

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)  
Dispute Settlement in Space Law: Are We Ready for the Commercial Challenge? (2)

Author: Mr. Austin Murnane  
United States

ALTERNATIVE DISPUTE RESOLUTION FOR SPACE PROSPECTORS

**Abstract**

The governments of the spacefaring nations of Earth have foresworn claims of sovereignty on the Moon and other celestial bodies under Article II of the Outer Space Treaty. However, the governments and their citizens are entitled to make use of outer space, including its resources, under Article I of the same treaty, and have done so for decades. This raises the question: how would governments or private entities resolve disputes over the acquisition and use of resources in space? National governments, lacking sovereignty, cannot allocate such resources or grant property rights as they would within their own territory. There is no international authority to make such allocations because the spacefaring nations declined to ratify the Moon Agreement, which had proposed such an authority. Therefore, the resolution of such disputes must initially depend on voluntary mediation and arbitration processes between and among spacefaring nations and organizations. However, these processes will not occur "in a vacuum," with mediators and arbitrators grasping for solutions at random. Instead, four principles arising from international space law, astronautics, and planetary science will facilitate the resolution of disputes. First, the prohibition against harmful interference, established in Article IX of the Outer Space Treaty, prohibits the use of violent or destructive force by competitors for space resources. Second, the supervisory obligations established in Article VI of the same Treaty require governments to ensure that their nationals comply with the Treaty's requirements. Third, the hazards and costs of spaceflight provide strong incentives for cooperation and compromise between spacefaring nations and organizations, encouraging the amicable resolution of disputes. Fourth, the literally astronomical scale of resources in space significantly reduces the problem of scarcity, which would exacerbate conflicts in other contexts. These principles and others will assist spacefaring nations and organizations, and their mediators and arbitrators, in resolving disputes over resources in space. They will also facilitate the exploration and development of space to the benefit of space explorers and all mankind.