### 1NC – DA

#### The US commercial space industry is booming – private space companies are driving innovation.

**Lindzon 2/23** [(Jared Lindzon, A FREELANCE JOURNALIST AND PUBLIC SPEAKER BORN, RAISED AND BASED IN TORONTO, CANADA. LINDZON'S WRITING FOCUSES ON THE FUTURE OF WORK AND TALENT AS IT RELATES TO TECHNOLOGICAL INNOVATION) "How Jeff Bezos and Elon Musk are ushering in a new era of space startups," Fast Company, 2/23/21, https://www.fastcompany.com/90606811/jeff-bezos-blue-origin-elon-musk-spaces-space] TDI

In early February, Jeff Bezos, the founder of Amazon and one of the planet’s wealthiest entrepreneurs, dropped the bombshell announcement that he would be stepping down as CEO to free up more time for his other passions. Though Bezos listed a few targets for his creativity and energy—The Washington Post and philanthropy through the Bezos Earth Fund and Bezos Day One Fund—one of the highest-potential areas is his renewed commitment and focus on his suborbital spaceflight project, Blue Origin.

Before space became a frontier for innovation and development for privately held companies, opportunities were limited to nation states and the private defense contractors who supported them. In recent years, however, billionaires such as Bezos, Elon Musk, and Richard Branson have lowered the barrier to entry. Since the launch of its first rocket, Falcon 1, in September of 2008, Musk’s commercial space transportation company SpaceX has gradually but significantly reduced the cost and complexity of innovation beyond the Earth’s atmosphere. With Bezos’s announcement, many in the space sector are excited by the prospect of those barriers being lowered even further, creating a new wave of innovation in its wake.

“What I want to achieve with Blue Origin is to build the heavy-lifting infrastructure that allows for the kind of dynamic, entrepreneurial explosion of thousands of companies in space that I have witnessed over the last 21 years on the internet,” Bezos said during the Vanity Fair New Establishment Summit in 2016.

During the event, Bezos explained how the creation of Amazon was only possible thanks to the billions of dollars spent on critical infrastructure—such as the postal service, electronic payment systems, and the internet itself—in the decades prior.

“On the internet today, two kids in their dorm room can reinvent an industry, because the heavy-lifting infrastructure is in place for that,” he continued. “Two kids in their dorm room can’t do anything interesting in space. . . . I’m using my Amazon winnings to do a new piece of heavy-lifting infrastructure, which is low-cost access to space.”

In the less than 20 years since the launch of SpaceX’s first rocket, space has gone from a domain reserved for nation states and the world’s wealthiest individuals to everyday innovators and entrepreneurs. Today, building a space startup isn’t rocket science.

THE NEXT FRONTIER FOR ENTREPRENEURSHIP

According to the latest Space Investment Quarterly report published by Space Capital, the fourth quarter of 2020 saw a record $5.7 billion invested into 80 space-related companies, bringing the year’s total capital investments in space innovation to more than $25 billion. Overall, more than $177 billion of equity investments have been made in 1,343 individual companies in the space economy over the past 10 years.

“It’s kind of crazy how quickly things have picked up; 10 years ago when SpaceX launched their first customer they removed the barriers to entry, and we’ve seen all this innovation and capital flood in,” says Chad Anderson, the managing partner of Space Capital. “We’re on an exponential curve here. Every week that goes by we’re picking up the pace.”

#### The plan creates a restriction that encourages companies to move their operations to states with lower standards

Albert 14 [(Caley Albert, J.D. Loyola Marymount University) “Liability in International Law and the Ramifications on Commercial Space Launches and Space Tourism,” Loyola of Los Angeles International and Comparative Law Review, 11/1/14, <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1708&context=ilr>] TDI

A parallel can be drawn here between the commercial space industry and the maritime law concept of the Flag of Convenience. The term has evolved over time, but in this day and age, it is commonly used to mean the owner of a vessel does not want to create an obligation with a country with stricter standards for registry; hence, the owner will register strictly for economic reasons with a country that has a more convenient registry.133 By flying a Flag of Convenience, ship owners are able to avoid taxation on earnings of ships registered under these flags, and in some cases, they can also receive relief from stricter crew standards and corresponding operating costs.134 A Flag of Convenience is flown by a vessel that is registered in one state, which the vessel has little if any connection to, when in reality the vessel is owned and operated from another state.135 This way the vessel avoids any unfavorable economic requirements from its true home state.136 In this sense, “flag shopping” is similar to “launch forum shopping,” similar in that Flags of Convenience are utilized for economic reasons, such as to avoid high taxes and compliance with certain restrictive international conventions, commercial space companies will forum shop when choosing which country to launch from. As of today, there has yet to be a catastrophic commercial launch incident, so for now commercial space companies do not have an incentive to forum shop, but if there is, the indemnification policies described above may lead companies to seek out countries that provide more coverage so they pay less in the event something goes wrong. This comparison to Flags of Convenience brings up two separate yet equally important issues. First, launch companies may try to follow the Flags of Convenience model and soon catch on to the wisdom of their maritime predecessors by “registering” in countries with more favorable conditions. Of course, in this case the concern is not with registration so much as launching. If launch companies follow the Flags of Convenience model, they will seek out the most convenient state for launch, most likely the state that provides the most liability coverage and has the least safety precautions. Launching from states with low safety standards increases the potential for catastrophic launch events. This, in turn, will place states that are potentially incapable of paying for damages from launch disasters in a position they would not normally assume if these commercial companies had not been drawn to their shores with the promise of more favorable regulations. Second, launch customers may also seek out companies located in states with lower cost liability regimes (lower insurance policy limits) since those companies will presumably charge less to launch their payloads. In this scenario, instead of the launch companies seeking out states with lower liability caps and softer regulations, the launch customers themselves will seek companies located in states with lowcost liability regimes. Here, the effect will be the same as above. Under the Liability Convention, the launching state will be liable for any damage caused by a vehicle launched from within its borders; hence, if customers start engaging in “launch forum shopping,” states will be incentivized to put in place low-cost liability regimes, which in turn will increase the states’ potential payout in the event of a catastrophic launch incident. Looking at the indemnification program the United States has in place in comparison to other countries, it is possible to see how either launch companies or launch customers could engage in “launch forum shopping” when a catastrophic launch incident ever occur. It is also important to keep in mind that various factors go into where a company or customer decides to launch from. A state’s indemnification program is just one factor in this decision. With this in mind, it is clear that if a launch incident did occur in the United States, the commercial launch company would be liable for much more than it would in another country. For instance, why would a commercial space company launch in the United States, where it would be liable up to $500 million and the additional costs that the government would not cover? The argument can be made that a catastrophic space incident has yet to occur, and even if it did, it is unlikely to cost above the $2.7 billion covered by the United States government. **Other states like Russia or France, which has the two-tier liability system, would simply cover all claims above the initial insurance, which is much lower than the $500 million mark required by the United States.** In that case, the commercial company would never have to pay more than the initial liability insurance. If there ever is a catastrophic commercial space incident in the future, it is easy to see why commercial companies or launch customers might be drawn to “launch forum shop” outside the United States.

