

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

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THE EXISTENCE OF GAPS IN INTERNATIONAL SPACE LAW LEADS TO
MISUNDERSTANDINGS AMONG SPACEFARING COUNTRIES

Abstract

Nowadays quite clear that there are many extraterrestrial resources, which have great commercial potential. Moreover, space resources may obviously offer alternative sources of materials or even may change current production and use practices. However, from a legal point of view, these activities are not fully regulated, hence there are certain gaps in existing international space law, that is why many wonder whether the activity in the field of exploration, extraction and utilization of natural space resources refers to national authority or international authority. International space law establishes a general legal framework for space activities, including those of private entities, but there are no detailed provisions about exploration, extraction and utilization of natural space resources. The Outer Space Treaty of 1967 has more than 100 parties, while the Moon Agreement of 1979 has only 16. Articles I and II of the Outer Space Treaty of 1967 make clear that Moon and celestial bodies are not subject to national appropriation, and they are free for exploration and use by all States in accordance with international law. Thus, activities concerning space resources are controlled by those international principles and by national laws that support industry and ensure compliance with the Outer Space Treaty of 1967. Meanwhile the Moon Agreement does not exclude exploitation by public/private entities, as long as they are compatible with "common heritage of mankind" requirements and as result, several States try to use this wording in their favor. In particular, taking into account the prospects of this area of space activities, several States adopt national laws that in turn leads to misunderstandings among spacefaring countries. In particular, the lack of international regime for extraction and utilization of natural space resources can create problems. On one hand, it could slow down activities and thus discouraging innovation in space technology. On the other hand, it could create an uncontrolled environment for space activities, which would be worse. The unique ecosystem of spacer could be in danger of being harmed. This should be avoided by the creation of an international controlled environment for space activities. Since the Committee on the Peaceful Uses of Outer Space (COPUOS) is the only international platform at which all States are represented, within it is required to create an appropriate working group on space resources in order to create the necessary legal framework.