

# The National Space Council

**Daniel Morgan**

Specialist in Science and Technology Policy

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## Summary

According to press reports, the Trump Administration may reestablish the National Space Council, a coordinating body in the Executive Office of the President that was last active in 1993. The National Space Council was established in 1989 “to provide a coordinated process for developing a national space policy and strategy and for monitoring its implementation.” It was chaired by the Vice President and included the Secretaries of State, Treasury, Defense, Commerce, and Transportation, the Director of the Office of Management and Budget, the President’s Chief of Staff, the Assistant to the President for National Security Affairs, the Assistant to the President for Science and Technology, the Director of Central Intelligence, and the Administrator of the National Aeronautics and Space Administration (NASA). The National Space Council was active in overseeing policy and management for the civil space program, but less active in the national security space arena. Its statutory authority has never been repealed.

A predecessor, the National Aeronautics and Space Council, existed from 1958 to 1973. It consisted of a similar but smaller group of senior federal officials, initially joined by three non-federal members and chaired by the President. In 1961, the non-federal members were dropped and the Vice President took over as chair. The National Aeronautics and Space Council was briefly influential in the early 1960s, but most Administrations relied more on other sources of space policy advice.

Other bodies in the Executive Office of the President that have space policy coordination responsibilities include the Office of Science and Technology Policy, the National Security Council, and the National Science and Technology Council.

In 2008, the incoming Obama Administration also planned to reestablish the National Space Council, but that plan was not implemented. The Administration concluded that a strengthened interagency process led by the National Security Council and the Office of Science and Technology Policy would meet its goals.

Because the original statutory authority for the National Space Council remains in effect, congressional action would not be necessary for its reestablishment. Congress could choose to play a role, however, either by amending the existing authority or by conducting oversight. Among the topics Congress might wish to consider are the goals of the council, who should chair it, and whether it should have an advisory committee.

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According to press reports, the Trump Administration may reestablish the National Space Council, a coordinating body in the Executive Office of the President that was last active in 1993. This report summarizes the history and statutory status of the National Space Council, its predecessor the National Aeronautics and Space Council, and other White House bodies that have been responsible for coordinating space policy. It then discusses previous proposals to reestablish the National Space Council and identifies some issues for congressional consideration.

## National Space Council, 1988-1993

The National Space Council was authorized in November 1988, near the end of the Reagan Administration, by Section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (P.L. 100-685).<sup>1</sup> The newly established council came into being in February 1989, shortly after the inauguration of President George H.W. Bush.<sup>2</sup> In April 1989, President Bush issued an executive order establishing the council “in order to provide a coordinated process for developing a national space policy and strategy and for monitoring its implementation.”<sup>3</sup> The executive order stated that the council would be chaired by the Vice President (Dan Quayle) and would include the Secretaries of State, Treasury, Defense, Commerce, and Transportation, the Director of the Office of Management and Budget, the President’s Chief of Staff, the Assistant to the President for National Security Affairs, the Assistant to the President for Science and Technology, the Director of Central Intelligence, and the Administrator of the National Aeronautics and Space Administration (NASA).

The following year, Congress passed three acts affecting the operation of the council. The National Space Council Authorization Act of 1990 (P.L. 101-328) made several provisions regarding staff and funding and requested a review of U.S. space launch policy. Section 104 of the Global Change Research Act of 1990 (P.L. 101-606) directed that certain aspects of the National Global Change Research Plan shall be developed “in consultation when appropriate with the National Space Council.”<sup>4</sup> Section 121 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (P.L. 101-611) directed the council to establish a Users’ Advisory Group of “non-Federal representatives of industries and other persons involved in aeronautical and space activities.”

It is unclear whether the Users’ Advisory Group was ever established, but the April 1989 executive order had provided for the council to have an advisory committee, the Space Policy Advisory Board, consisting of private citizens appointed by the Vice President. The Space Policy Advisory Board was activated in mid-1992 and issued three policy reports later that year: *The*

<sup>1</sup> The reestablishment of the National Aeronautics and Space Council had been recommended in 1986 by the National Commission on Space as part of its vision for the future of the U.S. space program. See National Commission on Space, *Pioneering the Space Frontier: An Exciting Vision of Our Next Fifty Years in Space*, 1986, <http://history.nasa.gov/painerep/begin.html>, p. 155.

