Trump’s Executive Order: Commercial Space Stations, Nuclear Reactors on the Moon, and More

December 19, 2025

On 18 December 2025, as an early Christmas gift for the space industry, President Trump executed Executive Order titled *Ensuring American Superiority in Space*, ordering several notable changes.

Issued one day after the reconfirmation of entrepreneur and commercial astronaut Jared Isaacman as the 15th NASA Administrator, this Order reflects the Administration’s intent to position the commercial industry as the central pillar of American space dominance.

Reaffirmation of Artemis and Moon landing

The Order reaffirms US commitment to returning astronauts to the Moon through the Artemis program, with lunar economic development serving as a platform for sustained presence, infrastructure development, and economic activity.

Acquisition Reform and Market Entry

A core feature of the Order is reforming federal acquisition processes to lower barriers for new market entrants. Agencies are instructed to modernize procurement practices to prioritize speed, competition, and non-traditional contractors.

Targeting USD 50 billion in investment by 2028

The Administration sets an objective of attracting at least USD 50 billion in private investment into the US commercial space sector by 2028. This capital has been positioned to bolster the commercial industry in the rapid development of novel dual-use technologies.

Increasing launch cadence

The Order calls for increased launch frequency across civil, commercial, and national security missions. Launch licensing, range access, and infrastructure capacity are treated as immediate constraints requiring reform. For launch providers and spaceports, the directive places operational scalability squarely on the national agenda.

Commercial Space Stations and alternatives to the ISS

Agencies are directed to accelerate the development of commercial alternatives to the International Space Station by 2030, whilst privately operated space stations are explicitly encouraged. This encouragement for commercial space stations establishes a policy runway for long-term private human spaceflight operations and should serve as a prolific motivator for commercial operators to commence development; Vast, Max Space and Axiom have continued to push this forward.

Deployment of nuclear reactors in space by 2030

The Order authorizes accelerated development of nuclear reactors on the Moon and in orbit by 2030. Nuclear power is framed as essential for sustained lunar operations and deep-space missions. This represents one of the strongest federal endorsements to date of nuclear systems as enabling infrastructure for space activity

Cancellation of the National Space Council

The Order revokes Executive Order 14056 of December 1, 2021, removing the legal foundation of the National Space Council.

As a result, the Council ceases to function as an active presidential advisory body unless reconstituted by future executive action. This reflects a broader shift away from centralized policy coordination toward direct executive and agency execution.

NASA’s assumption of publication costs

Unusually, the Order directs NASA to bear the cost of its publication. This provision is rarely seen in modern executive actions and underscores NASA’s central role in implementing the Administration’s space agenda. Symbolically and practically, NASA is positioned as an executing authority rather than an intermediary.

Takeaway

The Order’s central premise is that American space superiority will be achieved through commercial execution. This shift from government as the primary operator materially expands opportunities for launch providers, satellite manufacturers, spaceport operators, in-space infrastructure developers, and investors prepared to scale alongside federal objections.

Commercial actors should treat the Order as a call to align early. Companies should map their capabilities against Artemis support, lunar infrastructure, missile defense enablers, commercial LEO destinations, and nuclear power deployment, and position themselves for accelerated procurement cycles. At the same time, operators should prepare for regulatory movement by reassessing export control exposure, licensing pathways, and cross-border operations in anticipation of streamlined frameworks. Finally, the Order rewards speed. Firms that engage agencies now, structure offerings to meet compressed timelines, and invest in compliance readiness will be best positioned to capture high-value contracts.

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SpaceX's Potential IPO: Smaller Space Companies and Governance Necessity

December 19, 2025

The prospect of a SpaceX initial public offering ("IPO") listing has revived debate about how regulatory posture shapes company value in the space sector. The company, privately valued at approximately USD 800 billion and considering a potential valuation of USD 1.5 trillion, illustrates a broader transformation in how capital markets evaluate aerospace firms. Now, investors increasingly scrutinize not only technology and revenue growth but also the quality, defensibility, and scalability of licensing and spectrum rights, particularly for operators with global footprints.

Starlink's constellation, now the largest deployed in history and providing broadband to more than 8 million users worldwide, functions as a regulatory organism as much as a technical one. Each satellite, downlink terminal, beamforming pattern, spectrum allocation, and market authorization adds layers of legal exposure. For operators in earlier stages of growth, Starlink's compliance architecture, which is built across dozens of jurisdictions, signals a fundamental point that in the modern commercial space economy, licensing and

spectrum are no longer mere administrative filings. They are now balance-sheet assets that affect valuation, investor access, and long-term competitiveness.

Yet licensing alone is not the lesson. A transition toward public-market disclosure places organizational governance under equal scrutiny. Even for a company of SpaceX's scale, investor questions regarding internal decision processes, risk management systems, and independence of oversight bodies are far from marginal. Space companies traditionally grow through engineering excellence and contract acquisition, but public markets require demonstrable maturity in governance, regulatory risk management, and strategic continuity. These requirements will cascade down through the sector. Smaller operators who postpone governance formalization until growth will find themselves disadvantaged when capital investors begin using SpaceX's eventual disclosures as de facto industry benchmarks.

A second implication arises from the tension between long-horizon programs and short-term investor expectations. The development of Starship, which has been characterized by extraordinary capital intensity and multi-decade ambitions, demonstrates how public-company frameworks compress timelines. Operators entering the market today must recognize that board structures, compliance protocols, and risk reporting will be examined with the same rigor as orbital-debris mitigation plans or landing-rights filings. Investors will view an operator's regulatory footprint as a reflection of the operator's internal discipline.

Smaller companies can prepare for this shift by (1) reviewing their regulatory posture across all aspects of operation to identify potential gaps that could jeopardize the company; (2) stress testing their contracts with customers, suppliers, and government partners to ensure they meet evolving legal and disclosure standards; (3) developing universal incident-response protocols so that reporting is consistent,

defensible, and aligned with insurer expectations; (4) maintaining disciplined documentation of design decisions, internal deliberations, quality controls, and mission assurance processes to support both regulatory review and investor due diligence.

SpaceX’s potential listing underscores a structural transformation in how commercial space companies are evaluated. Licensing portfolios and governance maturity now function as equal factors of enterprise value. Smaller operators who incorporate these lessons early will differentiate themselves not only in regulatory posture but in credibility, resilience, and capital readiness as the sector moves toward its next phase of institutionalization.