#### Maintaining US space dominance requires a homegrown commercial space industry – private companies offshoring gives China the advantage they need

**Cahan and Sadat 1/6** [(Bruce Cahan, J.D) (Dr. Mir Sadat, ) "US Space Policies for the New Space Age: Competing on the Final Economic Frontier," based on Proceedings from State of the Space Industrial Base 2020 Sponsored by United States Space Force, Defense Innovation Unit, United States Air Force Research Laboratory, 1/6/21, https://www.politico.com/f/?id=00000177-9349-d713-a777-d7cfce4b0000] TDI

Today, China’s commercial space sector is in its infancy but is set to grow with continued national and provincial support, which have been rapidly increasing over the past three years.64 Since 2004, the United States and China accounted for 74% of the $135.2 billion venture capital (VC) invested in commercial space. 65 The early 2020s are pivotal, as it would be far cheaper for China and Chinese commercial space firms to acquire space technologies from the United States or allied nation companies seeking revenues or facing cashflow constraints, than to build the companies and their teams and technologies from scratch in China. The tight coupling of Chinese military goals and an economy organized to achieve those goals magnifies the economic threats and market disruptions that the United States must immediately address, in order for DoD and national security operations to rely on US commercial space capabilities.

3. ISSUES AND CHALLENGES

Peaceful Uses of Space and Space Exploration Space has been primarily a shared, not a warfighting, domain.67 With each passing second of Planck time,68 space enables a modern way of life, provides instantaneous global imagery, assures telecommunications, and captures humanity’s imagination for civil space exploration. As a result, space is a burgeoning marketplace and territory for commercial ventures and investors. Strengthening the US commercial space industrial base is vital to and beyond US national security. Civil space activities are a source of US “soft power” in global commerce, cooperation, and investment. 69 The civil space sector, led by NASA, is fundamental to America’s national security. 70 NASA is on an ambitious critical path to return to the Moon by 2024,71 along with developing the capabilities and infrastructure for a sustained lunar presence. NASA’s lunar plans provide a lunar staging area for missions to Mars and beyond. They offer a strategic and economic presence for the United States on the Moon. Congress, the White House, DoD, and NASA must recognize that economic and strategic dominance in service of national security requires catalyzing and accelerating growth of a vibrant, private US industrial and cultural expansion into the Solar System. Human visitation and eventual settlement beyond the Earth require sustaining visionary leaders, aided by, and aiding, US national security. A recurring theme in US policy is “maintaining and advancing United States dominance and strategic leadership in space” because US global competitors and adversaries are competent and capable of outpacing American space capabilities. 72 The stakes are high: At this historic moment, there is a real race for dominance over cislunar access and resources.   
Regulations Should Foster US Commercial Space as a National Asset   
Leveraging the reimagination and disruption of terrestrial industries, the US commercial space industry is pushing the frontiers of the United States and global space economics and capabilities. A pre-COVID19 assessment by the US Chamber of Commerce projected that the US space market will increase from approximately $385 billion in 2020, to at least $1.5 trillion by 2040. 73 This projection represents a seven percent (7%) annual compound average growth rate (CAGR), driven largely by expanded business opportunities in Low Earth Orbit (LEO). Total addressable market (TAM) for US commercial space companies could be far larger were they to have federal and financial support for initiating cislunar space operations and opportunities. Recent advancements in commercial space technologies and business models have driven down costs and unlocked new areas of economic growth and space capabilities that outpace and de-risk acquiring capabilities through traditional US government economic development, research and development (R&D), procurement and regulatory policies and processes. US regulations must ensure that US companies lead in commercial space. In specific, technological advances that lower access costs and expand space mission capabilities, content, continuity, and redundancies must be fully supported by or incorporated into US government programs, budgets, requirements, and acquisition processes. Until commercial space offerings are fully incorporated, and federal acquisition policies and personnel commit to innovation, US government fiscal buying power, intelligence and program support will lag and remain inadequate in comparison to US private sector companies and the nation’s global competitors and adversaries in space.