<sup>2</sup> John M. Logsdon, “Emerging Domestic Structures: Organizing the Presidency for Spacepower,” Chapter 27 in *Toward a Theory of Spacepower: Selected Essays*, ed. Charles D. Lutes, Peter L. Hayes, et al. (Institute of National Strategic Studies, National Defense University, 2011), <http://ndupress.ndu.edu/Portals/68/Documents/Books/spacepower.pdf>, p. 528.

<sup>3</sup> Executive Order 12675, *Establishing the National Space Council*, April 20, 1989, <http://www.presidency.ucsb.edu/ws/?pid=60450>.

<sup>4</sup> The most recent edition of the National Global Change Research Plan is U.S. Global Change Research Program, *The National Global Change Research Plan 2012-2020: A Strategic Plan for the U.S. Global Change Research Program*, 2012, <https://downloads.globalchange.gov/strategic-plan/2012/usgrcp-strategic-plan-2012.pdf>.

*Future of U.S. Space Launch Capability, The Future of the U.S. Space Industrial Base, and A Post Cold War Assessment of U.S. Space Policy.*<sup>5</sup>

The National Space Council and the Space Policy Advisory Board ceased to operate soon after President Clinton took office in January 1993.

## Activities and Influence

A leading space policy expert (and former member of the Space Policy Advisory Board) has summarized the activities and influence of the National Space Council as follows:

[T]he Space Council staff played an extremely activist role in attempting to revitalize what it judged to be a stagnant civilian space program. The staff was the primary mover behind what became known as the Space Exploration Initiative, announced by President Bush on July 20, 1989. This initiative called for a return to the Moon and then human journeys to Mars. In December 1989, the council assembled a blue ribbon commission for a 2-day meeting to comment on what was perceived as NASA's disappointing response to that initiative, and then convened a synthesis group to examine alternative approaches to human space exploration. In 1990, the council staff initiated another high-level examination of the civilian space program, chaired by Lockheed Martin executive Norm Augustine; this review took place over several months and went into great depth. In 1991, council staff convinced the Vice President and the President that NASA administrator Richard Truly should be replaced and played a key role in selecting his successor, Daniel Goldin. After the collapse of the Soviet Union, the council took the lead in outreach to the new Russian government with respect to both commercial and government-to-government space cooperation. ...

There is no evidence that the council staff played an equally activist role with respect to the national security space program, and its interventions into the day-by-day management of NASA's efforts were strongly resented by senior NASA officials.<sup>6</sup>

Another perspective was provided in 1998 by the then Assistant Secretary of the Air Force:

As I look at the work of the National Space Council in the past, there's no doubt that it provided a for[um] for the discussion of space activities ... but it did not solve the fundamental problem ... which is the different funding and jurisdictional arrangements that obtain with each of the agencies ... And that to me is the most significant impediment to cooperation ... [The council is] not in a position to be able to easily implement any of the things that are identified....<sup>7</sup>

The council's former executive secretary testified in 1993:

In reviewing the overall success of the National Space Council during the Bush Administration, I am sure that one could find a number of examples where it may have been less than totally effective or successful. But in a bureaucracy the size of the U.S. government, there will never be a perfect policy making process.... When viewed as a whole, the Administration's seven National Space Policy Directives, several other decision

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<sup>5</sup> Logsdon, "Emerging Domestic Structures," p. 529. Two of the three reports are available online from the NASA website "Key Documents in the History of Space Policy," <http://history.nasa.gov/printFriendly/spdocs.html>.

<sup>6</sup> Logsdon, "Emerging Domestic Structures," p. 529.

<sup>7</sup> Keith Hall, Assistant Secretary of the Air Force, testimony before the House Committee on Science, Subcommittee on Space and Aeronautics, and House Committee on National Security, Subcommittee on Military Research and Development and Subcommittee on Military Procurement, *Spacepower for the 21<sup>st</sup> Century*, joint hearing September 29, 1998, p. 74.

memoranda and policy statements, and six major nonpartisan assessments are the legacy of a proactive policy process that served the U.S. space program well.<sup>8</sup>

## Legislative Status

Although the National Space Council has been inactive since 1993, the above provisions of P.L. 100-685, P.L. 101-328, P.L. 101-606, and P.L. 101-611 have not been repealed. Most of them are set out in the U.S. Code as notes under 51 U.S.C. 20111. A provision of P.L. 101-328 that sets the rate of pay for the council's executive secretary appears at 5 U.S.C. 5314. Section 104 of P.L. 101-606 appears at 15 U.S.C. 2934.