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Cosmonaut Removed from SpaceX Flight Mission for Violation of National Security via the ITAR

December 19, 2025

The recent removal of a cosmonaut from SpaceX’s Crew-12 mission has drawn attention not for its diplomatic

implications, but for what it signals about the tightening intersection of human spaceflight and national-security regulation. Reports indicate that the cosmonaut was withdrawn following an alleged violation of U.S. export-control rules, specifically, the International Traffic in Arms Regulations ("ITAR").

The cosmonaut allegedly photographed restricted technical materials during training activities at SpaceX facilities in Hawthorne, California. Even a seemingly routine photograph taken within a secure environment can constitute an "export" under ITAR, which defines export to include, *inter alia*, the transfer of controlled technical data to any foreign person, whether or not that transfer occurs outside U.S. territory. As such, the act of capturing and storing sensitive imagery on a personal device may be sufficient to trigger an export-control investigation.

If confirmed, the incident stands as one of the clearest examples thus far that human spaceflight no longer exists outside the perimeter of national-security law. Commercial operators routinely host international astronauts, government partners, researchers, and soon, even private passengers on flight missions. Each individual, regardless of their role, walks into environments saturated with ITAR-controlled systems and data. The presence of foreign nationals in training facilities, spacecraft assembly buildings, and mission-simulation centers requires companies to build increasingly robust compliance architectures to avoid inadvertent transfers of technical data.

The episode also arrives at a moment when U.S. export-control agencies are actively considering reforms to modernize ITAR and the Export Administration Regulations for the commercial space era. Policymakers have proposed new license exemptions for civil and scientific missions, and revisions to the definitions of spacecraft, launch vehicles, and related equipment. The U.S. Department of State's Directorate of

Defense Trade Controls has also announced planned revisions to the ITAR and U.S. Munitions List for 2026. Yet even as regulators contemplate liberalization in some areas, the Crew-12 incident underscores that ITAR's core prohibitions remain formidable.

There is a broader lesson for future spaceflight participants. As commercial missions increasingly include non-career astronauts, civilians, and international passengers, individuals may find themselves documenting their experiences: photographing hardware, recording facilities, posting social media updates, or capturing behind the scenes content for family, research, or personal records. What feels like ordinary documentation may, in a high-technology environment, constitute a regulatory breach. Travelers who are unaccustomed to U.S. export-control regimes may not appreciate the breadth of which "technical data" encompasses. The penalties for unintended violations can be severe, and operators remain responsible for safeguarding access to controlled technology.

General counsel and in-house legal teams can take several concrete steps to harden their facilities against similar breaches. This begins with implementing granular export-control access protocols, including individualized technology control plans that specify precisely which foreign persons may enter which areas, under what supervision, and with what restrictions on electronic devices. Counsel should also oversee mandatory pre-training for all visitors, regardless of role, explaining the scope of ITAR technical data and the severe consequences of unauthorized documentation. Facility layouts should be reviewed to ensure that controlled hardware is never visible from mixed-access zones, and companies should adopt monitored storage solutions to prevent personal devices from entering sensitive areas. Finally, incident-response procedures must be rehearsed in advance so that any suspected breach is escalated immediately, preserved for regulatory reporting, and contained before it can compromise export-

license obligations.

For companies, investors, and governments participating in cross-border space missions, the Crew-12 development is a reminder that export compliance is now inseparable from mission design, astronaut training, facility access management, and passenger education. For passengers, it signals that the legal obligations accompanying space travel extend far beyond launch contracts and liability waivers; they reach into the way one records, describes, and shares the experience itself. Operators and participants alike would be well advised to approach these missions with a heightened awareness of the legal architecture that surrounds them and with cognizance that, in the space industry, even a photograph can carry the weight of national security concern.

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Oman Unveils Commercial Space Framework and Launch Authorization Regime

December 19, 2025

The Oman Civil Aviation Authority (“CAA”) has formally

published its directive on *Airspace Usage for Launch Vehicle Activities*. The directive provides the requirements for launch vehicle activities conducted within or from the territory of Oman.

Complementing the directive is a six-page application for operators to seeking to perform a space activity in Oman to submit to the Director General of the CAA. With the framework in place and applications ready, this is the optimal opportunity for investors seeking first movers' advantage in a novel jurisdiction with ostensibly clear space ambitions.

The Directive

The directive empowers the Civil Aviation Authority, in coordination with the Ministry of Transport, Communications and Information Technology ("MTCIT"), to manage and control the nation's airspace for launch vehicle operations and ensure the safety and efficiency of civil aviation.

Under the directive, any operator intending to conduct a launch from or within Omani territory must first coordinate with the MTCIT and then apply to the CAA's Director General of Civil Aviation Regulation. The application must be filed no later than 45 working days before the planned launch date. The directive requires the operator to be accompanied by a "subject matter expert" who can brief the CAA on the intended activity.

The directive requires applicants to disclose detailed mission parameters, including launch windows, vehicle specifications, and deviation mechanisms. Each launch plan must be supported by a WGS-84 map of the launch site, safety buffers, and flight path coordinates. These data points are critical for the CAA's issuance of a Notice to Air Missions ("NOTAM"), the mechanism through which the Authority reserves and manages portions of national airspace during launch operations, discussed further below.

Additionally, the subject matter expert must facilitate to the CAA a hazard identification plan followed by a risk assessment report evaluating severity, probability, and preventive measures. This is to ensure the fitness of the rocket and the safety of the airspace. The directive further mandates meteorological assessments, a “Go/No-Go” weather criterion, and coordination with the CAA for any required meteorological data or equipment.

Given Oman’s proximity to other launch-capable states such as the UAE and Saudi Arabia, coordination with adjacent airspace authorities is expected as part of broader air traffic control considerations.

