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# DISTINGUISHING ON-ORBIT JURISDICTION FROM SPACE TRAFFIC MANAGEMENT IN THE AMERICAN REGULATORY CONTEXT

**Abstract**

In the 2015 SPACE Act, the United States Congress commissioned a study of the domestic legal framework related to space traffic management. This was largely in response to a concern that the United States is failing to meet the international requirement to "supervise" found in Article II of the Outer Space Treaty. The SPACE Act illustrates that Congress is willing to grant on-orbit jurisdiction and the power to engage in space traffic management to a civilian agency (most likely the FAA). However, as this paper will point out, it is critical to note that those responsibilities cannot be equated. The granting of on-orbit jurisdiction would have significant domestic ramifications and would require a federal reorganization of the space authorities. However, such powers would have limited impact on international relations except perhaps to assuage concerns that the United States is failing to meet its international "supervision" responsibility. Conversely, the granting of space traffic management authority could lead to consequences that the United States should heavily consider. These consequences could include international liability arising from collisions with other space assets, or even domestic liability subject to the limitations of the current United States cross-waiver system. There are valid concerns about the United States' perceived failure to meet international duties under the law of outer space. As this paper will address, these failures can be properly addressed with an updated on-orbit jurisdiction framework. The United States should be hesitant to adopt a new system where the authority to conduct space traffic management is granted for the reasons set forth herein.