## National Aeronautics and Space Council, 1958-1973

Some observers view the National Space Council as a recreation of the National Aeronautics and Space Council (NASC), which was established decades earlier by the National Aeronautics and Space Act of 1958, the same act that established NASA.<sup>9</sup> The NASC's statutory function was to advise the President on the interagency coordination of aeronautics and space activities, including "effective cooperation between the National Aeronautics and Space Administration and the Department of Defense." The NASC was initially chaired by the President. It was a smaller group than its successor, the National Space Council. Its membership initially consisted of the Secretaries of State and Defense, the Administrator of NASA, the Chairman of the Atomic Energy Commission, not more than one additional federal official, and not more than three members from the private sector.

President Eisenhower did not use the NASC extensively, and in 1960 he recommended the NASC's abolition, having rejected the idea of "a single program embracing military as well as non-military space activities" because "in actual practice, a single civil-military program does not exist and in fact is unattainable."<sup>10</sup> Incoming President Kennedy, however, retained the NASC under the chairmanship of the Vice President (Lyndon Johnson) and without nonfederal members. These membership changes were authorized by Congress in P.L. 87-26, which also amended the council's statutory function to be "to advise and assist the President, *as he may request*" (emphasis added), on topics that included "effective cooperation among all departments and agencies" rather than just NASA and the Department of Defense.

In 1961, following the Soviet Union's launch of the first human into space, the council prepared an influential memorandum calling for an acceleration of U.S. space efforts and the establishment of a manned lunar landing as a national goal. After this, however, "the council never again was the primary source of space policy advice to the President, who relied on those with whom he had a personal relationship ... for counsel on space matters."<sup>11</sup> By 1969, when President Nixon took office, the NASC was without a dedicated staff. A review of the national space program was assigned instead to a Space Task Group supported by the White House Office of Science and Technology. The NASC was disbanded in 1973 as part of a government-wide reorganization.<sup>12</sup>

<sup>8</sup> Brian D. Dailey, former Executive Secretary, National Space Council, testimony before the House Committee on Science, Space, and Technology, Subcommittee on Space, *The Future of the U.S. Space Industrial Base*, hearing February 2, 1993, p. 45.

<sup>9</sup> P.L. 85-568, Section 201.

<sup>10</sup> Quoted in Logsdon, "Emerging Domestic Structures," p. 525.

<sup>11</sup> Logsdon, "Emerging Domestic Structures," pp. 525-526.

<sup>12</sup> Reorganization Plan No. 1 of 1973 (38 *Federal Register* 9579, §3(a)(4)). The statutory provision authorizing the

## Other Space Policy Coordinating Bodies

Between the NASC era and the establishment of the National Space Council, and during the period since the National Space Council ceased operation, several other coordinating bodies within the Executive Office of the President have had space policy responsibilities. Chief among these are the Office of Science and Technology Policy, the National Security Council, and the National Science and Technology Council.

### Office of Science and Technology Policy

After the NASC was disbanded, the lead White House organization for space policy was for several years the Office of Science and Technology Policy (OSTP), established by the National Science and Technology Policy, Organization, and Priorities Act of 1976 (P.L. 94-282). As provided in that act, one of the responsibilities of the Director of OSTP is to gather and analyze information and advise the President on 13 specified goals, the last of which is “advancing the exploration and peaceful uses of outer space.”<sup>13</sup> This language does not explicitly identify an OSTP role in coordinating between civilian and national security space programs, a key element of the NASC’s original mandate, although another of the 13 listed goals is “contributing to the national security.”

### National Security Council

From mid-1982 until the establishment of the National Space Council in 1989, national space policy was coordinated through the National Security Council via the Senior Interagency Group on Space (SIG-Space).<sup>14</sup> SIG-Space was led by the Assistant to the President for National Security Affairs. Some in the space community criticized it for being too secretive, too slow, and too focused on national security to the exclusion of civil space activities. Some claimed that high-ranking officials rarely participated and instead sent lower-level representatives who lacked the authority to negotiate or commit to decisions.<sup>15</sup> At the same time, the Economic Policy Council had a Commercial Space Policy Working Group. A former executive director of the National Space Council testified in 1993 that coordination between SIG-Space and the Economic Policy Council was “haphazard at best.”<sup>16</sup>

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NASC was not actually repealed until 2010, as part of a recodification of space-related laws intended “to conform to the understood policy, intent, and purpose of Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections” (§6, P.L. 111-314).

