

# The United States of America National Space Law Regime (or as much as is reasonable to attempt to address in a single presentation)

**U.N./Nigeria Workshop on Space Law**

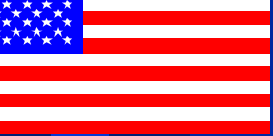
Presented by

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# Evolution

## 📖 1958: Infrastructure

- Response to Cold War exigencies
- Civil program and national security

## 📖 1980s: Commerce

- Added to civil and military sectors

## 📖 80s and 90s: Applications

- Launch
- Remote sensing/earth observations

## 📖 2000s: Regulatory refinement

## 📖 Etc.

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# U.S. Domestic Space Law Regime

## Infrastructure: The NAS Act of 1958

- The National Aeronautics and Space Act of 1958
  - “Space Act”
- Created the U.S. civil space program
- Established NASA
- Signed by President Eisenhower





# U.S. Domestic Space Law Regime

## Infrastructure: The NAS Act of 1958

### Multiple bodies of law

- Contract, Tort, International, IP, Space

### Wide variety of subjects

- ISS, space settlements, Congressional Space Medal of Honor, Science, Space, and Technology Education Trust Fund, space commerce agreements, life sciences strategic plan

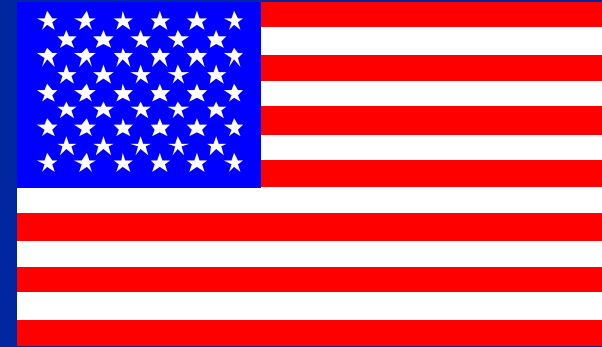


# U.S. Domestic Space Law Regime

## Infrastructure: The NAS Act of 1958

### Purpose

“The Congress declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.”



# U.S. Domestic Space Law Regime

## Infrastructure: The NAS Act of 1958

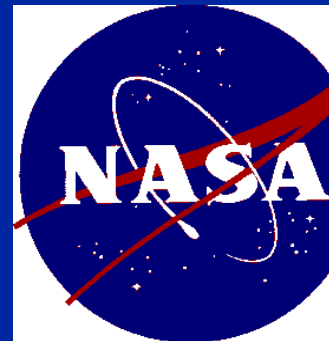
### Civil - Military Separation

“aeronautical and space activities...shall be directed by a civilian agency...except activities peculiar to or primarily associated with development of weapons systems, military operations or defense of the U.S...shall be directed by, DoD”

Relationship changes over time

Economics sensitive

Still, fundamentally civilian





# U.S. Domestic Space Law Regime

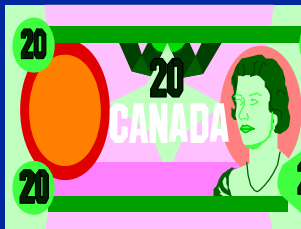
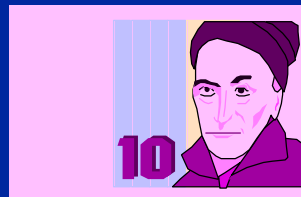
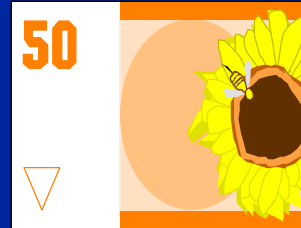


## 1980s: Commerce

“Congress declares that the general welfare requires that NASA...seek and encourage, to the maximum extent possible, the fullest commercial use of space.”

– Commercial added to civil and military

Information access, invention property rights for small and large businesses, etc.





# U.S. Domestic Space Law Regime

## 1980s and 1990s: Applications

### Launch

#### Commercial Space Launch Activities

- Space transportation law has consolidated:
  - \_ '84 Commercial Space Launch Act
  - \_ '88 Amendments
  - \_ '04 Amendments
- On-going regulatory development

#### Commercial Space Act

#### Thurmond National Defense Authorization





# U.S. Domestic Space Law Regime

## 1980s and 1990s: Applications

### Launch

- ✧ Includes launches and launch infrastructure
- ✧ Part of overall transportation law
- ✧ Martin Marietta v Intelsat
  - Dormant but important issue
  - "Best efforts"





# U.S. Domestic Space Law Regime

## 1980s and 1990s: Applications

### Launch

Export licenses

Launch licenses

- Applications
- Requirements
- Suspensions, revocations, sanctions
- Administrative hearings, judicial review
- Preemption of of scheduled launches
- Acquisition of USG Property and Services
- Acquisition costs, direct costs, insurance





