

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
National Space Legislation – Harmonisation and Enforcement (3)

Author: Ms. Jessica Deihl
NASA, United States

Ms. Hannah Kohler
NASA, United States

A TALE OF TWO SPACE AUTHORITIES: THE INTERPLAY BETWEEN NASA AND THE
NATIONAL SPACE COUNCIL

Abstract

National space law drives states' international accomplishments, and there is a "new" actor in U.S. space law. This paper will address the history of the newly-revived National Space Council (Council) and its interplay with the National Aeronautics and Space Administration (NASA). We will examine their current interactions and sometimes-divergent views, and suggest methods to increase collaboration in support of space policy goals.

The Council was originally created by executive order in 1989 under President George H.W. Bush, with the stated purpose of advising the President "on national space policy and strategy," as well as helping to develop long-range goals. The Council was effectively disbanded in 1993, but was revived by President Trump on June 30, 2017 as part of an increased focus on space policy.

Under the newly reinstated Council, four Space Policy Directives have been issued to date. These Directives focus on, in order: human space exploration, the commercial use of space, space traffic management, and the establishment of a United States Space Force. This paper will examine the Directives and highlight how each furthers and/or diverges from NASA's previously established focus in space exploration. We will also analyze the debate regarding whether the Directives align with principles of international space law, including the possible militarization of space and whether space represents a "global commons." Further, we will discuss divisive national issues, including whether the United States should be pursuing a return to the Moon through the Lunar Gateway project or focusing on Mars instead, and views on how ambitious a timeline NASA should pursue in its human space exploration projects.

This paper will go on to explore how NASA and the Council—including their respective advisory groups—can work together to best use their fiscal resources and to ensure that future space projects have the full support of the larger U.S. space community. Accordingly, we will argue that the Council has a unique potential to facilitate interaction between the civil, commercial, and national security sectors in space.

The revival of the Council represents a unique opportunity for NASA and other interested actors to have a champion within the Administration. By working closely, NASA and the Council can achieve their common purpose of encouraging U.S. innovation, attracting private sector investment, and furthering the boundaries of space exploration and human achievement.