<sup>13</sup> See 42 U.S.C. 6614(a)(3), 6614(a)(6), and 6601(b)(13). For more information about OSTP, see CRS Report R43935, *Office of Science and Technology Policy (OSTP): History and Overview*, by John F. Sargent Jr. and Dana A. Shea.

<sup>14</sup> Logsdon, “Emerging Domestic Structures,” pp. 527-528. For more information on the National Security Council and its interagency coordination functions, see CRS Report RL30840, *The National Security Council: An Organizational Assessment*, by Richard A. Best Jr.

<sup>15</sup> CRS Report 89-429 SPR, *The National Space Council*, by Patricia E. Humphlett, July 19, 1989 (out of print; available to congressional clients from the author on request).

<sup>16</sup> Brian D. Dailey, former Executive Secretary, National Space Council, testimony before the House Committee on Science, Space, and Technology, Subcommittee on Space, *The Future of the U.S. Space Industrial Base*, hearing February 2, 1993, p. 39.

Two decades later, during the George W. Bush Administration, a Space Policy Coordinating Committee chaired by the National Security Council was responsible for the policy review that resulted in the 2006 national space policy.<sup>17</sup>

The Obama Administration established a Space Interagency Policy Committee (IPC). IPCs are managed by the joint staff of the National Security Council and the Homeland Security Council. They are typically chaired by a staff member and consist primarily of department Assistant Secretaries.<sup>18</sup> The Space IPC coordinated the development of the 2010 national space policy.<sup>19</sup>

## National Science and Technology Council

In November 1993, a few months after the National Space Council ceased operation, President Clinton's executive order establishing the National Science and Technology Council (NSTC) stated that the NSTC would "oversee the duties of ... the National Space Council."<sup>20</sup> The NSTC is chaired by the President, or in his absence, either the Vice President or the Assistant to the President for Science and Technology. While the positions of Assistant to the President for Science and Technology and Director of OSTP are legally separate, they have never to date been held by different people.<sup>21</sup> As a result, since 1993, coordination of space policy has usually in practice been the responsibility of OSTP, with staff-level cooperation between OSTP and the National Security Council on issues involving national security. For example, OSTP coordinated the development of the 1996 national space policy, which was formally issued jointly by the NSTC and the National Security Council.<sup>22</sup>

The NSTC does not currently have a committee or subcommittee on space policy. Two of its subcommittees have a space-related focus: the Subcommittee on Space Weather Observation, Research, and Mitigation (SWORM) and the U.S. Group on Earth Observations (USGEO). Both are under the auspices of the NSTC Committee on Environment, Natural Resources, and Sustainability.<sup>23</sup>

<sup>17</sup> National Security Presidential Directive NSPD-49, *U.S. National Space Policy*, August 31, 2006. See unclassified summary at [http://history.nasa.gov/ostp\\_space\\_policy06.pdf](http://history.nasa.gov/ostp_space_policy06.pdf).

<sup>18</sup> Alan G. Whittaker, Shannon A. Brown, Frederick C. Smith, and Elizabeth McKune, *The National Security Policy Process: The National Security Council and Interagency System*, Industrial College of the Armed Forces, National Defense University, August 15, 2011, <http://www.virginia.edu/cnsl/pdf/national-security-policy-process-2011.pdf>, p. 14.

<sup>19</sup> Executive Office of the President, *National Space Policy of the United States of America*, June 28, 2010, [https://www.whitehouse.gov/sites/default/files/national\\_space\\_policy\\_6-28-10.pdf](https://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf).

<sup>20</sup> Executive Order 12881, *Establishment of the National Science and Technology Council*, November 23, 1993, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12881.pdf>. For more information about the NSTC, see CRS Report R43935, *Office of Science and Technology Policy (OSTP): History and Overview*, by John F. Sargent Jr. and Dana A. Shea.

<sup>21</sup> For further explanation and a list of the holders of these positions, see CRS Report R43935, *Office of Science and Technology Policy (OSTP): History and Overview*, by John F. Sargent Jr. and Dana A. Shea.

<sup>22</sup> Presidential Decision Directive NSC-49/NSTC-8, *National Space Policy*, September 14, 1996. See National Science and Technology Council, *Fact Sheet: National Space Policy*, September 19, 1996, <http://history.nasa.gov/appf2.pdf>.

<sup>23</sup> For an NSTC organization chart, see [https://www.whitehouse.gov/sites/default/files/microsites/ostp/NSTC/nstc\\_org\\_chart\\_083116.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ostp/NSTC/nstc_org_chart_083116.pdf).

