

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
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WHO OWNS THIS SPACE? A SURVEY OF SPACE INDUSTRY LEADERS AND LEGAL EXPERTS
ASSESSING SPACE PROPERTY RIGHTS ISSUES AND POTENTIAL RESOLUTIONS

Abstract

The prospect of extracting resources from celestial bodies will soon transform into a reality. The potential benefits of mined resources are extraordinary: from providing water, propulsive and building material for space exploration, to the creation of technological achievements that will aid humankind. With increasingly precarious predictions regarding Earth's climate changes, space mining may quickly transition from an exciting and lucrative endeavor, to a critical, life-sustaining need. In order to enable, and maintain, conflict-free space mining ventures that benefit all mankind, the time has come to decree comprehensive and accepted laws and regulations. Ever-increasing commercial, national, and private space endeavors, from a multitude of nations, also dictates the immediacy of this need. It has been over 50 years since the internationally accepted Outer Space Treaty (OST) of 1967 claimed that celestial bodies are "the common heritage of mankind that cannot be claimed." However, in recent years there has been much disagreement with regard to the OST's lack of specificity regarding ownership rights of extracted resources. Further obfuscating this situation was the passage of the United States (US) Commercial Space Launch Competitiveness Act of 2015. The SPACE Act, as it is commonly referred to, stipulates that "any materials American individuals or companies find on an asteroid or the moon is theirs to keep and do with as they please." As other nations adopt their own policies, the situation will become untenable and, undoubtedly, lead to disputes. The time has arrived to establish an appropriate and agreed upon path forward. Numerous questions need to be addressed including, but not limited to, the following: Should international space laws preempt national space laws? How can this be achieved? Do existing international space laws need additional refinement specific to property rights? How should potential disputes be adjudicated and subsequent decisions enforced? How will enforcement be enacted for international missions and collaborations? Should national policies be required to align with the principles of international space law? The present paper provides an analysis and discussion of potential solutions via a survey completed by over 100 US space industry leaders and legal experts, with the results delineated between the two entities.