Application Form

At the outset, before the applicant submits their application to the Director General of the CAA’s Civil Aviation Regulation. The application form consists of the following thirteen sections:

1. Details of the applicant
2. The case manager at the MTCIT
3. Details of the launch site operator
4. The mission details
5. Mission summary
6. Key flight parameters and performance metrics
7. Vehicle specifications
8. Launch plan
9. Weather requirements
10. Hazard management
11. Details of state coordination
12. Any additional requirements the CAA may require
13. Declaration

To download the application form, click on the following link: Application of Airspace Operation for Space Activities Issue 2 Revision 00.pdf

Next Steps for Investors

With the framework now in force, this presents an opportunity for prudent operators to gain early operational access to a strategically located Gulf jurisdiction, and the opportunity to influence the development of Oman’s broader space governance architecture.

Prospective operators should begin compiling the technical, operational, and safety documentation required under the directive for submission to the CAA.

In the interim, Oman will be preparing to open doors to its first-ever commercial spaceport, the Etlaq Spaceport, by 2027. Etlaq is a massive endeavor and will consist of a mission-control facility, warehouses to be used for rocket manufacturing and testing, and a business park to provide operators with a shared infrastructure. Operators who move swiftly may have their application and NOTAM ready just in time for launch from Etlaq.

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Leveraging Public Finance for Spaceports: An Analysis of Recent Amendments for

Commercial Space Infrastructure Under IRC § 142

December 19, 2025

The immense capital expenditure required to establish and maintain terrestrial space infrastructure has long represented a significant financial barrier for the commercial space industry. Historically, funding for such ambitious projects has been dependent on direct government contracts or the high-cost capital of venture equity markets. A pivotal change in United States federal tax law, however, has introduced a sophisticated public finance mechanism designed to lower this barrier, fundamentally altering the calculus for investing in the ground-based assets that underpin the space economy. The amendment of Internal Revenue Code § 142 to include spaceports as a class of "exempt facility" for which tax-exempt private activity bonds may be issued marks a strategic integration of the space sector into the mainstream of American infrastructure finance. This legislative action effectively signals a policy determination that private space infrastructure now serves a public purpose akin to airports and docks, meriting access to the same advantageous financing tools.

Legal Framework: The "Exempt Facility Bond"

The legal foundation of this opportunity lies within the concept of the exempt facility bond itself. Section 142 of the U.S. Internal Revenue Code carves out specific exceptions to the general rule that bonds issued to benefit private entities are taxable. This section enumerates a select list of privately operated or utilized facilities, such as airports,

docks, wharves, and mass commuting facilities, which are deemed to provide a significant public benefit. By adding "a spaceport" to this list, the U.S. Congress has enabled state and local governments to issue bonds on behalf of a private enterprise for the purpose of developing space facilities, with the interest paid to bondholders being exempt from federal income tax. This tax exemption translates directly into **lower borrowing costs** for the project, as investors are willing to accept a lower interest rate in exchange for the tax benefit.

Anatomy of a "Qualified Spaceport"

Crucially, the legislation provides a comprehensive and forward-looking definition of what constitutes a "spaceport." This is not limited to the physical launchpad but is crafted to encompass an entire industrial ecosystem. The statute specifies that the term includes fixed assets, equipment, and facilities located at or near a launch or reentry site that serve a range of functions. An analysis of these functions reveals the law's broad intent. The inclusion of facilities for **"manufacturing, assembling, or repairing spacecraft, space cargo, or components thereof"** is particularly significant. It extends the benefit of tax-exempt financing beyond launch service providers to the vital upstream supply chain of hardware manufacturers and component suppliers. This provision directly enables the development of integrated "spaceparks," where design, manufacturing, testing, and launch operations can be co-located to create powerful efficiencies.

Furthermore, the definition covers infrastructure for **"flight control operations,"** acknowledging the critical and costly ground-station and mission-control networks necessary for any space venture. It also explicitly includes facilities for **"transferring crew, spaceflight participants, or space cargo to/from spacecraft,"** a clause that directly addresses the burgeoning markets for both space tourism and in-space logistics. This statutory breadth ensures that the financing

mechanism is not narrowly prescriptive but can adapt to the diverse business models emerging within the commercial space sector.

Structuring the Public-Private Partnership (P3)

A central pillar of this framework is the intricate structure designed to facilitate public-private partnerships while adhering to the tax code's requirement of governmental ownership. To qualify, the financed facilities must be governmentally owned for tax purposes. The law, however, provides a clear and practical **"safe harbor"** that allows a private entity to lease and operate the facility without jeopardizing the bonds' tax-exempt status. This legal architecture is critical, as it allows a public entity, like a port authority or a county economic development corporation, to serve as the issuer and legal owner while a private space company brings its specialized expertise and operational control to the project.

The safe harbor provisions are precise.

1. The lease term granted to the private operator **cannot exceed 80%** of the property's reasonably expected economic life, ensuring the public entity retains a meaningful residual interest in the asset.
2. Any option granted to the private lessee to purchase the facility must be at a price equal to its **fair market value** at the time the option is exercised. This prevents the arrangement from functioning as a disguised installment sale at a pre-arranged, below-market price.
3. The private operator must formally **waive any right to claim federal depreciation deductions or investment tax credits** with respect to the facility. This provision prevents a project from receiving a "double benefit" of both tax-exempt financing and private-owner tax deductions.

This carefully balanced structure provides a tested and bankable model for allocating risk, responsibility, and reward between public and private partners.

Navigating Federal Entanglement Rules

The legislation also astutely navigates the complex rules regarding federal guarantees. Generally, private activity bonds are ineligible for tax-exempt status if their payment is directly or indirectly guaranteed by the federal government. This rule prevents the federal government from using the municipal bond market to provide backdoor subsidies. However, in the context of spaceports, where federal agencies like NASA and the Department of Defense are often foundational, long-term customers, this prohibition posed a fatal obstacle. A multi-year launch services agreement or facility lease with a federal agency could easily have been interpreted as an impermissible guarantee. The amended code provides a crucial clarification: **payments made by the United States** for the use of a spaceport under ordinary rental or user-fee arrangements **will not be treated as a federal guarantee**. This carve-out is of paramount importance, as it provides the certainty needed for projects anchored by federal contracts to proceed with tax-exempt financing, thereby aligning the tax law with the business realities of the aerospace and defense sectors.