## Proposals to Reestablish the National Space Council

Proposals to reestablish the National Space Council began not long after the council was disbanded in 1993. For example, in March 1994, the House Committee on Science, Space, and Technology marked up the National Science and Technology Policy, Organization, and Priorities Act of 1994 (H.R. 3476, 103<sup>rd</sup> Congress). It voted to delete a provision in the introduced bill that would have repealed the council's statutory authority. The committee's report (H.Rept. 103-473) explained as follows:

The Committee believes that the Council has been an effective mechanism for providing interagency coordination on space policy and that it should be preserved. The Committee has preserved the authority for the National Space Council and urges the President to restore the Council as a coordinating agency on space policy within the Executive Office of the President.

In 1999, Congress established a Commission to Assess United States National Security Space Management and Organization, known as the Rumsfeld Commission.<sup>24</sup> Some space advocates hoped that the Rumsfeld Commission would recommend reactivation of the National Space Council. Instead, its January 2001 report recommended a return to the SIG-Space model used in the Reagan Administration, together with the creation of a Presidential Space Advisory Group of high-level outside advisors (possibly similar to the Vice President's Space Policy Advisory Board associated with the National Space Council).<sup>25</sup> The Rumsfeld Commission report did not explain why it rejected the National Space Council model in favor of SIG-Space. Some members of the commission reportedly thought that the National Space Council had been overly bureaucratic.<sup>26</sup>

In 2006, Congress directed the Department of Defense to establish another commission, known as the Allard Commission, to conduct "an independent review and assessment of the organization and management of the Department of Defense for national security in space."<sup>27</sup> One of the Allard Commission's recommendations, published in 2008, was to reestablish the National Space Council under the chairmanship of the President's National Security Advisor (formally known as the Assistant to the President for National Security Affairs). The stated purpose of reestablishing the council was to implement and coordinate a national space strategy across the Department of Defense, the intelligence community, the National Oceanographic and Atmospheric Administration (NOAA), NASA, and other responsible agencies.<sup>28</sup> According to the commission's report, the resuscitated council would provide "a standing forum for assigning responsibilities, setting priorities, and breaking the roadblocks to cooperation that have stymied progress on key space programs."<sup>29</sup> The report did not explicitly state why the council should be

<sup>24</sup> National Defense Authorization Act for Fiscal Year 2000 (P.L. 106-65), Title XVI, Subtitle C.

<sup>25</sup> Report of the Commission to Assess United States National Security Space Management and Organization, January 11, 2001, <http://www.dod.gov/pubs/space20010111.pdf>.

<sup>26</sup> CRS Report RS20824, *Military Space Activities: Highlights of the Rumsfeld Commission Report and Key Organization and Management Issues*, by Marcia S. Smith, February 21, 2001 (out of print; available to congressional clients from the author on request).

<sup>27</sup> John Warner National Defense Authorization Act for Fiscal Year 2007 (P.L. 109-364), Section 914.

<sup>28</sup> NOAA is an agency in the Department of Commerce. It operates weather satellites and licenses commercial Earth remote sensing satellites.

<sup>29</sup> A. Thomas Young, Edward Anderson, Lyle Bien, et al., *Leadership, Management, and Organization for National Security Space: Report to Congress of the Independent Assessment Panel on the Organization and Management of National Security Space*, Institute for Defense Analyses, July 2008, [http://www.spacepolicyonline.com/pages/images/stories/Allard\\_Commission\\_Report.pdf](http://www.spacepolicyonline.com/pages/images/stories/Allard_Commission_Report.pdf).

chaired by the National Security Advisor rather than the Vice President. One subsequent analysis argued that this change would “unambiguously signal an attempt to move space policy closer to the inner circle of Presidential advisors and to someone with a strong position in the security communities. Until that happens, space issues will be considered as subsets of multiple other policy areas, rising to, falling from, and most often never reaching beyond the level of bureaucratic, staff importance.”<sup>30</sup>

The National Aeronautics and Space Administration Authorization Act of 2008 (S. 3270, 110<sup>th</sup> Congress) was introduced in the same month as the publication of the Allard Commission report. It would have expressed the sense of Congress that “the President should appoint members to the National Space Council in accordance with” the existing statutory authority. The enacted version of this bill (H.R. 6063, P.L. 110-422) had less prescriptive language:

It is the sense of Congress that the President should elevate the importance of space and aeronautics within the Executive Office of the President by organizing the interagency focus on space and aeronautics matters in as effective a manner as possible, such as by means of the National Space Council authorized by [the existing statutory authority] or other appropriate mechanisms.

