

Legal Issues Related to Space Exploration (13)
Specific legal issues of space exploration and exploitation (2)

Author: Mr. Barry Glaspell
Borden Ladner Gervais LLP, Canada, bglaspell@blg.com

RESTRICTIONS ON MINING MARS, MOON AND ASTEROIDS: CLUES FROM UNCLOS

Abstract

Quite apart from the conventions presently in place, the use and occupation of outer space including terra nullius is subject to duties and immunities determinable, by analogical reasoning, from an analysis of state practice in other areas beyond territorial jurisdiction.

In this paper, the author compares the international law applicable to the high seas under UNCLOS with the treaties applicable to outer space, and submits that principles well beyond the present space agreements apply, as a matter of customary international law, to preclude at least certain activities in outer space – without the need for further international conventions.

States, as well as legal and natural persons, are subject to limits in the exercise of powers in outer space which parallel limits, both expressly agreed and customary, in respect of the "freedom of the high seas".

The author is a graduate of the University of Toronto and Harvard Law School, and has a graduate degree in public international law from the University of Cambridge (Trinity College). The author teaches Private International Law at the University of Toronto Faculty of Law and is a practicing lawyer in Toronto, Canada specializing in class action litigation.