international law, via such instruments as the Liability Convention and the International Telecommunications Union accords. Yet, seeking to establish the right for the United States to interfere with, or "deny" "hostile" use of space -- as well as the right to stop others from even obtaining the "capabilities" to hold U.S. space assets in harm's way – obviously undercuts the former principles, for all space-faring powers including the United States. Indeed, the emphasis on establishing the right of offensive action against satellite systems actually could backfire by making U.S. efforts at self protection all the more difficult. Finally, although the document makes a nod to the need for "public diplomacy" to underpin U.S. positions, it at the same time uses language that, on its face, seems to discredit

the use of diplomatic tools that might be useful for reaching consensus decisions about mutual interests among space-faring nations.

### **Unilateral vs. Multilateral Approach**

The policy's central theme – protecting U.S. rights to “unhindered” action in space – is not a new thrust, that goal was apparent in the Clinton policy as well. However, in contrast to the 1996 policy, the Bush document is dismissive of not only the rights of other space-faring powers, but actively hostile to the concept of collective security.

One revelatory example regards the right of free passage in space – a central tenet of the 1967 Outer Space Treaty to which the U.S. is a signatory:

- Clinton NSP -- “The United States considers the space systems of **any nation** to be national property with the right of passage through and operations in space without interference. Purposeful interference with space systems shall be viewed as an **infringement on sovereign rights.**” (Emphasis added.)
- Bush NSP – “The United States considers space systems to have the rights of passage through and operations in space without interference. Consistent with this principle, the United States will view purposeful interference with **its** space systems as an **infringement on its rights.**” (Emphasis added.)

Another telling passage is that, in contrast to the Clinton-era document which speaks positively of the need to bolster international cooperation and cites treaty obligations and supports regimes such as the Missile Technology Control Regime, the only reference to the role of collective security instruments in the Bush policy is in the negative:

“The United States **will oppose the development of new legal regimes or other restrictions that seek to prohibit or limit U.S. access to or use of space.** Proposed arms control agreements or restrictions must not impair the rights of the United States to conduct research, development, testing and operations or other activities in space for U.S. national interests.” (Emphasis added.)

### **Military/National Security Space Power Primacy**

While the new policy stops short of endorsing a strategy of warfighting “in, from and through” space as advocated by U.S. Air Force Space Command, it does show a clear emphasis on military action not only to protect U.S. space assets, but also to “deny” enemy use of space. Once again, the concept of a “space control” strategy that includes offensive action against space systems being used in a hostile manner is not new; such language appears in the Clinton policy as well. Both NSPs could be read as endorsing the potential use of anti-satellite weapons. Again, however, the difference in tone and emphasis is apparent:

- Clinton NSP: “**Consistent with treaty obligations**, the United States will develop, operate and maintain space control capabilities to ensure freedom of action in space, and, if directed, deny such freedom of action to adversaries. These capabilities may also **be enhanced by diplomatic, legal or military measures to preclude an adversary’s hostile use** of space systems and services.” (Emphasis added.)
- Bush NSP: “The United States considers space capabilities – including ground and space segments and supporting links – vital to its national interests. Consistent with this policy, the United States will preserve its rights, capabilities, and freedom of action in space; **dissuade or deter others from either impeding those rights or developing capabilities intended to do so; take those actions necessary to protect its space capabilities; respond to interference; and deny, if necessary, adversaries the use of space capabilities hostile to U.S. national interests.**

Indeed, the Bush administration focus on a national security space with an emphasis on military power and competition (versus a focus on civil and commercial space with an emphasis on diplomacy), is clear from the introduction to the policy. “In this new century, those who effectively utilize space will enjoy added prosperity and security and will hold a substantial advantage over those who do not. **Freedom of action in space is as important to the United States as air power and sea power.**”

Also of note: of the Clinton administration’s five goals for the U.S. space program articulated in the 1996 NSP, only two mention national security; of the six goals cited in the Bush version, four do so. Both NASA and commercial space activities are given short shrift when compared to national security space in the new NSP; whereas the Clinton document was much more balanced in attention across the three arenas.