As a candidate in 2008, President Obama also supported the reestablishment of the National Space Council. His Science Advisor, John Holdren, testified in February 2009 that “the President remains committed to that pledge ... we are in discussion about the best way to do it, but I have no doubt that it is going to happen.”<sup>31</sup> In the end, however, the Obama Administration did not reestablish the council. The Administration’s 2010 national space policy simply stated that “Departments and agencies shall improve their partnerships through cooperation, collaboration, information sharing, and/or alignment of common pursuits.”<sup>32</sup> According to the website of the Department of Commerce, the Space IPC met the intent of the National Space Council proposal:

During his presidential campaign, President Obama pledged to establish a National Space Council in some form. The purpose, as described by President Obama, was to oversee and coordinate commercial, civilian, and national security space activities. In practice, the Administration found that a strengthened interagency process, led by the National Security Council and the Office of Science and Technology Policy, met the intent of President Obama’s promise and achieved the goals he described during his campaign. The 2010 National Space Policy is a manifestation of the interagency coordination through the Space IPC.<sup>33</sup>

Many observers expect the Trump Administration to reestablish the National Space Council. The executive secretary of the National Space Council in the George H.W. Bush Administration, Mark

<sup>30</sup> Joan Johnson-Freese, “An Allard Commission Postmortem and the Need for a National Space Council,” *Joint Force Quarterly* (National Defense University Press), issue 60, 1<sup>st</sup> quarter 2011, pp. 54-60, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA536665>.

<sup>31</sup> Senate Committee on Commerce, Science, and Transportation, *Nominations to the Executive Office of the President and the Department of Commerce*, February 12, 2009, S.Hrg. 111-408, p. 47.

<sup>32</sup> Executive Office of the President, *National Space Policy of the United States of America*, June 28, 2010, [https://www.whitehouse.gov/sites/default/files/national\\_space\\_policy\\_6-28-10.pdf](https://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf), p. 6.

<sup>33</sup> Department of Commerce, “National Space Policy,” updated February 27, 2014, formerly at <http://www.space.commerce.gov/general/nationalspacepolicy>, archived at <https://web.archive.org/web/20141016200058/http://www.space.commerce.gov/general/nationalspacepolicy/>. This webpage was replaced in late 2014. The replacement webpage, <http://www.space.commerce.gov/policy/national-space-policy/>, does not mention the National Space Council proposal.

J. Albrecht, is a member of the Trump transition team.<sup>34</sup> In October 2016, a widely cited op-ed by authors described as senior policy advisors to the Trump campaign stated as follows:

Despite its importance in our economic and security calculations, space policy is uncoordinated within the federal government. A Trump administration would end the lack of proper coordination by reinstituting a national space policy council headed by the vice president.

The mission of this council would be to assure that each space sector is playing its proper role in advancing U.S. interests. Key goals would be to ... lower costs through greater efficiencies. As just one example, a Trump administration will insist that space products developed for one sector, but applicable to another, be fully shared.<sup>35</sup>

## Issues for Congressional Consideration

Because the original statutory authority for the National Space Council remains in effect, congressional action would not be necessary for its reestablishment. Congress could choose to play a role, however, either by amending the existing authority or by conducting oversight.<sup>36</sup> Among the topics Congress might wish to consider are the goals of the council; who would chair it; whether it should have an advisory committee; and whether any aspects of the existing statutory authority require changes.

### Goals of the Council

Interagency coordination was a central goal of the National Space Council, the NASC, and the other bodies discussed above. It has remained central in the various reestablishment proposals. One question for Congress to consider might be whether the primary focus of coordination in a reestablished council would be the interaction between the civil space and national security space sectors, or whether the council's purpose would be interagency coordination more generally.

In the past, the coordination goal has often been focused particularly on strengthening the alignment between civil space programs, especially at NASA, and national security space programs. That divide has been difficult to bridge. As noted above, President Eisenhower recommended abolishing the NASC on the ground that a unified civil-military program was “unattainable”; the National Space Council itself was “extremely activist” with respect to civil space but less so on national security space; the mention of space in the stated goals of OSTP is limited to “exploration and peaceful uses”; and the NSTC has usually addressed national security aspects of space policy by collaborating with the National Security Council. On the other hand, national security space concerns motivated the Allard Commission's recommendation to reestablish the National Space Council.