Conclusion: A Strategic Policy Shift

In sum, the inclusion of spaceports under Section 142 is far more than a minor regulatory adjustment. It is a sophisticated piece of financial engineering that creates a clear, legal pathway for channeling lower-cost capital into essential space infrastructure. By leveraging the mature public finance market, this legislation provides a powerful new tool for economic development, enabling states and municipalities to compete for high-tech investment and job creation. For the commercial space industry, it reduces the cost of capital, a primary constraint on growth. For investors, it creates a

novel, tax-advantaged asset class with exposure to a transformative economic frontier. This framework is a deliberate act of industrial policy, designed to accelerate the build-out of a robust domestic space infrastructure and secure American leadership in the commercial space domain.

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Securing Sensitive Data: Contract Clauses for AI Integration

December 19, 2025

Artificial Intelligence (AI) is no longer confined to specialized platforms like ChatGPT or other large language models. Everyday business software—including common suites from Microsoft and Adobe—has begun integrating AI-driven features that may process, store, or learn from user input. This evolving landscape creates unique risk considerations regarding how confidential and sensitive data is handled.

Organizations must remain vigilant about the risk that confidential data could be inadvertently retained, analyzed, or shared outside intended boundaries. For example, if a user inadvertently inputs trade secrets into an AI-powered software tool, there is no absolute guarantee that the tool will not

use, store, or train on that data, potentially making it accessible for other purposes. Such incidents raise legal and compliance concerns, especially when sensitive or proprietary information is involved.

In response to these concerns, many companies are adopting contract language that addresses the use of AI systems. These clauses aim to prevent the unintentional disclosure of private data and ensure that neither party uses the other's confidential information to develop or enhance any AI models. By including clear guardrails and usage parameters, parties can leverage the benefits of AI tools while maintaining strong confidentiality standards.

Although every contract should be tailored to the specific circumstances of the parties involved, clauses that are appearing in modern contracts generally read somewhat along the following lines:

> *"AI System" refers to any Artificial Intelligence software or functionality, whether generative or otherwise, including but not limited to machine learning models, large language models, or embedded tools within third-party platforms. Each Party agrees that no Party shall disclose or provide Confidential Information to an AI System that can be accessed by individuals or entities other than the disclosing Party and the receiving Party, unless expressly authorized in writing. Confidential Information shall not be used to train, develop, fine-tune, or otherwise enhance any AI System, algorithm, or related dataset without prior written consent of the other Party. Furthermore, any AI System utilized must be configured or managed so it does not retain, learn from, or generate future outputs based on the disclosing Party's Confidential Information unless expressly permitted. Each Party shall implement appropriate technical and organizational measures to ensure that any AI System used in the course of performance under this Agreement cannot inadvertently store, transmit, or share Confidential*

Information in contravention of this provision.

Such contract language underscores the importance of transparency and proactive protection of sensitive data in an AI-driven environment. As AI technologies become increasingly pervasive, it is prudent to adopt contractual safeguards that help all parties preserve the confidentiality and integrity of proprietary information.

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Katy Perry Has No Savior in Space: A Disastrous Gap in the Space Law Framework

December 19, 2025

You probably saw it all over the news last week. Six brave women launched into space aboard Blue Origin's self-flying rocket, NS-31, becoming America's first all-female space crew in more than 60 years.

Katy Perry's rendition of "What a Wonderful World" echoed through the spacecraft. Gayle King reflected on society whilst floating in zero gravity. And Jeff Bezos arguably topped the gift-giving threshold by giving Lauren Sanchez the gift of a

trip to space.

But amidst all the glitz and the glam, one extremely important piece of news was missed.

On Friday, 18 April, Transportation Secretary Sean Duffy stated on X:

"The U.S. commercial space industry is an inspiring project which showcases American ingenuity and exceptionalism. But the last FAA guidelines under the Commercial Space Astronaut Wings Program were clear: Crewmembers who travel into space must have "demonstrated activities during flight that were essential to public safety, or contributed to human space flight safety."

The crew who flew to space this week on an automated flight by Blue Origin were brave and glam, but you cannot identify as an astronaut.

They do not meet the FAA astronaut criteria." (emphasis added)

Yet it is precisely that missing piece of news – the bureaucratic line between "*astronaut*" and "*passenger*" – that should make every space-tourism enthusiast sit bolt upright.

Under the Federal Aviation Administration's ("FAA") now retired Commercial Space Astronaut Wings, a would-be spacefarer had to do more than cross the 50-mile line. They had to perform "*activities during flight that were essential to public safety, or contributed to human space-flight safety*" before the coveted wings—and the formal title—could be pinned to their lapel. Those criteria were tightened in July 2021 and, by the end of 2023, the entire wings program was shuttered; today the agency merely lists qualifying individuals on a website, preserving the same "*essential activity*" test in spirit if not in jewelry.

Blue Origin's New Shepard capsule is almost entirely

automated. The crew floated, they filmed, they fell back to Earth—safe, sound, and, in the FAA's eyes, still civilians.

That hair-split has consequences far beyond bragging rights. At the international level, the 1967 Outer Space Treaty anoints "*astronauts*" as the "*envoys of mankind*," and its 1968 Rescue Agreement obliges every State Party to "*render all possible assistance*" to any such envoy who lands in distress on its territory—or even splashes down on the high seas. Those treaty drafters were thinking of government test pilots in pressure suits, not pop icons in custom Dior flight suits. Because the treaties never bothered to define the word they canonized, national regulators now hold the definitional gavel. If Washington declines to call Perry and company "*astronauts*," Peru, Poland, or Palau are under no treaty duty to fish them out of the jungle or the drink.

Imagine, then, that NS-31 had suffered a guidance glitch and come down in Venezuelan waters. Under the Rescue Agreement, Caracas must "*immediately take all possible steps*" to retrieve and repatriate the astronauts. But if the six women are legally mere "*spaceflight participants*," Venezuela would face no such black-letter obligation; any rescue would be an act of goodwill, diplomacy, or maybe TikTok optics—but not treaty law. Blue Origin's insurance actuaries can quantify many risks, yet they cannot force a coastal state to launch a search-and-rescue flotilla for people who, officially, are just very high-altitude tourists.

The gap widens when one looks homeward. Title 51 of the U.S. Code requires commercial operators to obtain the informed consent of every "*space flight participant*" and to certify that the vehicle meets minimum safety standards, but it imposes no federal duty on anyone—NASA, the Coast Guard, or the Air Force—to mount a transoceanic recovery if the capsule drifts outside American jurisdiction. The statutory silence is deafening.