Although there are several paragraphs dedicated to international cooperation, especially regarding space surveillance (see below), the primary approach to diplomatic tools seems centered on “selling” U.S. views and actions, rather than on a willingness to consider that some boundaries on behaviors by all might better serve both U.S. national and collective security in space. For example:

“The Secretary of State, after consultation with the heads of appropriate Departments and Agencies, **shall carry out diplomatic and public diplomacy efforts, as appropriate, to build an understanding of and support for U.S. national space policies and programs and to encourage the use of U.S. space capabilities and systems by friends and allies.**”

Even the welcome language on pursuit of cooperative ventures is tainted by a whiff of “but only according to my rules:”

“The United States Government will pursue, **as appropriate, and consistent with U.S. national security interests, international cooperation with foreign nations and/or consortia on space activities that are of mutual benefit** and that further the peaceful exploration and use of space, as well as **to advance national security, homeland security, and foreign policy objectives.** Areas for potential international cooperation include, but are not limited to:

- Space exploration; **providing space surveillance information consistent with security requirements and U.S. national security and foreign policy interests**; developing and operating Earth-observation-systems.

## Changes for the Better

### Space Surveillance

The Bush NSP does provide updated and improved language in several areas, most notably, as referenced above, regarding space surveillance. There is a new emphasis on providing U.S. space surveillance data and situational awareness analysis – gathered by the U.S. Space Surveillance Network and managed by Air Force Space Command – to non-military users, including foreign governments and commercial companies. The policy states that the Defense Department shall:

“Have responsibility for space situational awareness; in this capacity, **the Secretary of Defense shall** support the space situational awareness requirements of the Director of National Intelligence and **conduct space situational awareness for:** the United States Government; **U.S. commercial space capabilities** and services used for national and homeland security purposes; **civil space capabilities and operations, particularly human space flight activities; and, as appropriate, commercial and foreign space entities.”**

Likewise, the Director of National Intelligence is charged to:

“Provide intelligence collection and analysis of space related capabilities to support space situational awareness for: the United States Government; U.S. commercial space capabilities and services used for national and homeland security purposes; **civil space capabilities and operations, particularly human space flight activities; and, as appropriate, commercial and foreign space entities.”**

### Radio Frequency and Orbital Slots

Another new aspect is the section (Section 10) dedicated to radio frequency and orbit management, which addresses the need to manage requirements and follow regulatory processes regarding U.S. satellite systems. The language also stresses the need to “protect U.S. global access to the radio frequency spectrum and orbital assignments” as well as to assure against interference.

### Fixing Critical Problems

There is also welcome recognition that there are several critical problems facing the overarching U.S. space program that must be systematically addressed. Actions promised are efforts to **develop a cadre of “space professionals”** and **improve “space system development and procurement”** – with the lack of technical knowledge among program managers and the mismanagement of acquisition programs major factors in numerous space development and procurement projects are falling behind schedule and ballooning in cost over the past decade. The policy also notes a commitment to **“increase and strengthen interagency partnerships”** (with bureaucratic bickering long a problem troubling U.S. space programs), and to “strengthen and maintain the U.S. space-related science, technology and industrial base.”

### Support for Commercial Industry

The Bush policy's approach to commercial industry further represents a positive evolution of the Clinton NSP, including a strategy of relying on commercial space capabilities and services both in the civil and national security sphere to the "maximum practical extent" and pledging to "maintain a timely and responsive regulatory environment," as well as noting that "space-related exports that are currently available or are planned to be available in the global marketplace shall be considered favorably."

### Orbital Debris

Finally, the new NSP also maintains the long-standing U.S. policy of maintaining robust efforts at space debris mitigation, including on the international stage. While the language does not differ significantly from that of the Clinton policy, it bears repeating:

"Orbital debris poses a risk to continued reliable use of space-based services and operations and to the safety of persons and property in space and on Earth. **The United States shall seek to minimize the creation of orbital debris by government and non-government operations in space** in order to preserve the space environment for future generations (emphasis added.) ....

**The United States shall take a leadership role in international fora** to encourage foreign nations and international organizations to adopt policies and practices aimed at debris minimization and shall cooperate in the exchange of information on debris research and identification of improved debris mitigation practices."

