

18th IAA SYMPOSIUM ON VISIONS AND STRATEGIES FOR THE FUTURE (D4)
Space Resources, the Enabler of the Earth-Moon Ecosphere (5)

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EXPLORING THE HAGUE BUILDING BLOCKS FOR THE DEVELOPMENT OF AN
INTERNATIONAL FRAMEWORK IN SPACE RESOURCES ACTIVITIES TO FOSTER
COMMERCIAL SPACE MINING - THE VIEWS OF THE SGAC**Abstract**

States and companies have shown increased interest in mining and utilising space resources, both for their use on Earth and in space. The biggest obstacle, however, seems to be the lack of clear international rules regulating commercial space resources activities. In November 2019, The Hague International Space Resources Governance Working Group adopted the Building Blocks for the Development of an International Framework in Space Resources Activities (“BBs”) for the governance of space mining, recommendations on a possible implementation strategy, and solutions to the open legal issues associated with the commercial utilisation of space resources. The BBs consist of twenty provisions addressing different aspects of space resources activities, including the objectives, principles, and scope of the governance framework. As a result, there is much expectation that the BBs will complement other efforts at the national and international level to clarify the open legal questions relating to commercial space resource activities, such as private property in space. Without an international legal framework, there is a risk of States unilaterally adopting national space legislation which are not harmonised, resulting in, i.a, a race to the bottom and potential flags of convenience. Nevertheless, it remains to be seen how the international community will react to the BBs and whether they will serve as a guideline for the establishment of an international regime or even influence States taking steps to regulate the commercial utilisation of resources in space independently, in a unilateral approach. This paper is the result of a collaboration between the Space Law and Policy and the Commercial Space Project Groups of the SGAC and provides a unified interpretation regarding the affectability of the BBs. Firstly, the authors investigate whether key open legal issues such as responsibility, jurisdiction and control, priority rights, resource rights, due regard, harmful impacts from space resource activities, safety zones, sharing of benefits, registration and dispute settlement are satisfactorily addressed in the text of the BBs and the Commentary of the BBs to provide operators with clear rules for the exploitation of space resources. Secondly, the authors examine the economic impact of a potential framework based on the BBs, including financing, insurance, and the commercial viability of commercial space mining. Finally, the authors analyse the reactions from the international community, particularly during the 59th Legal Subcommittee of UNCOPUOS, as an indication of likelihood of the provisions of the BBs being consistently adopted in an international legal and regulatory framework