Why does it matter? Because suborbital jaunts are no longer curiosity acts. Blue Origin alone has flown fifty-eight private individuals above the Kármán Line since 2021, and Virgin Galactic is booking seats monthly. The odds of an off-nominal splashdown, however small, compound with every launch. If a mishap strands a celebrity crew on foreign soil, the ensuing diplomatic scramble will expose the ambiguity in real time—and, cynically, in real headlines.

There are fixes. Congress could graft a mandatory-assistance clause onto 51 U.S.C. § 50905, promising U.S. rescue assets to any licensed commercial flight and demanding reciprocal treatment abroad. The Artemis Accords could adopt a side letter clarifying that "*astronaut*" status attaches to any human who crosses into space under an Article VI "*authorization and continuing supervision*." Or the United States could push a protocol through the U.N. Committee on the Peaceful Uses of Outer Space to extend Rescue-Agreement duties to "*spaceflight participants*," closing the loophole before it swallows a casualty.

Until then, the legal safety net stops where the FAA's definition stops. Katy Perry may have sung Louis Armstrong on the edge of the void, but if the capsule had tumbled into a geopolitical gray zone, the world's binding duty to save the NS-31 crew would have been—like weightlessness itself—alarmingly thin air.

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Trumpian Duties, Global Disputes: Arbitration Insights for Today's Tariff Landscape

December 19, 2025

Transactional parties facing the newly announced tariffs by President Trump on imports from Canada, Mexico, and China must navigate a web of legal, commercial, and logistical issues. The tariffs, set to go into effect on February 4, 2025, impose an *additional 25% ad valorem duty* on goods from Canada and Mexico and *10%* on products from China. They apply to *all merchandise* imported for consumption in the United States except that certain Canadian energy resources face a lower *10% tariff*. These actions come amid broad hints of further escalation against multiple countries and sectors although on February 3, 2025 it was announced that the Mexico and Canada related tariffs would be paused for one month.

General counsels and corporate executives often assume that their existing free trade agreements or established supply contracts will protect them, only to discover unexpected liabilities. In parallel, the immediate shift in customs policies brings to mind recent arbitral decisions that highlight how a party's contract, its designated Incoterms, and underlying commercial assumptions can determine who ultimately bears the cost or faces liability for failing to deliver goods at the specified price.

Products Covered and Source Market. The White House has indicated that *all articles*, whether industrial, agricultural,

or manufactured, coming from Canada and Mexico will face a 25% duty. Canada's "energy or energy resources," including natural gas, oil, coal, uranium, and defined critical minerals, will incur a 10% tariff. Imports from China are subjected to a 10% duty on *all articles* that originate in China and are classified under ISO Country Code CN. This broad net spares only limited personal, charitable, and certain travel-related shipments. E-commerce packages are also affected, as Section 321 customs de minimis entry is suspended, subjecting low-value shipments to the same duties.

Miller Bros v. Recom Insights. The logic and reasoning from **Miller Bros v. Recom** (*Miller Bros, a Division of Wampole-Miller, Inc. v. Recom Corp., Including its Parents, Successors, Affiliates and Assigns, AAA Case No. 01-14-0002-0048*) underscore how tariff risk can abruptly become the centerpiece of a commercial conflict. In that case, Miller Bros insisted on a supply agreement with a fixed price "inclusive of any and all applicable taxes, duties, current or future applicable tariff fees." When the U.S. Department of Commerce announced new anti-dumping and countervailing duties on Taiwanese solar modules, the seller, Recom, tried to shift the burden of these duties to Miller Bros. That attempt triggered a contractual breach finding by the arbitral panel.

The award recounts that "Recom's actions constituted a default and breach under the Supply Agreement, and that Recom's default forced Miller Bros. to procure the solar panels from an alternate source, incurring substantial damages, including the loss of a deposit, higher prices for the new panels, higher costs for installation, and a break-up fee." This chain of events highlights the primacy of contractual language. Had the Miller Bros-Recom contract been less explicit in designating who bears tariff liability, the outcome might have been different. The tribunal observed that new tariffs on Taiwanese solar products "were entirely foreseeable" and that contractual references to *force majeure* did not excuse non-

performance where the tariff risk had been well-known in the industry.

Key Point: Foreseeability. The Miller Bros v. Recom decision emphasized that, when particular duties or trade remedy actions are foreseen or widely publicized, a party cannot readily rely on an unforeseen contingency argument. The award stated: “The evidence adduced with respect to these issues clearly established that Recom was aware of the likely imposition of new tariffs on Taiwanese solar products. The Supply Agreement’s force majeure clause only applies to events that are ‘unforeseeable.’ Recom’s knowledge of the impending tariffs therefore renders the Supply Agreement’s force majeure clause inapplicable.”

World Steel Trade v. Rikko Steel Logic. Another instructive arbitral precedent arises from **World Steel Trade v. Rikko Steel** (*World Steel Trade SA v. SC Rikko Steel Srl, ICC Case No. 24921/GR*) The parties concluded a contract requiring steel rebars to be delivered under the CFR Incoterm (2010). When the buyer faced an unexpected 25% import duty in the European Union, it refused to pay the contract price. The tribunal clarified that under CFR, the seller’s responsibility “ceases upon delivery of the goods to the vessel.” As the arbitrator put it: “The Seller’s responsibility in connection with the goods shall cease upon delivery of the goods to the vessel. After delivery the risk of loss or damage to the goods…are transferred from the Seller to the Buyer.” That meant the buyer, not the seller, was responsible for taxes and import duties once the goods were onboard.

The tribunal also distinguished between the payment documentation required for performance and additional proofs that the buyer later demanded. Despite the buyer’s claims, the arbitrator found that no extra conditions were placed upon the seller under the contract. One excerpt reads: “I do not accept Rikko Steel’s argument that WST unduly waited until it resold the Goods to a third party…the Parties were still negotiating

for the buyer to take the Goods, and it is only on 18 June 2019 that Rikko Steel unequivocally stated that it could not purchase them." This underscores that if the buyer balks at paying newly imposed duties, it cannot simply suspend payment and demand new terms from the seller, absent a genuine contractual revision.

