

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)  
Space Mining: National Authority? International Authority? Both? (5)

Author: Mr. Daniel Porras  
United Nations, Switzerland, daniel.porras@un.org

Mr. PJ Blount  
University of Luxembourg, Luxembourg , pjblount@gmail.com

GET YOUR HANDS OFF MY ASTEROID: PRIORITY AND SECURITY IN SPACE RESOURCES

**Abstract**

Since the passage of laws in both the United States and Luxembourg allowing for the exploitation and use of space resources, the tide is turning in the international community's view of the commercial exploitation of extraterrestrial resources. Recently, Belgium, one of the staunchest opponents of these actions at UNCOPUOS, signed an MOU with Luxembourg on the elaboration of an international framework for space resource activities. There is near-consensus that these types of activities can be engaged in without violating Article II of the Outer Space Treaty.

While commercial technology now lags behind the law in this field, new legislation and growing international consensus are just the beginning when it comes to the legal issues surrounding space resource activities. This is because the emerging law of space resources is based on the bifurcation of property rights in the resource from property rights and territorial rights in the underlying exploited region. While this bifurcation solves the immediate problem posed by Article II, it opens up another problem in the allocation of rights to those resources. This is because the legal regime of property and the related legal regimes of territory are designed to allow for the exclusion of others in order to protect the rights of those within. The bifurcation of resource from property in the space environment, means that force is the only way to exclude an encroaching competitor, which is antithetical to both domestic and international law.

This paper will argue that in order to maintain international peace and security in space, a notice and registration system must be developed to keep space resource actors from coming into conflict with each other. Without such a system, the security framework established under the space treaty regime will be at risk as both commercial actors and their respective States seek to establish their primacy with regards to resources. We argue that a notice and registrations system is the most pragmatic way to manage space resource activities in their initial stages.

This paper will first overview the current development of space resource law and its projected near-term evolution. Next, it will analyze the security risks created from the bifurcation of resources from real property and how that risk may threaten the international order. Finally, this paper will suggest the adoption of a notice and registration system for space resource activities as a way to mitigate risks when these activities finally materialize.