Addressing COVID-19’s Impact on US Commercial Space The COVID-19 pandemic damaged and still challenges the US space industrial base. US domestic investors’ funding of space R&D remains inconsistent across the lifecycle of New Space companies and the spectrum of technologies necessary to grow the space economy. To date, public R&D, government procurements and visionary space entrepreneurs have played a major role in establishing and funding the New Space industrial base. In the last five years, $11 billion of private capital has been invested.74 Traditional private investors may become reluctant to fund space technologies due to perceptions of higher risk over longer time horizons before receiving profitable returns on their capital. Institutional and long-horizon investors who manage patient capital have an appetite for illiquid, but higher yielding, terrestrial alternative asset investments such as commodities, private equity limited partnerships and real estate.75 The COVID-19 pandemic has created economic uncertainties making the New Space’s funding model unreliable. COVID-19 significantly impacted venture capital (VC)-backed companies: the pace of VC space investments fell 85% between April - June, as compared to January – March, in 2020. 76 Pre-COVID-19, the New Space industrial base confronted multiple challenges in raising later stages of venture capital such as (1) the lag between having an early-stage startup with an idea and commercializing a viable revenue-generating product, (2) the lack of market liquidity for founder and private equity space investments to attract and retain talented teams, and (3) the lack of a market to re-sell contracts for space goods and services when customers buy more capacity than needed. Even prior to the COVID-19 pandemic, federal financing of US R&D was at a historically minor level, as compared to businesses and universities.77 US government support for basic research has steadily declined as a percent of GDP. The federal government will experience near- to medium-term budget constraints.78 The vibrant venture community in the United States has taken up a portion of this slack by increasing R&D investment in later-stage and applied research. However, founding teams and VC financing rely on government to fund earlier R&D for basic science and engineering. Therefore, government must resume the sustainable and impactful past levels of support for basic research, an essential role in the space economy’s public-private partnership that ensures US leadership in space.

Space as Existential Terrain for National Security  
  
In this Digital Era, space integrates and drives all elements of US national security. The Cold War may be over, but since the early 2010s, a renewed era of great power competition has emerged across terrestrial land, air, sea, and cyber domains. This competition extends into space, where a great game ensues.79 Space is no longer an uncontested or sanctuary domain. Competent and capable global competitors and peer adversaries are challenging US military, commercial, and civil space interests. The United States, along with its allies and partners, has had to accept and anticipate that space may be a warfighting domain, as suggested primarily by Russian and Chinese counter-space capabilities, military operations, and declarative statements. On December 20, 2019, the bipartisan National Defense Authorization Act (NDAA) for Fiscal Year 202080 authorized the creation of the US Space Force, under the Department of the Air Force, to secure US national interests in an increasingly contested domain.81 Back in October 1775, the Continental Congress established the US Navy to ensure that commercial and government fleets could freely navigate the Atlantic coastline - today, that includes the South China Sea. Likewise, the USSF’s mission is to ensure unfettered access to and the freedom to operate in space. The 2017 National Security Strategy considers space to be a “priority domain.”82 Freedom of navigation is a sovereign right that nations have fought to achieve and defend. 83 The USSF’s main role is to organize, train and equip, as well as to protecting US space interests and supporting terrestrial and joint warfighters (e.g., US Space Command). Thus, USSF must secure US national interests in space, whether military, commercial, scientific, civil, or enhancing US competitiveness for cislunar leadership.

#### US space dominance prevents global war

**Zubrin 15** [(Robert Zubrin, president of Pioneer Energy, a senior fellow with the Center for Security Policy) “US Space Supremacy is Now Critical,” Space News, 1/22/15, <https://spacenews.com/op-ed-u-s-space-supremacy-now-critical/>] TDI

