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LAUNCH STATUS CHECK: COMMERCIAL SPACE PROSPECTING IN 2019

Abstract

We will review the latest developments in national and international space law and policy in order to determine the legal status of commercial space resource utilization. Expanding the scope of our previous analysis, we will evaluate various jurisdictions in terms of whether and to what extent national governments in the United States and elsewhere are prepared to facilitate commercial use of space resources. Our analysis will specifically identify and assess legal and regulatory obstacles, ambiguities, or gaps that would confront a hypothetical commercial space prospecting venture that is otherwise technically equipped and has sufficient capital to identify, reach, extract, and use or sell resources in space. Recent developments for consideration will include the Space Frontier Act in the United States Congress, negotiations between Russia and Luxembourg on a framework for space resource utilization, the United Arab Emirates' space resource utilization law, the Israeli SpaceIL commercial mission to the Moon, NASA's announcement of Commercial Lunar Payload Services partnerships with nine U.S. companies, the Space Resources Governance Working Group's "Building Blocks" for space resources utilization law, and implications arising from the change in political control of the U.S. House of Representatives. We will consider these recent developments in the context of international law, especially obligations arising under Articles I, II, VI, and XI of the Outer Space Treaty. We will then evaluate the effects that recent laws, regulations, and proposals would have upon our hypothetical space mining enterprise, including all phases of a hypothetical mission. Our analysis will address whether any laws or regulations would prohibit any aspect of commercial space resource utilization, or whether omissions or ambiguities in laws or regulations would fail to provide necessary support or authorization for such activity. We will conclude by determining whether the jurisdictions under evaluation are legally prepared to launch space prospectors at the present date. If we find that they are not yet prepared, we will identify the laws, regulations, and/or treaty provisions that would need to be drafted or amended in order to allow for such missions.