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NATIONALITY AND LONG-ARM JURISDICTION IN COMMERCIAL SPACE TRANSPORTATION:
IMPLICATIONS FOR FUTURE GLOBAL COOPERATION

Abstract

The Outer Space Treaty creates the obligation for states to regulate and continually supervise its national space activities—this includes activities performed by private industry. As states establish national legislation addressing this topic they can choose to either extend the scope of their jurisdiction or restrict it. Some states, like the U.S., choose to exert long-arm jurisdiction over any U.S. citizen or entity who engages in commercial space activities around the world, absent a waiver. Other states, like the Netherlands, exclude commercial human space activities from the scope of their regulations, choosing to rely instead on another appropriate state's jurisdiction for this type of activity—in the form of a mandatory state waiver. As the burgeoning commercial space industry vies for space transport capabilities and competitive contracts, what will this mean for international contracts and multi-national commercial endeavors in the near future? Can we learn anything from the example of Sea Launch or other collaborative intergovernmental initiatives? Moreover, how does state jurisdiction affect international cooperation on a commercial and socio-political level? This paper will analyze the scope of relevant national space legislations and policies and discuss the multi-jurisdictional issues facing emerging international commercial space transportation companies.