The United States needs a new national security policy. For the first time in more than 60 years, we face the real possibility of a large-scale conventional war, and we are woefully unprepared. Eastern and Central Europe is now so weakly defended as to virtually invite invasion. The United States is not about to go to nuclear war to defend any foreign country. So deterrence is dead, and, with the German army cut from 12 divisions to three, the British gone from the continent, and American forces down to a 30,000-troop tankless remnant, the only serious and committed ground force that stands between Russia and the Rhine is the Polish army. It’s not enough. Meanwhile, in Asia, the powerful growth of the Chinese economy promises that nation eventual overwhelming numerical force superiority in the region. How can we restore the balance, creating a sufficiently powerful conventional force to deter aggression? It won’t be by matching potential adversaries tank for tank, division for division, replacement for replacement. Rather, the United States must seek to totally outgun them by obtaining a radical technological advantage. This can be done by achieving space supremacy.To grasp the importance of space power, some historical perspective is required. Wars are fought for control of territory. Yet for thousands of years, victory on land has frequently been determined by dominance at sea. In the 20th century, victory on both land and sea almost invariably went to the power that controlled the air. In the 21st century, victory on land, sea or in the air will go to the power that controls space. The critical military importance of space has been obscured by the fact that in the period since the United States has had space assets, all of our wars have been fought against minor powers that we could have defeated without them. Desert Storm has been called the first space war, because the allied forces made extensive use of GPS navigation satellites. However, if they had no such technology at their disposal, the end result would have been just the same. This has given some the impression that space forces are just a frill to real military power — a useful and convenient frill perhaps, but a frill nevertheless. But consider how history might have changed had the Axis of World War II possessed reconnaissance satellites — merely one of many of today’s space-based assets — without the Allies having a matching capability. In that case, the Battle of the Atlantic would have gone to the U-boats, as they would have had infallible intelligence on the location of every convoy. Cut off from oil and other supplies, Britain would have fallen. On the Eastern front, every Soviet tank concentration would have been spotted in advance and wiped out by German air power, as would any surviving British ships or tanks in the Mediterranean and North Africa. In the Pacific, the battle of Midway would have gone very much the other way, as the Japanese would not have wasted their first deadly airstrike on the unsinkable island, but sunk the American carriers instead. With these gone, the remaining cruisers and destroyers in Adm. Frank Jack Fletcher’s fleet would have lacked air cover, and every one of them would have been hunted down and sunk by unopposed and omniscient Japanese air power. With the same certain fate awaiting any American ships that dared venture forth from the West Coast, Hawaii, Australia and New Zealand would then have fallen, and eventually China and India as well. With a monopoly of just one element of space power, the Axis would have won the war. But modern space power involves far more than just reconnaissance satellites. The use of space-based GPS can endow munitions with 100 times greater accuracy, while space-based communications provide an unmatched capability of command and control of forces. Knock out the enemy’s reconnaissance satellites and he is effectively blind. Knock out his comsats and he is deaf. Knock out his navsats and he loses his aim. In any serious future conventional conflict, even between opponents as mismatched as Japan was against the United States — or Poland (with 1,000 tanks) is currently against Russia (with 12,000) — it is space power that will prove decisive. Not only Europe, but the defense of the entire free world hangs upon this matter. For the past 70 years, U.S. Navy carrier task forces have controlled the world’s oceans, first making and then keeping the Pax Americana, which has done so much to secure and advance the human condition over the postwar period. But should there ever be another major conflict, an adversary possessing the ability to locate and target those carriers from space would be able to wipe them out with the push of a button. For this reason, it is imperative that the United States possess space capabilities that are so robust as to not only assure our own ability to operate in and through space, but also be able to comprehensively deny it to others. Space superiority means having better space assets than an opponent. Space supremacy means being able to assert a complete monopoly of such capabilities. The latter is what we must have. If the United States can gain space supremacy, then the capability of any American ally can be multiplied by orders of magnitude, and with the support of the similarly multiplied striking power of our own land- and sea-based air and missile forces be made so formidable as to render any conventional attack unthinkable. On the other hand, should we fail to do so, we will remain so vulnerable as to increasingly invite aggression by ever-more-emboldened revanchist powers. This battle for space supremacy is one we can win. Neither Russia nor China, nor any other potential adversary, can match us in this area if we put our minds to it. We can and must develop ever-more-advanced satellite systems, anti-satellite systems and truly robust space launch and logistics capabilities. Then the next time an aggressor commits an act of war against the United States or a country we are pledged to defend, instead of impotently threatening to limit his tourist visas, we can respond by taking out his satellites, effectively informing him in advance the certainty of defeat should he persist. If we desire peace on Earth, we need to prepare for war in space.

### Warming

#### 1 – EO sats don’t solve – at best they only allow adaptation not spur it – their solvency relies on massive climate momentum and policies that are non-existent

### 1NC – Short

#### Counterplan text: The Committee on the Peaceful use of Outer Space ought to

* **establish an application system for property rights on celestial bodies. Applications and approval of property rights should be granted upon the condition of**
* **open disclosure of data gathered in the exploration of a celestial body**
* **Applications must be publicly announced**
* **Property Rights will be made tradeable between private entities**
* **Property Rights will be set to expire on the conclusion of a successful extraction mission**
* **Private Entities will only be allowed one property right grant per celestial body and cannot have more than one grant at a time**
* **Ban the militarization of outer space**

#### The counterplan establishes international norms for safe extraction of resources on celestial bodies while increasing R&D in outer space.

**Steffen 21** [Olaf Steffen, Olaf is a scientist at the Institute of Composite Structures and Adaptive Sytems at the German Aerospace Center. 12-2-2021, "Explore to Exploit: A Data-Centred Approach to Space Mining Regulation," Institute of Composite Structures and Adaptive Systems, German Aerospace Center, [https://www.sciencedirect.com/science/article/pii/S0265964621000515 accessed 12/12/21](https://www.sciencedirect.com/science/article/pii/S0265964621000515%20accessed%2012/12/21)] Adam

4. The data-centred approach to space mining regulation

4.1. Core description of the regulatory regime and mining rights acquisition process

The data gathered in the exploration of a [celestial body](https://www.sciencedirect.com/topics/social-sciences/astronomical-systems) is not only of value for space mining companies for informing them whether, where and how to exploit resources from the body in question, but also for science. The irretrievability of information relating to the solar system contained in the body that will be lost during resource exploitation carries a value for humanity and future generations and can thus be assigned the characteristic of a common heritage for all mankind as invoked in the Moon Agreement. This characteristic makes exploration data an exceptional and unique candidate for use in a mechanism for acquiring mining rights because its preservation is of public interest and its disclosure in exchange for exclusive mining rights does not place any additional burden on the mining company. The following principles would form the cornerstones of the proposed regulatory regime and rights acquisition mechanism based on exploration data:

Without preconditions, no entity has a right to mine the resources of a celestial body.

An international regulatory body administers the existing rights of companies for mining a specific celestial body.

Mining rights to such bodies can be applied for from this international regulatory body, with applications made public. The application expires after a pre-set period.

Mining rights are granted on the provision and disclosure of exploration data on the celestial body within the pre-set period, proposedly gathered in situ, characterising this body and its resources in a pre-defined manner.

