



COMMITTEE ON
SCIENCE, SPACE, & TECHNOLOGY
Lamar Smith, Chairman

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Statement of Space Subcommittee Chairman Brian Babin (R-Texas)
Regulating Space: Innovation, Liberty, and International Obligations

Chairman Babin: The Outer Space Treaty celebrated its 50th anniversary just last month. It was negotiated at the height of the Cold War and reflected two very distinct philosophies – communism and liberty. The Soviet Union sought to prevent any non-state actors from operating in space. The United States, however, argued that space should be free for exploration and use by all, including the private sector and individuals. Fortunately, the United States' position was accepted. As part of that compromise, the United States agreed, in Article VI ("Six") of the Treaty, to authorize and supervise private sector space activities.

When the Senate ratified the *Outer Space Treaty* fifty years ago, private free enterprise in outer space was an idea, but not yet a reality.

Today, not only is there U.S. free enterprise in outer space, it is innovating at an unprecedented pace. American companies are developing and investing in technology and spacecraft to conduct "non-traditional" private sector space activities, such as satellite servicing, manufacturing, human habitation, and space resource utilization.

Recognizing that American free enterprise and innovation in outer space may implicate our international obligations, Congress directed the Obama Administration to assess existing "authorization and supervision" authorities.

Last year, the Obama Administration recommended that Congress expand the regulatory authority of the Secretary of Transportation.

The purpose of today's hearing is to inform Congress as it assesses U.S. international obligations in light of new and innovative private space activities. I hope it will also inform the incoming Trump Administration as it formulates its own positions on the topic. I look forward to working with the Administration going forward, and plan to invite them to testify in the future once they have developed a formal position.

I hope that today's witnesses will identify fundamental national interests at stake, examine our international obligation to authorize and supervise space activities, expand on the options we have at our disposal to meet authorization and supervision obligations, and help us all assess and understand different paths forward. The course we chart today may not seem very important, but in the long-run the decisions we make will have far-reaching consequences.

I recognize that today there is no consensus opinion on what should be done. I also recognize that there are many different ideas. Frankly, this is a good thing. This is a serious issue, and we should do our best to get it right. That entails examining all possible solutions.

I have serious reservations with the Section 108 legislative proposal. While it may be well intentioned, it is ill conceived. It places the burden of demonstrating consistency with international obligations, foreign policy, and national security requirements of the United States with the applicant, leaving the government to decide — at its own discretion, without clear limitations — whether an activity should go forward. It grants expansive discretionary regulatory authority — essentially with the ability to regulate any or all aspects of private sector space activities. It also fails to identify or assess alternatives to a Department of Transportation agency licensing and regulatory construct. We must not presume that a traditional agency licensing authority granted to the Department of Transportation is the best way forward.

This hearing will be an important step as the Committee develops legislation that will streamline the regulatory process, limit burdensome government intrusion, promote American innovation and investment, and satisfy our international obligations.

We must find a way to uphold our cherished principles of liberty and prime the pump of innovation. I believe we can do this while also satisfying our international obligations. If done correctly, we can expand American prosperity and influence. If done haphazardly, we could smother the embers of creativity and diminish our leadership in space. I believe it is one of the fundamental space policy questions of our time.

I thank today's witnesses for joining us as we discuss these important issues and I look forward to hearing your testimony.

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