

*Space Stations and the Law: Selected Legal
Issues*

August 1986

NTIS order #PB87-118220

**Space Stations and the Law:
Selected Legal Issues**

Background Paper



CONGRESS OF THE UNITED STATES
Office of Technology Assessment
Washington, D. C. 20540

Recommended Citation:

U.S. Congress, Office of Technology Assessment, Space Stations *and the Law: Selected Legal* Issues-Background *Paper*, OTA-BP-ISC-41 (Washington, DC: U.S. Government Printing Office, August 1986).

Library of Congress Catalog Card Number 86-600569

For sale by the Superintendent of Documents
U.S. Government Printing Office, Washington, DC 20402

PREFACE

Multinational space station activities will raise fundamental legal issues. The laws we take for granted on Earth--e.g. , those that regulate commerce, property, criminal activity, and personal interactions--may not be available in space or may conflict with similar laws held by other nations. This background paper analyzes some of the legal consequences of developing and operating an international space station. It describes the different ways that an international space station might be owned and operated and explains how each could affect the rights and responsibilities of the U.S. Government and its citizens. The background paper gives special attention to the application of jurisdiction, tort law, intellectual property law, and criminal law to nations and individuals living and working in space. In addition to these specific legal issues, the paper also examines the role of politics and technology in legal decisionmaking, the usefulness of air law and maritime law analogies, and the conflict between State and Federal law and jurisdiction in the United States.

This background paper was requested by the Senate Committee on Commerce, Science, and Transportation as a follow-on to the OTA assessments of *Civilian Space Stations and the U.S. Future in Space* which was published in 1984, and *International Cooperation and Competition in Civilian Space Activities* which was published in 1985. The original space station assessment was requested by the Senate Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology, and was endorsed by the House Committee on the Budget and the Senate Committee on Appropriations. The report on cooperation and competition in space technology was requested by the House Committee on Science and Technology and the Joint Economic Committee.

This report suggests that Congress need not wait for the completion of the current governmental negotiations in order to begin an examination of the legal issues resulting from space station development and operation. In the near term, Congress could: 1) begin to identify those Federal and State laws which already apply to space station activities and those that Congress believes should apply; 2) begin to resolve questions of power sharing between Federal and State laws and Federal and State courts as they relate to space station activities; and 3) monitor the space station negotiations to ensure that the final space station agreements protect the fundamental rights and interests of U.S. citizens and support U.S. policies, including those related to commercial activities in space.

OTA was assisted in the preparation of this background paper by many outside advisors and reviewers, including international legal experts from the U.S. Government, Europe, Canada, and Japan, as well as U.S. legal experts from academia, industry, private practice, and the government. We express sincere appreciation to each of these individuals and organizations. As with all OTA reports, the content of this background paper is the sole responsibility of the Office of Technology Assessment and does not necessarily represent the views of outside advisors or reviewers.

Related OTA Reports

Civilian Space

- *International Cooperation and Competition in Civilian Space Activities.*
OTA-ISC-239, June 1985. GPO stock #052-003-00958-7.
- *Civilian Space Stations and the U.S. Future in Space.*
OTA-STI-241, November 1981. GPO stock #052-003-00969-2.
- *Civilian Space Policy and Applications.*
OTA-STI-177, June 1982. NTIS order #PB 82-234444.
- *Radio frequency Use and Management: Impacts From the World Administration Radio Conference of 1979. OTA-CIT-163,* January 1982. NTIS order #PB 82-177536.
- *Solar Power Satellite Systems and Issues.*
OTA-E-144, August 1981. NTIS order #PB 82-108846.

Technical Memoranda

- *U.S.-Soviet Cooperation in Space.*
OTA-TM-STI-27, July 1985. GPO stock #052-003-01004-6.
- *Remote Sensing and the Private Sector: Issues for Discussion.*
OTA-TM-ISC-20, March 1984.- GPO stock #052-003-00945-5.
- *Salyut: Soviet Steps Toward Permanent Human Presence in Space.*
OTA-TM-STI-14, December 1983. GPO stock #052 -003-00937-4.
- *UNISPACE '82: A Context for international Cooperation and Competition.*
OTA-TM-ISC-26, March 1983. GPO stock #052-003-00962-5.
- *Space Science Research in the United States.*
OTA-TM-STI-19, September 1982. NTIS order #PB 83-166512.

Military Space

- *Anti-Satellite Weapons, Countermeasures, and Arms Control.*
OTA-ISC-281, September 1985. GPO stock #052-003-01009-7.
- *Ballistic Missile Defense Technologies.*
OTA-ISC-254, September 1985. GPO stock #052-003-01008-9.
- *Arms Control in Space— Workshop Proceedings.*
OTA-BP-ISC-28, May 1984. GPO stock #052-003-00952-8.
- *Directed Energy Missile Defense in Space—Background Paper.*
OTA-BP-ISC-26, April 1984. GPO stock #052-003-00948-0.