The explorer's mining right to the resources of the celestial body is published by the regulatory body in a mining rights grant.

The data concerning the celestial body are made public as part of the rights grant within the domain of all participating members of the regulatory regime.

The exclusive mining rights to any specific body are tradeable.

The scope of the regulatory body with respect to the granting of mining rights is not revenue-oriented.

The international regulatory body would thus act as a curator of a rights register and an attached database of exploration data. The concept is superficially comparable to patent law, where exclusive rights are granted following the disclosure of an invention to incentivise the efforts made in the development process. In the following section, the characteristics of such a regulatory regime are further discussed with respect to the formation of [monopolies](https://www.sciencedirect.com/topics/social-sciences/monopolies), market dynamics, conflict avoidance, inclusivity towards less developed countries and the viability of implementation.

4.2. Discussion and means of implementation

The proposed regulatory mechanism has advantages both from a business/investor and society perspective. First, it prevents already highly capitalised companies from acquiring exploitation rights in bulk to deny competitors those objects that are easiest to exploit or most valuable, which would otherwise be possible in any kind of pay-for-right mechanism and could result in preventing market access to smaller, emerging companies. Thus, early monopoly formation can be avoided.

The use of data disclosure for the granting of mining rights ensures the scientific community has access to this invaluable source of information. In this way, space mining prospecting missions can lead to a boost in research on small celestial bodies at a speed unmatchable by pure government/agency funded science probes. This usefulness to the scientific community could lead to sustained partnerships between prospecting companies and scientific institutions and could even provide a source of funding for the companies through R&D grants and public-private partnerships. The results of the exploration efforts contribute to research on the formation of planets and the history of the solar system and provide valuable insight for space defence against asteroids. The transition of exploration from a tailored mission profile with a purpose-built spacecraft to a standard task in space flight would also lead to a cost reduction of the respective exploration spacecraft through [economies of scale](https://www.sciencedirect.com/topics/social-sciences/economies-of-scale). This describes the very benefits Elvis [[24](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib24)] and Crawford [[25](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib25)] imagined as possible effects of a space economy. Thus, there is an immediate return for society from the exploitation rights grant. It also reconciles the adverse interests of space development and [space science](https://www.sciencedirect.com/topics/social-sciences/space-sciences) as laid out by Schwartz [[26](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib26)]. It ensures that, by exploitation, information contained in celestial bodies is not lost for future generations.The application period should not be set in a manner that creates a situation that can be abused through the potential for stockpiling inventory rights. Rather, it is intended to prevent conflict in the phase before exploration data gathered by a mission, as a prerequisite to the mining rights grant, is available. In other words, only one exploration effort at a time can be permitted for a specific body. The time frame between the application and the granting of mining rights (meaning: availability of the required exploration data set) should be tight and should only consider necessary exploration time on site, transit time and possibly a reasonable launch preparation and data processing markup. These contributors to the application period make it clear that the time frame could be dynamic and individualistic, depending on the exploration target (transit time and duration of exploration) and the technology of the exploration probe (transit time). After the expiration of the application period, applications for the exploration target would again be permissible. To prevent the previously mentioned stockpiling of inventory rights, credible proof of an imminent exploration intention would need to be part of the application process, for example, a fixed launch contract or the advanced build status of the exploration probe. Such a mechanism would not contradict the statement in the OST that outer space shall be free for both exploration and scientific investigation. Applications would not apply to purely scientific exploration. An application would only be necessary as a prerequisite for mining. Even resource prospecting could take place without an application (for whatever reason), with a subsequent application comprising in situ data already gathered. For such cases, the application process would need to provide a short period for objections to enable the secretive explorer to make their efforts public. The publication of the application for the mining rights, which is nothing more than a statement of intention to explore, thus provides a strong measure for avoiding conflict.

The transparency of where exploration spacecraft are located and, at a later stage, where mining activities take place, provides additional benefits for the sustainable use of space, trust building and deterrence against malign misuse of mining technology. Involuntary spacecraft collisions of competitors in deep space are prevented by the reduction of exploration efforts at the same destination through the application for mining rights by one applicant at a time. As pointed out by Newman and Williamson [[20](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib20)], this is relevant because space debris does not de-orbit in deep space as in the case of LEO. Deep space may be vast, but the velocities involved mean that small debris particles are no less dangerous. Considering NEO mining with fleets of small spacecraft, malfunctions and/or destructive events could create debris clouds crossing Earth's orbit around the sun on a regular basis, presenting another danger to satellites in Earth's own orbit. Thus, by effectively preventing the collision of two spacecraft, one source of debris creation can be mitigated through this regulation mechanism. With respect to Deudney's [[11](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib11)] scepticism of asteroid mining and the dual-use character of technology to manipulate orbits of celestial bodies, it has to be stated that this potential is truly inherent to asteroid mining. An asteroid redirect mission for scientific purposes was pursued by NASA [[49](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib49)] before reorientation towards a manned lunar mission. In one way or another, each type of asteroid mining will require the delivery of the targeted resource to a destination via a comparable technology as formerly envisioned by NASA, be it as a raw material or a useable resource processed in situ, even if this is not necessarily done through redirecting the whole asteroid and placing it in a lunar orbit. However, to be misused as a weapon, space mined resources would have to surpass a certain mass threshold to survive atmospheric entry at the target. This seems unfeasible for currently discussed mining concepts using small-scale spacecraft as described in this article. Redirecting larger masses or whole asteroids would require far more powerful mining vessels or small amounts of thrust over long periods of time. The continuous, (for a mining activity) untypical change in the orbit of an asteroid would make a redirect attempt with hostile intent easily identifiable, effectively deterring such an activity in the first place by ensuring the identification of the aggressor long before the projectile hits its target. The proposed database would provide a catalogue of asteroids with exploration and mining activities in place that should be tracked more closely because of their interaction with spacecraft. This would, in fact, be necessary per se as a precaution to avoid catastrophic mishaps, such as the accidental change of a NEO's orbit to intercept Earth by changing its mass through mining.

