

59th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Interactive Presentations (IP)

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INVESTMENT PROTECTIONS FOR SPACE MINING OPERATIONS: ENSURING THE BENEFITS
OF SPACE FOR ALL**Abstract**

In 2015, the US Congress passed – and President Obama signed - the Space Competitiveness Act, a bill that has rocked the international space law regime because of its bold approach to space mining activities. Under Title IV of the Act, the US Government recognises the right of private citizens to travel to the Moon and other celestial bodies to obtain “space resources” as their own. This authorization does not come without qualifications, including that the space resource must be “abiotic” and “in situ”. Additionally, the US has stated that the Act is subject to all US international obligations (including the Outer Space Treaty of 1967) and that this Act by no means represents a US claim of sovereignty to any celestial body.

Nevertheless, there is great concern over how this law will be carried out and what it will mean both for investors and the human race. In particular, what will happen if a private company is responsible for one of the most pivotal discoveries in human history: the discovery of extra-terrestrial life? It is feasible that, should space mining prove successful, private ventures will be reaching deeper into the Moon and other celestial bodies than has ever been attempted before. What does such a discovery mean for the company that has just invested hundreds of millions, or even billions of dollars? More importantly, what does it mean for us?

This paper will look at three separate scenarios that, while being far-fetched, represent all the elements that will give most concern to parties who will be watching space mining operations from the stands. First, what will happen if a private company discovers “biotic” material, like bacteria? Second, what if a private company discovers a new element that does not exist on Earth? And third, what if a private company discovers an alien artefact?

This paper will propose investment protections – based on existing investment laws and practices - for space mining operations that will simultaneously ensure that a major discovery will not lead to a forfeiture of investment and that any discoveries such as these will be regarded as the rightful heritage of the human race.