Incoterms and Commercial Drafting. Drafting or revising supply agreements in the wake of these new Trump tariffs requires clarity about whether the sales terms reflect DDP, CFR, CIF, or other allocations of risk and cost. Under DDP ("Delivered Duty Paid"), the seller agrees to pay *all* duties, taxes, and charges to deliver the goods to the buyer's location. If the contract designates something akin to CFR or FOB, the buyer usually must pay import duties. That difference, as shown in the steel dispute, can shift hundreds of thousands of dollars in unanticipated tariffs onto one party.

The new tariff environment could also spawn renegotiation. Some suppliers may insert *force majeure* clauses or disclaimers that if trade remedies or special duties arise, the buyer must shoulder the cost. Others might press for break-up or termination fees to dissuade abrupt cancellations. Yet arbitral decisions are prone to side with a party that negotiated a comprehensive "all-in" fixed price, as with Miller Bros, if the contract language states that any future duties are included in the original price.

Contentious Phase: Breaches, Damages, and Award Enforcement. The worst-case scenario is a seller who withholds delivery until the buyer covers new tariffs, or a buyer who refuses to pay extra duties. In both Miller Bros v. Recom and World Steel Trade v. Rikko Steel, the tribunals addressed whether the parties' obligations were discharged or ongoing. One illustration from Miller Bros is the passage: "The undersigned hereby awards in favor of Miller Bros. and against Recom…the sum of $1,807,834.26 as and for actual damages suffered by Miller Bros. by reason of Recom's breach of the Parties'

Supply Agreement." That awarding of deposit recovery, plus additional installation and engineering costs, and the break-up fee underscores the magnitude of potential exposure when a party defaults.

Liability for Additional Fees or Delays. When transacting parties are not aligned on who bears newly imposed tariffs, shipping may stall. The goods could languish in port incurring storage charges, as happened in World Steel v. Rikko Steel. Delay costs, demurrage, and extra handling can mount quickly. The tribunal in that matter wrote: "There is evidence that WST provided within a few days of request the documents requested by Rikko Steel… On receipt of those documents, Rikko Steel therefore had to pay the Price." Even so, the goods remained in the port while the buyer refused to pay the new 25% duty or the invoice. Because the Incoterm was CFR, the buyer faced liability for those extended storage fees and the difference in resale price.

Practical Advice for Future Contracts. Contracting parties must heed the possibility of further U.S. tariff hikes, whether aimed at Canada, Mexico, China, or additional countries. A contract that designates the buyer as the importer of record and incorporates Incoterms such as CFR or FOB places the duty burden on the buyer. By contrast, a seller who cites DDP or who commits to an "all-in" sum that includes all present or future tariffs may be forced to absorb that cost. Industry participants who have not reexamined their provisions risk falling into disputes, incurring arbitral proceedings, or shouldering lost deposits if they do not adapt in time.

When dealing with "all articles" coverage, the very broad tariff scope ensures that even staple goods, from automotive parts to packaged consumer electronics, become subject to the additional duty. In some contracts, a *force majeure* clause might attempt to excuse performance due to sudden tariff changes, but the logic in the Miller Bros award reveals that a

known or foreseeable risk is rarely deemed an exempt event. The tribunal there wrote: “The undisputed evidence presented at the hearing regarding the foreseeability of new anti-dumping and countervailing duty tariffs on Taiwanese solar panels rendered the force majeure clause inapplicable.” The parallel is self-evident in the present environment, where many have been bracing for new tariffs for months.

Strategies for Dispute Avoidance. Legal counsel and managers can mitigate risk by building in explicit tariff-sharing or price-adjustment clauses. Where a contract is silent, parties should not assume that force majeure covers newly imposed tariffs. They must also remain mindful of the buyer’s or seller’s obligations to open letters of credit or to provide certain shipping documents, as any failure in those steps can trigger a separate breach claim. In ephemeral markets for steel, aluminum, electronics, or energy resources, one party might find a contract suddenly uneconomical but cannot freely walk away without incurring significant liability. Arbitrators are inclined to hold them to their bargained-for risks, especially if the new duties are widely anticipated or have been publicly threatened.

Conclusion. Recent U.S. tariff hikes on goods from Canada, Mexico, and China deliver a lesson repeated in both Miller Bros v. Recom and World Steel v. Rikko Steel: disputes explode whenever parties ignore the precise allocation of responsibility for new duties. Contract terms matter. Incoterms define who is the importer of record, while commercial clauses can either absorb new tariffs into a fixed price or push them onto the buyer. If a party tries to retroactively shift the burden, the risk is an arbitral finding of breach. As in Miller Bros, the “scope of ‘all-in’ pricing was unambiguous, and the foreseeability of the new tariffs ruled out reliance on force majeure.”

When drafting or revisiting supply agreements, counsel and executives should adopt robust language specifying how special

duties or retaliatory tariffs are handled. In a climate where duties can spike overnight, reliance on broad disclaimers is seldom effective. The ramifications are far-reaching, from lost deposits and condemnation at the port to an arbitral award imposing substantial damages. Parties that proceed on assumptions about stable duty rates may soon find themselves in precarious territory. The prudent approach is to anticipate tariffs as a contractual cost from the start and include detailed terms so that both parties understand their responsibilities if a new round of duties materializes.

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Overhaul of Space Export Controls Announced by US Commerce Department

December 19, 2025

In October 2024 the the Commerce Department’s Bureau of Industry and Security (BIS) proposed amendments to the Export Administration Regulations (EAR) aimed at updating and streamlining controls on spacecraft and related items. Simultaneously, the Department of State is proposing revisions to the International Traffic in Arms Regulations (ITAR) concerning U.S. Munitions List (USML) Categories IV and XV. These developments are poised to reshape the regulatory

landscape for commercial space activities, defense contractors, and international collaborations.

At Wasel & Wasel, we understand the complexities these regulatory shifts introduce. Our global presence and expertise in international disputes and geopolicy position us to provide strategic guidance to entities navigating this new environment.