#### Space mining fails now due to profitability and unsafe tech which only the cp solves

**Steffen 21** [Olaf Steffen, Olaf is a scientist at the Institute of Composite Structures and Adaptive Sytems at the German Aerospace Center. 12-2-2021, "Explore to Exploit: A Data-Centred Approach to Space Mining Regulation," Institute of Composite Structures and Adaptive Systems, German Aerospace Center, [https://www.sciencedirect.com/science/article/pii/S0265964621000515 accessed 12/12/21](https://www.sciencedirect.com/science/article/pii/S0265964621000515%20accessed%2012/12/21)] Adam

* answers timeframe deficits
* creates solvency vs inequality/developing nation affs

The data-driven mechanism also addresses another potential risk of an emerging space-based resource economy: the reinforcing of the incontestable market positions of the market leaders based on an advantage in knowledge unattainable by new competitors. Explorations of celestial bodies will have a likelihood of failing from the perspective of the actual value of the explored object vs. the expected value. In this case, the costs of exploration would be a loss for the company, which could be significant and possibly ruinous considering the budgets needed for contemporary space agency-led exploration missions. Sanchez and McInnes [[5](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib5)] explicitly mention the uncertainties in object distribution models used in their asteroid distribution study and for the conclusions drawn concerning reachable object masses with certain delta-v capabilities of spacecraft. With an increasing number of exploration missions led by a company, the data collected may lead to better in-house models and a higher probability of exploring the ‘right’ body for the value/resources aimed at. This may even provide information on the best spacecraft designs for matching the targeted objects’ orbit distribution. This risk is known from the digital platform economy, where the companies that are now leading have an uncatchable advantage in user data compared with market newcomers, translatable to a more refined and comfortable user experience, attracting additional users and thus offering superior services to business customers. This also holds true for space mining companies. Through their lack of legacy mission data, market newcomers would have a higher risk of misallocating exploration missions, making investments in those companies riskier than in established companies. To avoid the preferred investment in a single or a few companies, the risk of the investment in emerging companies is reduced by the proposed mechanism by ensuring the equal access to data for market newcomers and established companies alike. From a prospecting risk perspective, the market entrance of a new company becomes progressively less risky for investors with increasing amounts of publicly available exploration data, promoting progressive and dynamic development.

The long lead times of asteroid mining ventures coincide with a long time frame for an ROI. The exclusive mining rights granted after the exploration phase give investors security half-way into their space mining endeavours. The proposed tradability of the rights offers an early chance of gaining investment proceeds. It also offers the possibility of new business models: the classical asteroid mining system concept, as shown by Andrews et al. [[43](https://www.sciencedirect.com/science/article/pii/S0265964621000515#bib43)], for example, covers exploration, exploitation and resource transfer. This maximises the investment needed to develop the technologies required for the entire process chain. Giving exploration a value could lead to a division of labour. Dedicated prospecting companies could emerge, providing mining companies with the data and mining rights to a body with the specific resource profile they are seeking. In this way, the investment needed for a successful mining endeavour is divided between different specialised companies. This considerably reduces the risk for investors as well as the investment needed for a company to meet their business goals, which are now aimed at just a particular part of the overall space mining endeavour. Third-party applications for mining rights should be possible to allow a mining company to subcontract to exploration companies. Such a regulatory mechanism design would also be more easily inclusive of less developed countries. They could simply contract exploration missions made affordable through economies of scale to become part of the emerging space mining economy as holders of tradeable mining rights. Through a wise selection of such missions’ targets, they could gain powerful positions of influence.

#### Unregulated mining of asteroids triggers space conflicts

Thompson ’16 [Clive, Writer for Wired, “Space Mining Could Set Off a Star War”, *Wired*, 01/14/2016, <https://www.wired.com/2016/01/clive-thompson-11/>]

