



# **NOAA's Implementation of Article VI of the Outer Space Treaty with respect to Commercial Remote Sensing**

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December 11, 2008

The 3rd Eilene M. Galloway Symposium on  
Critical Issues in Space Law

Art. VI of the Outer Space Treaty: Issues and  
Implementation





## Relevant Provisions of Art. VI

- State parties are responsible internationally for activities by non government entities
- State parties must ensure that activities of non government entities are carried out in conformity with Treaty
- Activities of non government entities require authorization and continuing supervision by the State party

## Other Relevant Provisions of Treaty

- Art. III – Use of outer space shall be carried out in accordance with international law
- Art. VII – State parties are internationally liable for damage caused by objects launched from their territory



## Domestic Law

- Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.*
  - Authorizes Secretary of Commerce (delegated to NOAA) to issue licenses for operation of private earth remote sensing space systems
  - Makes it unlawful to operate a system without license
  - Requires consultation - Departments of Defense and State regarding national security and international obligations, Department of Interior on data matters, and with other interested agencies
  - Provides for judicial review of certain licensing and enforcement actions



## Domestic Law (cont.)

- National Defense Authorization Act of 1997, 15 U.S.C. 5621 note (Kyl-Bingaman Amendment)
  - Places limits on dissemination of imagery of Israel
- The Commercial Space Act of 1998, 42 U.S.C. 14701
  - Requires notification of any significant or substantial agreement with a foreign person or entity





## Domestic Law (cont.)

- 15 CFR Part 960 “Licensing of Private Land Remote Sensing Space Systems” (April 25, 2006)
  - Implements Land Remote Sensing Policy Act, Kyl-Bingaman Amendment, The Commercial Space Act (the 2000 Interagency MOU, and 2003 U.S. Commercial Remote Sensing Policy)
  - Addresses requirements of Art. VI of the Outer Space Treaty



## “Responsibility” Provisions

- Secretary of Commerce is responsible for licensing private commercial remote sensing space systems and consulting with Secretaries of Defense and State regarding national security and international obligation concerns (15 CFR 960.1(b))



## “Authorization” Provisions

- Must obtain license from NOAA to operate a commercial remote sensing space system (15 CFR 960.4(a))
- Obligation to obtain licenses from other USG agencies (FAA and FCC) (15 CFR 960.2(e))
- NOAA must pre-approve de-orbit/disposal plans as part of application process – must be consistent with U.S. policy (15 CFR 960.11(b)(12)) – important since USG responsible internationally for damage caused by objects launched from U.S.



## “Continuing Supervision” Provisions

- Must maintain operational control from U.S. – operate or ability to override commands from U.S. territory (15 CFR 960(b)(2))
- Must promptly report all deviations from licensed operations or spacecraft anomalies (15 CFR 960.11(b)(11))
- Must comply with record keeping requirements and submit to regular audits and inspections of all facilities (15 CFR 960.11(b)(3))
- Must notify NOAA of financial insolvency, dissolution, demise of system or decision to cease operations (15 CFR 960.9(b))
- NOAA has broad authority to enforce compliance – monetary penalties as well as license suspension or termination
- Cradle to grave supervision!





## **“Conformity with Treaty/International Law” Provisions**

- Must operate system in manner that complies with U.S. international obligations – international agreements and treaties (15 CFR 960.11(b)(1))
- Must make available to any government, upon request, unenhanced data of the territory under jurisdiction of such government on reasonable terms and conditions - per Principle XII of U.N. Principles on Remote Sensing (15 CFR 960.11(b)(10))