NOTE: Reports are available through the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20401 783-3238; and the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703)487-4650.

OTA PROJECT STAFF ON SPACE STATIONS AND THE LAW

Lionel S. Johns, *Assistant Director, OTA*
Energy, Materials, and International Security Division

Peter Sharfman, *International Security and Commerce Program Manager*

Richard DalBello, *Project Director*

Administrative Staff

Jannie Coles, Cecile Parker, Jackie Robinson

ACKNOWLEDGMENTS

This project has benefited from the advice of many international and domestic legal experts. OTA especially would like to thank the following advisors and reviewers for their assistance and support. The views expressed in this report, however, are the sole responsibility of the Office of Technology Assessment.

Boyd W. Allen
U.S. Department of the Air Force

Ralph Braibanti
U.S. Department of State

Dennis James Burnett
Benner, Burnett, & Coleman

Dr. Anthony R. Cox
British Embassy

Thomas M. Culligan
McDonnell Douglas Astronautics

Professor Hamilton DeSaussure
University of Akron

Admiral James H. Doyle

Arthur M. Dula
Dula, Shields & Egbert

Bruce W. Ferguson
Orbital Sciences Corp.

Eilene Galloway
Int. Institute of Space Law

John Gantt
Hunton & Williams

Isaac T. Gillam
NASA

Dr. P. P. C. Haanappel
McGill University Law School

S. Neil Hosenball
University of Colorado

Kaname Ikeda
Embassy of Japan

Paul Johnston
Canadian Ministry of State

Robert Kost
Office of Technology Assessment

Dr. Wulf von Kries
German Aerospace Research Est.

Ted Kronmiller
Patton, Boggs & Blow

Helen Kupperman
NASA

Gabriel Lafferranderie
European Space Agency

Dr. Louis Laidet
French Embassy

Dr. G. M. Lindberg
National Research Council (Canada)

Merritt Marquardt
3M Co.

Dr. Martin Mentor
Int. Institute of Space Law

Michael Michaud
U.S. Department of State

Gerald Mossinghoff
Pharmaceutical Manufacturers Assoc.

Peter Nesgos
Haight, Gardner, Poor & Havens

Dr. David B. Newman, Jr.

Dr. Irwin M. Pikus
National Science Foundation

Dr. Ian Pryke
European Space Agency

Russell J. Ramsland, Jr.
Microgravity Research Associates

Lt. Col. F. Kenneth Schwetje
U.S. Air Force

John Sedlins
Government Research Corp.

Bill Shea
Lockheed Missiles and Space Co.

Courtney A. Stadd
U.S. Department of Commerce

Professor Ralph Steinhardt
George Washington Law School

E. Jason Steptoe
U.S. Department of Transportation

Jeff Trauberman
Boeing Aerospace Co.

Dr. Ray A. Williamson
Office of Technology Assessment

Joy Yanagida
U.S. Department of State

Daniel Hill Zafren
Congressional Research Service

Michael W. Zehner
U.S. Department of the Air Force

Ton Zuijdwijk
Canadian Department of External Affairs

Irwin M. Pikus, Chairman
Senior Staff Scientist, National Science Foundation

Ralph Braibanti
Office of Advanced Technology
U.S. Department of State

Dr. Wulf von Kries
Head, Washington Office
German Aerospace Research Est.

Dennis James Burnett
Benner, Burnett, & Coleman

Ted Kronmiller
Patton, Boggs & Blow

Professor Hamilton DeSaussure
School of Law
University of Akron

Helen Kupperman
Office of the General Counsel
NASA

Arthur M. Dula
Dula, Shields, Egbert

Gabriel Lafferranderie
Head, Legal Affairs
European Space Agency

Bruce W. Ferguson
Senior Vice President
Orbital Sciences Corp.

Merritt R. Marquardt
Associate General Counsel
3M Co.

Eilene Galloway
Honorary Director
International Institute of Space Law

Russell J. Ramsland, Jr.
Executive Vice President
Microgravity Research Associates

John B. Gantt
Hunton & Williams

Professor Ralph Steinhardt
George Washington University
Law School

P. P. C. Haanappel
Associate Dean, Faculty of Law
McGill University

E. Jason Steptoe
Office of the General Counsel
U.S. Department of Transportation

S. Neil Hosenball
Director
Center for Space Law & Policy

Ton Zuijdwijk
Canadian Department of External
Affairs

Kaname Ikeda
Science Counselor
Japanese Embassy

Paul Johnston
Canadian Ministry of State
for Science & Technology