SPACE IS LOUSY with profits. Consider the asteroid Ryugu: It’s made of so many tons of nickel, iron, cobalt, and water, it’s worth an estimated $95 billion. Venture into deeper space and there’s even richer plunder—like Davida, an asteroid that the wanna-be space mining company Planetary Resources values at more than $100 trillion. That’s more than five times the GDP of the US. These jaw-dropping payloads are why extraterrestrial mining is becoming an increasingly serious endeavor. Companies like Planetary Resources, backed by the likes of Googlers Larry Page and Eric Schmidt, are already launching satellites to scan for the most promising asteroids. Space experts say some firm could be ready to launch a mission within 10 years. But are they allowed to? Of course, anyone can reach an asteroid—NASA already has. But can you own one? Let’s start with existing space law. The big one on the books is the 1967 Outer Space Treaty. Ratified by 103 countries, including the spacefaring ones, it prohibits anyone from “appropriating” territory in space. (There’s an even more restrictive 1979 Moon Treaty as well, but the spacegoing countries haven’t signed, so it’s probably less relevant.) The upshot, most space-law scholars agree, is that nobody can claim a celestial body for their own. But what about just extracting resources and bringing them home? The issue hasn’t been litigated, but extraction is probably legally OK. Indeed, there’s precedent: The US brought 842 pounds of rocks back from the moon, and they’re designated as property of the US. No other country has disputed that ownership; in fact, the US and USSR traded moon rocks and regolith. “Russia has even sold some commercially,” says James Dunstan, a spacelaw expert with the Mobius Legal Group. The big wrinkle may not be whether it’s legal to mine an asteroid but how to figure out who has permission and who owns what claims. The US has no agency or process to issue licenses for space mining. “The politics can’t be known, but there will be politics,” says Joanne Gabrynowicz, a spacelaw expert at the University of Mississippi. Licenses give clarity not only to would-be miners but also to investors and governments starting their own operations. “If you don’t have that license, the investors are taking a big chance,” she says. The US is now drawing up a law. Problem is, it’s unilateral and incomplete. The Commercial Space Launch Competitiveness Act of 2015 says citizens can “possess, own, transport, use, and sell” an asteroid resource once they obtain it. But the bill doesn’t establish an agency or process for issuing licenses. Worse, it says your ownership claim begins as soon as you detect the existence of metals on an asteroid. You don’t even have to plant a flag. But what if China and Russia have different ideas—and different laws for their own citizens? Commercial activity in distant space could easily cause seething international strife here on our home planet. Luckily, there are precedents for working together. When satellites became big business in the 1960s, the major industrialized countries decided to use a multistate body—the International Telecommunication Union—to approve the orbits. It’s almost like domain-name registration. Fully 193 countries abide by these rules. Something similar could work for asteroid mining: an international body with local laws written in sync. Or, says Dunstan, countries could adopt bilateral agreements to recognize each other’s legislation and then build treaties. There’s a chance the spacefaring nations could get this right. I hope they do. Otherwise it’ll be Star Wars for real—with trillions in nickel and cobalt in the balance.

#### That goes nuclear

Grego ’18 [Laura, Senior Scientist in the Global Security Program at the Union of Concerned Scientists, Postdoctoral Researcher at the Harvard-Smithsonian Center for Astrophysics, PhD in Experimental Physics at the California Institute of Technology, Space and Crisis Stability, Union of Concerned Scientists, 3-19-18, <https://www.law.upenn.edu/live/files/7804-grego-space-and-crisis-stabilitypdf>]

