



Trump Administration Issues Executive Order Encouraging Space Mining Efforts

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On April 6, 2020, President Donald J. Trump issued an Executive Order on Encouraging International Support for the Recovery and Use of Space Resources, focused on long-term exploration and scientific discovery of the Moon, Mars, and other celestial bodies through partnership with commercial entities to recover and use resources in outer space. The Executive Order directs the Secretaries of State, Commerce, and Transportation, along with the Administrator of the National Aeronautics and Space Administration and other heads of executive departments and agencies, to take action to further international support for the public and private recovery and use of outer space resources. This support includes negotiating joint statements and bilateral and multilateral arrangements with foreign states related to safe and sustainable resource operations. The Secretary of State is required to provide a progress report summarizing these efforts within 180 days of the Executive Order.

The predominant international legal framework for space-resource development and exploration is the Outer Space Treaty of 1967, which provides the framework for international space law. In particular, the Outer Space Treaty provides that the exploration and use of outer space must be carried out for the benefit and interest of all countries, and that outer space is not subject to national appropriation by claim of sovereignty.

In addition to the Outer Space Treaty, a few countries also executed a Moon Agreement or (Moon Treaty) in 1979. None of the space-faring nations are parties to the Moon Agreement. President Trump's Executive Order finds that the Moon Agreement—to which the United States is not a party—is not an “effective or necessary instrument to guide nation states” with respect to commercial participation in long-term space exploration and scientific discovery. The Executive Order states that “[o]uter space is a legally and physically unique domain of human activity, and the United States does not view it as the global commons.” The Executive Order also notes that the Moon Agreement creates some uncertainty surrounding the right to recover and use space resources.

Reports following the Executive Order indicate that the Administration is working to develop an international agreement—called the Artemis Accords—that would provide a framework for lunar mining, and would allow companies to own the resources they mine. The Artemis Accords are intended to promote the pursuit of space-resource extraction and utilization in accordance with the Outer Space Treaty. The Artemis Accords also contemplate the potential for “safety zones . . . to prevent damage or interference from rival countries or companies operating in close proximity,” without purporting to claim territory on the moon. United States officials anticipate negotiating the Artemis Accords with “space partners such as Canada, Japan, and European countries, as well as the United Arab Emirates,” prioritizing talks with countries similarly interested in space mining.

The President’s focus on and issuance of the Executive Order amidst a global pandemic demonstrates the Administration’s commitment to space exploration and development, including space mining. And the six-month timeframe within which the Executive Order calls for progress, followed by news of the Artemis Accords, suggests that continued development of the space-mining frontier will remain a strong priority for this Administration.

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