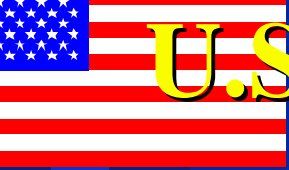
# U.S. Domestic Space Law Regime

## 1980s and 1990s: Applications

### Remote Sensing - Earth Observations

- ✦ 1984 Land Remote Sensing Commercialization Act
- ✦ 1990 Global Change Research Act
- ✦ 1992 Land Remote Sensing Policy Act
  - Amended '84 Act
- ✦ 1998 Commercial Space Act





# U.S. Domestic Space Law Regime

## 1980s and 1990s: Applications

### Remote Sensing - Earth Observations

#### 📅 1984: Commercialization focus

- Privatized Landsat
- Envisioned no need for public systems in future

#### 📅 1992: Public/environmental focus

- Public and private distinction
- "Proper" commercialization

#### 📅 2001: Commercialization focus again

- Landsat Data Continuity Mission data buy failed

#### 📅 2005: Landsat decision literally in progress now

- Office of Science and Technology Policy: Landsat is “public good”



# U.S. Domestic Space Law Regime

## 2000s: Regulatory Refinement

- ✧ 2000 NOAA private systems licensing regulations
  - Remote sensing - Earth observations
  - Under regulatory review now; comment period closed
- ✧ 2000 NASA Authorization Act
  - Defines "commercialization," "privatization" and related terms
  - All space activities
  - "Sense of Congress"
- ✧ Commercial Space Launch Amendments Act of 2004





# U.S. Domestic Space Law Regime

## 2000s: Regulatory Refinement

### NOAA License Regulations

## The Public - Private Spectrum

**Public**

**Hybrid**

**Private**

**All Tax  
\$\$**

**Public and Private  
\$\$**

**All Private  
\$\$**

**Full  
non-discriminatory  
Access**

**Case-by-case  
determination**

**Access to sense  
states only**





# U.S. Domestic Space Law Regime

## 2000s: Regulatory Refinement

### NOAA License Regulations

#### Company must disclose

- Amount of government resources that went into, or will contribute toward, the development, fabrication, launch, or operation of the system

#### If fully government funded

- All unenhanced data available on nondiscriminatory basis





# U.S. Domestic Space Law Regime

## 2000s: Regulatory Refinement

### NOAA License Regulations

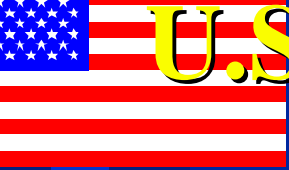
#### ☞ If entirely privately funded

- Data provided according to reasonable commercial terms and conditions
- "Sensed state"

#### ☞ If partial government support

- Some access to unenhanced data on a nondiscriminatory basis
- NOAA makes case-by-case determination with provisions included in the individual license





# U.S. Domestic Space Law Regime

## 2000s: Regulatory Refinement

### FAA/AST Launch Regulations

- **2000:** licensing process for RLV missions, including with on-board crew, and reentry of a reentry vehicle
- **2004:** Commercial Space Launch Amendments Act
  - Distinct regulatory framework for private human space flight
  - “Experimental permits” allow RLV research and development
  - Requires “space flight participants” informed consent to assume risk
  - Protects safety of uninvolved public
  - Extends federal government indemnification to licensed commercial human space flights





# U.S. Domestic Space Law Regime

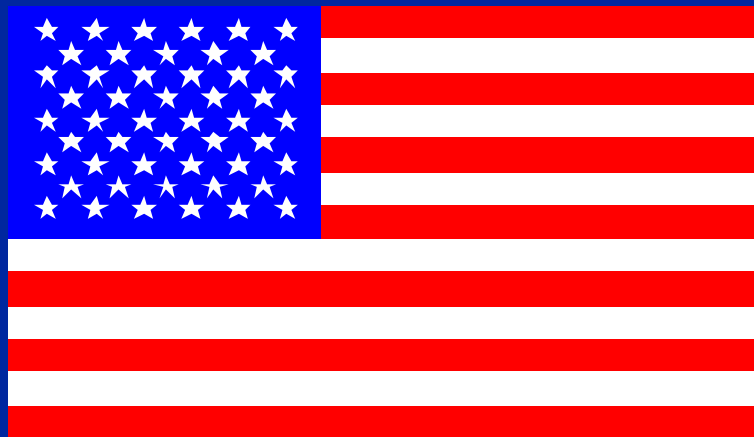
**Etc.**

- 1968 Hazardous Material Transportation Act
- 1976 National Science and Technology Policy, Organization and Priorities Act
- IRS Code - Source Rules for Space and Certain Ocean Activities
- Joint Resolution to Designate Jan. 28, 1989 as "National Challenger Day"
- World Ag Outlook Board, Dept. of Agriculture





# U.S. National Space Law Regime



📖 Questions?

📖 Comments?

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