Understanding the Regulatory Announcements

The BIS's proposed rule, titled **"Export Administration Regulations: Revisions to Space-Related Export Controls, Including Addition of License Exception Commercial Space Activities (CSA),"** introduces several critical changes:

1. **Alignment with ITAR Revisions**: The proposed EAR amendments aim to harmonize with the Department of State's suggested changes to the ITAR. This alignment is crucial for companies that must comply with both sets of regulations, reducing the risk of inadvertent non-compliance.
2. **Introduction of License Exception CSA**: A significant addition is the new **License Exception for certain Commercial Space Activities (CSA)** under § 740.26. This exception is designed to facilitate exports, reexports, and transfers (in-country) of specific items for **official space agency programs** and **space tourism and research activities**.
3. **Revisions to ECCNs**: The proposed changes affect several Export Control Classification Numbers (ECCNs), particularly:
    - **ECCN 9A515**: Revisions include expanding control parameters to cover additional spacecraft and components, removing unnecessary language for clarity, and explicitly excluding certain items like planetary rovers and in-space habitats.
    - **Addition of ECCN 9C515**: A new ECCN controlling

materials, coatings, and treatments designed to reduce in-orbit signatures (e.g., radar, optical, ultraviolet, and infrared) of spacecraft.

- **Amendments to ECCNs 9D515 and 9E515**: These control software and technology related to the newly added items in ECCN 9A515, ensuring comprehensive regulatory coverage.

Practical Implications for Businesses

The proposed revisions carry several practical implications:

1. **Easier International Collaboration**: By streamlining and clarifying regulations, the changes aim to make it easier for U.S. companies to collaborate with international partners. For instance, the new License Exception CSA could reduce licensing burdens for companies participating in programs like NASA's Lunar Gateway.
2. **Regulatory Clarity and Compliance**: The alignment of EAR and ITAR controls reduces compliance complexities. Companies can more confidently navigate export controls without fearing regulatory overlap or conflict.
3. **Enhanced Competitiveness**: By updating control parameters and removing outdated restrictions, U.S. companies may find themselves on a more level playing field with international competitors.
4. **Impact on Licensing Requirements**: BIS estimates an increase of 90 license applications annually due to items moving from the USML to the CCL and a decrease of 100 applications because of the new License Exception CSA. Companies need to reassess their licensing strategies in light of these changes.

Detailed Analysis of Affected Items

To fully grasp the impact, it is essential to understand the specific items affected by the Final Rule, Interim Final Rule,

and Proposed Rule.

Final Rule and Interim Final Rule Highlights

- **Remote Sensing and Space-Based Logistics**: Adjustments have been made to controls on items related to remote sensing and space logistics. This facilitates collaboration with allies like Australia, Canada, and the United Kingdom, expanding market opportunities.
- **Spacecraft Components**: Certain components previously under stringent controls may now have revised licensing requirements. This includes parts and technologies that are no longer considered critical to national security under the updated guidelines.

Proposed Rule Specifics

1. **ECCN 9A515 Revisions**:
    - **Expanded Control Parameters**: The control parameters now include spacecraft performing **remote proximity operations**, **life-sustaining functions**, or **debris removal**. Companies in these sectors must assess how these changes affect their products.
    - **Exclusions Clarified**: Items such as **planetary rovers** and **in-space habitats** are explicitly excluded from ECCN 9A515. This clarification helps companies correctly classify their items and determine the appropriate licensing requirements.
2. **Addition of ECCN 9C515**:
    - **Control of Signature Reduction Materials**: Materials, coatings, and treatments designed to reduce in-orbit signatures are now controlled under this new ECCN. Companies producing these materials need to adjust their compliance programs accordingly.
3. **Amendments to ECCNs 9D515 and 9E515**:
    - **Software and Technology Controls**: The amendments

ensure that software and technology associated with the new items are adequately controlled. This includes **Space Situational Awareness (SSA) software** used for modeling and simulation.

4. **License Exception CSA Details**:
    - **Eligible Programs**: The exception applies to specific programs, including **NASA's Lunar Gateway**, **Mars Sample Return**, **Nancy Grace Roman Telescope**, **The Orion spacecraft**, **Commercial Low Earth Orbit Development program**, and **Habitable Worlds Observatory**.
    - **Conditions for Space Tourism and Research**: The exception allows exports of manned spacecraft and related components for **suborbital flights** for **tourism or fundamental research**, with stringent conditions to prevent misuse.

Strategic Considerations for Businesses

Companies must take proactive steps to adapt to these regulatory changes:

1. **Review Product Classifications**: Re-examine your products to determine if their ECCN classifications have changed. Misclassification can lead to compliance violations and penalties.
2. **Update Compliance Programs**: Revise internal export control compliance programs to reflect the new rules. This includes training staff on the changes and updating procedures.
3. **Assess Licensing Needs**: Determine if the new License Exception CSA can be utilized for your activities. This may streamline processes and reduce the need for individual licenses.
4. **Monitor International Collaborations**: With the emphasis on facilitating collaboration with allies, explore opportunities in countries like Australia, Canada, and the United Kingdom, where regulatory hurdles may be

reduced.

5. **Stay Informed on ITAR Changes**: Since the EAR revisions align with ITAR changes, ensure you are also up to date on the Department of State's proposed amendments to avoid gaps in compliance.

How Wasel & Wasel Can Assist

Navigating these changes requires expertise and strategic insight. Wasel & Wasel offers:

- Our team is well-versed in international export controls and can provide detailed advice tailored to your specific circumstances.
- We assist in creating or updating compliance programs to ensure they meet the latest regulatory requirements.
- We conduct thorough assessments to identify potential compliance risks and develop strategies to mitigate them.
- In cases where regulatory changes lead to disputes, our seasoned experts can effectively represent your interests.
- With our experience advising governments on critical geopolicy matters, we can offer insights into how regulatory changes align with broader geopolitical trends.

Case Studies and Practical Examples

Consider a U.S. company involved in developing components for the Nancy Grace Roman Telescope. Under the new License Exception CSA, exports of certain components to international partners may no longer require individual licenses, provided the conditions are met. This reduces administrative burdens and accelerates project timelines.

Another example is a company specializing in materials that reduce spacecraft radar signatures. With the introduction of ECCN 9C515, these materials now have specific controls. The

company must adjust its export strategies and ensure that any international sales comply with the new regulations.