### **Conclusion**

While National Space Policies and other presidential decision documents are obviously important in determining the direction, emphasis and management of U.S. space activities, it is also important to recognize that declaratory policy is not the only factor. Indeed, the most critical determinant is not what is said, but what is actually done to implement the policy objectives. A case in point is the Clinton policy on space control. Whereas the language of the 1996 NSP could be read as endorsing the development, deployment and use of anti-satellite weaponry, the Clinton administration was actually extremely leery about the strategic wisdom and negative political ramifications of the use of offensive weapons against satellites. As a result, rather than actively supporting anti-satellite weapons programs as perhaps indicated by its policy declarations, the Clinton administration canceled a number of research and development programs that could have resulted in such capability. It is certainly often the case – not just in relation to space policy – that specific aspects of any multifaceted policy document receive more political or bureaucratic attention and, in particular, more funding support, than others. The dedication or failure to dedicate funding to programs (and people to carry out those programs) to support policy objectives, in the final analysis, becomes the "rubber meets the road" test. In an arena as complicated as space – which incorporates commercial, civil, intelligence, military, economic, foreign policy and geo-strategic aspects – it is inevitable that trade-offs will be required.

While the Bush NSP signals a strategic shift toward a more militarily-oriented, unilateral U.S. approach to space – especially when read in light of earlier Pentagon documents such as the Joint Doctrine for Space Operations of August 2002 and the Air Force Counterspace Operations Doctrine of August 2004 – it remains highly unclear how such a shift might

become manifest and when. While the new NSP could easily be read to endorse a strategy of fighting “in, from and through” space, it does not explicitly articulate such a strategy. And despite past rhetoric emanating from some quarters including U.S. Air Force Space Command, there has been little indication up to now of a coherent plan for implementing a space war strategy; little evidence of administrative and bureaucratic tools being put in place for doing so; and little, if any, movement to shift overall U.S. budget priorities (or even space budget priorities) to accomplish such a mission. And it is extremely clear that a strategy of fighting “in, from and through space” would require major new investment on the behalf of the U.S. military and the intelligence community – investment in everything from improving space situational awareness by orders of magnitude to protective measures for both commercial and military satellite networks to the development of weaponry. Instead, there remain large questions within domestic policy-making and legislative circles about the political and budgetary viability, as well as long-term sustainability, of a robust space control strategy – questions that will loom larger as pressures on the defense budget continue to increase to pay for U.S. military activities in Iraq and Afghanistan. And, considering that developing space-related systems is time consuming, often involving decades of effort, the lack of current investment would seem to indicate that the capability to implement a space control strategy is many years away.

This arguably creates a security dilemma for the United States. U.S. declaratory policy is risking negative responses, but the current set of U.S. capabilities to counter-respond remains incomplete. By signaling to other nations that space is rapidly becoming a game of “every man for himself,” rather than an environment that requires the cooperation of all to ensure access by all, the United States undercuts 40 years of tradition that has kept competition in space to a dull roar and dampened drivers to conflict. By backing away from multilateral dialogue, institutions and instruments, the United States projects a disregard for other space-faring powers that could lead to efforts by others to isolate it. By asserting that satellites are fair game in any military conflict, the United States arguably is providing even more incentives – and, importantly, more political cover -- for any nation or actor interested in countering U.S. space power and space assets. With a sweeping doctrine of countering the use, or potential use, of satellites – even multinational commercial satellites – with the use of force, including destructive technologies, the United States risks scaring allies and friends away, while provoking potential enemies to consider the same. This is despite the fact that the use of destructive force in space could put U.S. satellites at risk from debris. Considering the lack of transparency in space, the current U.S. declaratory policy already is raising tensions among space-faring powers about the nature of new satellites, whether they are U.S., Russian, Chinese, or even EU satellites or spacecraft.

And yet, for now, and for the foreseeable future, the United States remains hamstrung from pursuing both the policy objectives suggested by the new NSP and any space warfighting strategy not by any outside force, but by the realities of domestic politics, technological challenges and cost hurdles. Given the fact that the United States currently benefits the most from the status quo in space, it seems apparent that current declaratory policy is running the risk of busting that status quo with no good plan at hand to handle the consequences of doing so.

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[1] For a side-by-side comparison of the two texts, see: Michael Katz-Hyman, “The Bush National Space Policy: Freedom of Action, Not Diplomacy,” Oct. 10, 2006, The Henry L. Stimson Center, <http://www.stimson.org/?SN=WS200610101122>