Some of the space topics that might benefit from improved coordination are primarily civil and commercial, with little or no crossover into national security aspects. The Federal Aviation

<sup>34</sup> “President-Elect Trump Announces Additional Agency Landing Team Members,” November 29, 2016, <https://www.greatagain.gov/news/president-elect-trump-announces-additional-agency-landing-team-members-3.html>.

<sup>35</sup> Robert S. Walker and Peter Navarro, “Trump's Space Policy Reaches for Mars and the Stars,” *Space News*, October 19, 2016, <http://spacenews.com/trumps-space-policy-reaches-for-mars-and-the-stars/>.

<sup>36</sup> Some of Congress's usual oversight mechanisms, such as calling witnesses to testify at hearings, might be limited by the potential ability of Council members and staff to assert executive privilege. For more information, see CRS Report R42670, *Presidential Claims of Executive Privilege: History, Law, Practice, and Recent Developments*, by Todd Garvey and Alissa M. Dolan.

Administration, the Department of Commerce, the Federal Communications Commission, and the Department of State all have responsibilities for licensing, oversight, or export controls in the commercial space sector. Both NASA and the Department of Defense are increasingly using commercial launch services. There is a long history of congressional interest in NASA-NOAA coordination on weather satellites. NASA and the U.S. Geological Survey (in the Department of the Interior) share responsibility for Landsat land imaging satellites.

Changes in the broad national and international space policy environment over the past two decades may present new challenges for coordination. The 2011 national security space strategy described space as “increasingly congested, contested, and competitive.”<sup>37</sup> Since the turn of the century, the role of the commercial space sector has become more prominent. New entrants have brought changes to the commercial launch market. The number of countries with space activities has increased. The U.S. share of world launches has decreased, while the shares of China and India have increased. Concerns about space debris and radio-frequency interference in space have grown. These developments may make successful coordination both more difficult to achieve and more important.<sup>38</sup>

In addition to interagency coordination, the National Space Council in the early 1990s provided the Executive Office of the President with additional influence over NASA management decisions. As noted above, these “interventions ... were strongly resented by senior NASA officials.” Congressional perspectives on similar interventions by a reestablished council might vary, depending on the outcome the council sought. A possible analogy might be the objections of some in Congress, at times during the Obama Administration, to what they saw as excessive influence over NASA decisionmaking by officials in the Office of Management and Budget.

Some advocates of reestablishing the National Space Council have identified increasing the national prominence of space policy concerns as another explicit goal. For example, in 1999 an industry witness testified before the House Committee on Science as follows:

In order to assure rapid and coherent federal decision-making and raise the level of awareness of the importance of the commercial space industry, we strongly advocate reactivation of the National Space Council. Such an interagency forum would go a long way towards keeping space on the national agenda.<sup>39</sup>

## Chair of the Council

Under current statute, the Vice President would chair a reestablished National Space Council. This is also the generally expected outcome under the Trump Administration, but Congress might wish to consider other arrangements. For example, the NASC was initially chaired by the President, and the Allard Commission recommended a council chaired by the National Security Advisor. It may be that the effectiveness of a council chair would depend less on the chair’s title than on his or her interest in the topic and relationship with the President. For example, the NASC had little influence during the latter portion of the Kennedy Administration, because President Kennedy had strong personal relationships with his science advisor Jerome Wiesner and NASA

<sup>37</sup> Department of Defense and Office of the Director of National Intelligence, *National Security Space Strategy: Unclassified Summary*, January 2011, [http://archive.defense.gov/home/features/2011/0111\\_nsss/docs/NationalSecuritySpaceStrategyUnclassifiedSummary\\_Jan2011.pdf](http://archive.defense.gov/home/features/2011/0111_nsss/docs/NationalSecuritySpaceStrategyUnclassifiedSummary_Jan2011.pdf), p. 1.

<sup>38</sup> See also CRS In Focus IF10337, *Challenges to the United States in Space*, by Steven A. Hildreth and Clark Groves.

<sup>39</sup> Bruce L. Mahone, Director, Space Policy, Aerospace Industries Association of America, testimony before the House Committee on Science, Subcommittee on Space and Aeronautics, *U.S. Commercial Space Launch Competitiveness—Part 2: Barriers to Commercial Space Launches*, hearing June 10, 1999, p. 199.

