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'NewSpace', New Laws/ How governments can foster new space activities (2)

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THE NEED TO REGULATE NEW SPACE ACTIVITIES ON EXPLORATION OF SPACE  
RESOURCES AND OFF-EARTH MINING.

**Abstract**

Natural resources beyond our planet could be exploited by private companies under title of "NewSpace" initiatives. Space mining has attracted the attention of universities and mining companies around the world, who see in it an opportunity they can benefit from. The goal of mining asteroids is an objective which demands a huge financial investment as well as the most advanced technical capabilities in order to be successful. However, the issue raises some legal questions. It remains to be seen whether private companies will legally be able to appropriate resources that, under international space treaties, and whether national space law and regulations can be approved exploitation by private companies in despite of the treaties. The legal framework which regulates this activity is equally complex. Article II of the space Treaty established that Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means and Article 11.3 of the moon Agreement stated that Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or non-governmental organization, national organization or nongovernmental entity or of any natural person. The international treaties are binding on both States and their nationals, and consequently space mining cannot be undertaken by companies for private gain in a way that would exclude the rest of mankind. However, the situation today is very different to when the original treaties were first enacted, and there is no specific regulation on this matter, new regulation is required to regulate and promote this activity. This article suggests that international community needs a new regulation especially about responsibility and liability for private section to promote and open up this activity. It would be advisable, when preparing any new regulations, to take into the account two similar treaties to unify regulations on private international law about activity of private section in international level, since they have been the subject of intense legal debate as both are considered to and not subject to the jurisdiction of a specific country.