Why space is a particular problem for crisis stability For a number of reasons, space poses particular challenges in preventing a crisis from starting or from being managed well. Some of these are to do with the physical nature of space, such as the short timelines and difficulty of attribution inherent in space operations. Some are due to the way space is used, such as the entanglement of strategic and tactical missions and the prevalence of dual-use technologies. Some are due to the history of space, such the absence of a shared understanding of appropriate behaviors and consequences, and a dearth of stabilizing personal and institutional relationships. While some of these have terrestrial equivalents, taken together, they present a special challenge. The vulnerability of satellites and first strike incentives Satellites are inherently fragile and difficult to protect; in the language of strategic planners, space is an “offense-dominant” regime. This can lead to a number of pressures to strike first that don‘t exist for other, better-protected domains. Satellites travel on predictable orbits, and many pass repeatedly over all of the earth‘s nations. Low-earth orbiting satellites are reachable by missiles much less capable than those needed to launch satellites into orbit, as well as by directed energy which can interfere with sensors or with communications channels. Because launch mass is at a premium, satellite armor is impractical. Maneuvers on orbit need costly amounts of fuel, which has to be brought along on launch, limiting satellites‘ ability to move away from threats. And so, these very valuable satellites are also inherently vulnerable and may present as attractive targets. Thus, an actor with substantial dependence on space has an incentive to strike first if hostilities look probable, to ensure these valuable assets are not lost. Even if both (or all) sides in a conflict prefer not to engage in war, this weakness may provide an incentive to approach it closely anyway. A RAND Corporation monograph commissioned by the Air Force15 described the issue this way: First-strike stability is a concept that Glenn Kent and David Thaler developed in 1989 to examine the structural dynamics of mutual deterrence between two or more nuclear states.16 It is similar to crisis stability, which Charles Glaser described as ―a measure of the countries‘ incentives not to preempt in a crisis, that is, not to attack first in order to beat the attack of the enemy,‖17 except that it does not delve into the psychological factors present in specific crises. Rather, first strike stability focuses on each side‘s force posture and the balance of capabilities and vulnerabilities that could make a crisis unstable should a confrontation occur. For example, in the case of the United States, the fact that conventional weapons are so heavily dependent on vulnerable satellites may create incentives for the US to strike first terrestrially in the lead up to a confrontation, before its space-derived advantages are eroded by anti-satellite attacks.18 Indeed, any actor for which satellites or space-based weapons are an important part of its military posture, whether for support missions or on-orbit weapons, will feel “use it or lose it” pressure because of the inherent vulnerability of satellites. Short timelines and difficulty of attribution The compressed timelines characteristic of crises combine with these “use it or lose it” pressures to shrink timelines. This dynamic couples dangerously with the inherent difficulty of determining the causes of satellite degradation, whether malicious or from natural causes, in a timely way. Space is a difficult environment in which to operate. Satellites orbit amidst increasing amounts of debris. A collision with a debris object the size of a marble could be catastrophic for a satellite, but objects of that size cannot be reliably tracked. So a failure due to a collision with a small piece of untracked debris may be left open to other interpretations. Satellite electronics are also subject to high levels of damaging radiation. Because of their remoteness, satellites as a rule cannot be repaired or maintained. While on-board diagnostics and space surveillance can help the user understand what went wrong, it is difficult to have a complete picture on short timescales. Satellite failure on-orbit is a regular occurrence19 (indeed, many satellites are kept in service long past their intended lifetimes). In the past, when fewer actors had access to satellite-disrupting technologies, satellite failures were usually ascribed to “natural” causes. But increasingly, even during times of peace operators may assume malicious intent. More to the point, in a crisis when the costs of inaction may be perceived to be costly, there is an incentive to choose the worst-case interpretation of events even if the information is incomplete or inconclusive. Entanglement of strategic and tactical missions During the Cold War, nuclear and conventional arms were well separated, and escalation pathways were relatively clear. While space-based assets performed critical strategic missions, including early warning of ballistic missile launch and secure communications in a crisis, there was a relatively clear sense that these targets were off limits, as attacks could undermine nuclear deterrence. In the Strategic Arms Limitation Treaty, the US and Soviet Union pledged not to interfere with each other‘s ―national technical means‖ of verifying compliance with the agreement, yet another recognition that attacking strategically important satellites could be destabilizing.20 There was also restraint in building the hardware that could hold these assets at risk. However, where the lines between strategic satellite missions and other missions are blurred, these norms can be weakened. For example, the satellites that provide early warning of ballistic missile launch are associated with nuclear deterrent posture, but also are critical sensors for missile defenses. Strategic surveillance and missile warning satellites also support efforts to locate and destroy mobile conventional missile launchers. Interfering with an early warning sensor satellite might be intended to dissuade an adversary from using nuclear weapons first by degrading their missile defenses and thus hindering their first-strike posture. However, for a state that uses early warning satellites to enable a “hair trigger” or launch-on-attack posture, the interference with such a satellite might instead be interpreted as a precursor to a nuclear attack. It may accelerate the use of nuclear weapons rather than inhibit it. Misperception and dual-use technologies Some space technologies and activities can be used both for relatively benign purposes but also for hostile ones. It may be difficult for an actor to understand the intent behind the development, testing, use, and stockpiling of these technologies, and see threats where there are none. (Or miss a threat until it is too late.) This may start a cycle of action and reaction based on misperception. For example, relatively low-mass satellites can now maneuver autonomously and closely approach other satellites without their cooperation; this may be for peaceful purposes such as satellite maintenance or the building of complex space structures, or for more controversial reasons such as intelligence-gathering or anti-satellite attacks. Ground-based lasers can be used to dazzle the sensors of an adversary‘s remote sensing satellites, and with sufficient power, they may damage those sensors. The power needed to dazzle a satellite is low, achievable with commercially available lasers coupled to a mirror which can track the satellite. Laser ranging networks use low-powered lasers to track satellites and to monitor precisely the Earth‘s shape and gravitational field, and use similar technologies. 21 Higher-powered lasers coupled with satellite-tracking optics have fewer legitimate uses. Because midcourse missile defense systems are intended to destroy long-range ballistic missile warheads, which travel at speeds and altitudes comparable to those of satellites, such defense systems also have inherent ASAT capabilities. In fact, while the technologies being developed for long-range missile defenses might not prove very effective against ballistic missiles—for example, because of the countermeasure problems associated with midcourse missile defense— they could be far more effective against satellites. This capacity is not just theoretical. In 2007, China demonstrated a direct-ascent anti-satellite capability which could be used both in an ASAT and missile defense role, and in 2009, the United States used a ship-based missile defense interceptor to destroy a satellite, as well. US plans indicated a projected inventory of missile defense interceptors with capability to reach all low earth orbiting satellites in the dozens in the 2020s, and in the hundreds by 2030.22 Discrimination The consequences of interfering with a satellite may be vastly different depending on who is affected and how, and whether the satellite represents a legitimate military objective. However, it will not always be clear who the owners and operators of a satellite are, and users of a satellite‘s services may be numerous and not public. Registration of satellites is incomplete23 and current ownership is not necessarily updated in a readily available repository. The identification of a satellite as military or civilian may be deliberately obscured. Or its value as a military asset may change over time; for example, the share of capacity of a commercial satellite used by military customers may wax and wane. A potential adversary‘s satellite may have different or additional missions that are more vital to that adversary than an outsider may perceive. An ASAT attack that creates persistent debris could result in significant collateral damage to a wide range of other actors; unlike terrestrial attacks, these consequences are not limited geographically, and could harm other users unpredictably. In 2015, the Pentagon‘s annual wargame, or simulated conflict, involving space assets focused on a future regional conflict. The official report out24 warned that it was hard to keep the conflict contained geographically when using anti-satellite weapons: As the wargame unfolded, a regional crisis quickly escalated, partly because of the interconnectedness of a multi-domain fight involving a capable adversary. The wargame participants emphasized the challenges in containing horizontal escalation once space control capabilities are employed to achieve limited national objectives. Lack of shared understanding of consequences/proportionality States have fairly similar understandings of the implications of military actions on the ground, in the air, and at sea, built over decades of experience. The United States and the Soviet Union/Russia have built some shared understanding of each other‘s strategic thinking on nuclear weapons, though this is less true for other states with nuclear weapons. But in the context of nuclear weapons, there is an arguable understanding about the crisis escalation based on the type of weapon (strategic or tactical) and the target (counterforce—against other nuclear targets, or countervalue—against civilian targets). Because of a lack of experience in hostilities that target space-based capabilities, it is not entirely clear what the proper response to a space activity is and where the escalation thresholds or “red lines” lie. Exacerbating this is the asymmetry in space investments; not all actors will assign the same value to a given target or same escalatory nature to different weapons.