Conclusion

The proposed revisions to the EAR and ITAR represent a significant shift in space export controls. While they offer opportunities for increased international collaboration and reduced regulatory burdens, they also require careful navigation to ensure compliance.

Wasel & Wasel is committed to guiding clients through this evolving landscape. Our global expertise and dedication to excellence make us the ideal partner for businesses seeking to capitalize on these changes while safeguarding their operations.

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Flying Fish 1, Mid-East War, Northern Sea Route, and Lessons from the Arctic Sunrise Arbitration

December 19, 2025

The world of maritime trade is no stranger to change, but

recent events have stirred the waters in unprecedented ways. The **Flying Fish 1**, a 4,890 TEU container ship, has made headlines as the largest vessel of its kind to traverse the Arctic waters, charting a course from Europe to China. This remarkable journey not only showcases the vessel's capabilities but also signals a significant shift in global shipping routes—a shift that could have profound implications for the industry.

The Arctic Passage: A New Frontier

Setting sail from St. Petersburg on September 3, the Flying Fish 1 embarked on a voyage that many would have deemed improbable just a decade ago. By September 10, it entered the **Northern Sea Route (NSR)** near Novaya Zemlya. In a historic moment, it crossed paths with another Chinese container ship, marking the first-ever encounter between two large container vessels in the Arctic—just 850 nautical miles from the North Pole. Notably, there was **no sea ice in sight**, a testament to the dramatic changes in Arctic ice conditions over the past 20 years.

Maintaining a steady speed of **16 knots**, the Flying Fish 1 navigated the treacherous waters of the Laptev and East Siberian seas with remarkable ease, deftly avoiding the late-summer ice near Wrangel Island. By September 17, it had exited the Russian Arctic, passing through the Bering Strait near Alaska without the need for icebreaker assistance—only six days after entering Russian waters. When it reaches Shanghai, the journey from the Baltic Sea will total approximately **8,000 nautical miles**, slashing around **4,000 nautical miles** off the traditional Suez Canal route.

A Response to Middle East Instability

The timing of this voyage is no coincidence. The **instability in the Red Sea and broader Middle East** has made the traditional routes through the Suez Canal increasingly

precarious. Heightened tensions and the threat of disruptions have forced many shipping companies to divert their vessels around South Africa's Cape of Good Hope, adding another **4,000 miles** to the usual journey to Asia. This detour not only extends transit times but also escalates fuel costs and environmental impact.

The Arctic route, on the other hand, presents a compelling alternative. It's not just shorter by 30% to 40%, but it also bypasses the politically volatile regions altogether. Furthermore, the absence of pirate attacks in these northern waters enhances the safety and reliability of shipments—a crucial consideration for global trade.

The Northern Sea Route: Challenges and Opportunities

While the NSR offers significant advantages, it's not without its challenges. Currently, shipping services between Europe and Asia via the Arctic are confined to a **3-4 month summer window**. However, as Arctic ice continues to **recede earlier and return later**, this window is expected to widen. The success of the Flying Fish 1 underscores the growing feasibility of this route. It's not just ice-class vessels that are making the journey; an increasing number of non-ice-class ships, including aframaxes and container ships, have secured transit licenses from Russia, venturing into Arctic waters for the first time.

Traffic analysis by Norway's Center for High North Logistics indicates that **2024 is on course to surpass last year's record cargo volumes** along the NSR. The surge in interest is palpable, driven by both environmental changes and geopolitical pressures. Companies are recognizing the potential for reduced transit times, cost savings, and the strategic advantage of avoiding hotspots of conflict and piracy.

Lessons from the Arctic Sunrise Arbitration

The expanding use of the NSR brings into focus the **legal and regulatory complexities** of Arctic navigation. The **Arctic Sunrise Arbitration** between the Netherlands and Russia serves as a poignant reminder of the delicate balance between national sovereignty and international maritime law. In that case, Russia detained the Dutch-flagged vessel Arctic Sunrise and its crew following a protest against oil drilling activities. The Permanent Court of Arbitration ultimately ruled that Russia had violated the United Nations Convention on the Law of the Sea (UNCLOS).

This landmark decision highlights the importance of understanding the **rights of flag states** and the limitations of coastal state enforcement in **Exclusive Economic Zones (EEZs)**. As more vessels, particularly from nations without Arctic coastlines, begin to traverse these waters, the potential for legal disputes increases. It’s imperative for shipping companies to navigate not just the physical challenges of the Arctic but also the **legal frameworks** that govern these routes.

Strategic Navigation in Uncertain Times

For the maritime industry, the convergence of geopolitical tensions and environmental change necessitates a strategic reassessment. The success of the Flying Fish 1 is a clear indication that the Arctic route is no longer a theoretical alternative but a practical one. However, companies must exercise due diligence, ensuring compliance with international laws and understanding the regulatory environment of the Arctic nations, particularly Russia.

At **Wasel & Wasel**, we recognize the complexities that our clients face in this evolving landscape. Navigating the Arctic waters requires not just advanced vessels and technology but also astute legal guidance to mitigate risks and capitalize on new opportunities. The shifting tides of global shipping demand a proactive approach, blending operational excellence with strategic legal counsel.

The Future of Global Shipping

The journey of the Flying Fish 1 may well be a harbinger of things to come. As climate change continues to reshape our world, the Arctic is emerging as a pivotal corridor for international trade. The potential benefits are substantial—reduced distances, lower fuel consumption, decreased emissions, and avoidance of geopolitical flashpoints.

However, embracing this new frontier requires collaboration between industry stakeholders, governments, and legal experts. It’s about striking the right balance between innovation and regulation, opportunity and responsibility.

Conclusion

The maritime industry stands at a crossroads. The traditional routes, while familiar, are fraught with increasing risks and uncertainties. The Arctic offers a promising alternative, but one that comes with its own set of challenges. The voyage of the Flying Fish 1 symbolizes both the possibilities and the complexities of this new era.

As we steer into uncharted waters, it’s essential to be equipped not just with the right vessels but with the right knowledge and partnerships. The lessons from the Arctic Sunrise Arbitration remind us that legal considerations are as critical as navigational ones. In this dynamic environment, aligning with experienced counsel can make all the difference.

The horizon is broadening, and those who adapt will lead the way in the future of global shipping.

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