Administrator James Webb and relied on them for advice on space. Similarly, the NASC was largely inactive during the Johnson Administration, under Vice President Hubert Humphrey, who appears to have had little interest in space.<sup>40</sup>

## Advisory Committee

As noted above, the existing statutory authority for the National Space Council includes a mandate for a Users' Advisory Group, and the 1989 executive order that established the council provided for a Space Policy Advisory Board. It is unclear whether the former ever existed, and the latter was only active for a period of several months in 1992. Congress might wish to consider whether an advisory committee of nonfederal experts would be a useful adjunct to a reestablished National Space Council.

If Congress favored the establishment of such a committee, it might seek ways to ensure its implementation, such as strengthening the existing statutory requirement for the Users' Advisory Group to meet at least once per year or requiring a periodic report on the group's activities. It might also consider how broad the committee's role should be. The Users' Advisory Group was supposed to ensure that "the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council," whereas the Space Policy Advisory Board was given a more general mandate to "advise the Vice President on the space policy of the United States."

Alternatively, Congress might decide that a reestablished National Space Council would be able to obtain sufficient external advice through other mechanisms, such as the President's Council of Advisors on Science and Technology (PCAST) or existing advisory committees at agencies with seats on the council. In this case, Congress might consider repealing the statutory mandate for a Users' Advisory Group as no longer necessary.

Another option would be to amend the mandate to allow the President to designate another existing advisory committee to carry out the functions of the statutory Users' Advisory Group. For example, Section 4 of the 21<sup>st</sup> Century Nanotechnology Research and Development Act (P.L. 108-153) directs the President to "establish or designate" a National Nanotechnology Advisory Panel. By executive order, President George W. Bush designated PCAST to serve as the National Nanotechnology Advisory Panel.<sup>41</sup>

Congress might also consider repealing the mandate for an advisory committee if it concluded that the decision on whether to have such a committee should more properly be left to the President. In 1986, two years before the statutory authority for the National Space Council was enacted, Congress attempted to provide for its establishment in the National Aeronautics and Space Administration Authorization Act, 1987 (H.R. 5495, 99<sup>th</sup> Congress). President Reagan pocket vetoed this bill. His memorandum withholding approval stated that "the establishment of a National Space Council in the Executive Office of the President would constitute unacceptable interference with my discretion and flexibility in organizing and managing the Executive Office as I consider appropriate."<sup>42</sup>

<sup>40</sup> Logsdon, "Emerging Domestic Structures," p. 526.

<sup>41</sup> Executive Order 13349, *Amending Executive Order 13226 To Designate the President's Council of Advisors on Science and Technology to Serve as the National Nanotechnology Advisory Panel*, July 23, 2004, <https://www.gpo.gov/fdsys/pkg/FR-2004-07-27/pdf/04-17204.pdf>.

<sup>42</sup> U.S. President (Reagan), "Memorandum Withholding Approval of H.R. 5495," *Weekly Compilation of Presidential Documents*, vol. 22 (November 17, 1986), p. 1568.

## Other Potential Changes in Statutory Authority

The current authority for the National Space Council is quite broad. For example, its membership and functions are specified only in an executive order. In contrast, the membership and functions of the NASC were specified in statute. Keeping the authority broad might give the President flexibility to structure the council according to his needs and preferences. A more detailed statute might give Congress greater influence in guiding the council's makeup, activities, and outcomes.

Among the few details that the statutory authority does specify are some provisions relating to the council's staff. Congress might reexamine those provisions to determine whether they align with the staffing needs of the sort of council now desired. Alternatively, Congress might eliminate the provisions in order to give the President additional flexibility in how he chooses to structure the council.

## Concluding Observations

Interagency coordination is a persistent challenge for the federal government in many areas. An analysis by the Government Accountability Office in 2012 identified at least 12 different mechanisms the federal government has used to address this challenge.<sup>43</sup> It seems likely that no single approach is best for every circumstance. In the case of space policy, the National Space Council and its predecessor, the National Aeronautics and Space Council, were sometimes seen as effective and sometimes not. If the National Space Council is reestablished in the Trump Administration, its effectiveness may depend not only on the details of its statutory mandate, but also on its leadership and staff and their relationships with the President, the leaders of executive departments and agencies, and stakeholders in Congress.

## Author Contact Information

Daniel Morgan  
Specialist in Science and Technology Policy  
[redacted]@crs.loc.gov7-....

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<sup>43</sup> Government Accountability Office, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022, September 2012, <http://www.gao.gov/assets/650/648934.pdf>.

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