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EXPROPRIATION AS A POTENTIAL TOOL FOR ORBITAL DEBRIS REMEDIATION

**Abstract**

Expropriation is a State's direct or indirect taking of a non-national's property located in or subject to the State's jurisdiction. Direct expropriation is the outright seizure of property while indirect or "creeping" expropriation arises from the imposition of burdensome regulatory measures which severely interferes with the non-national's control and use of property or severely erodes the value of the non-national's property. Contemporary international law recognizes the validity of a State's taking of a non-national's property provided the non-national receives "adequate compensation" for the taking. The orbital debris problem may eventually lead to one sovereign, such as a launching State, expropriating a space object or other space-based property owned by a non-national.

Outer Space Article II prohibits national appropriation in outer space by claims of sovereignty or by any other means. Additionally, Outer Space Treaty Article VIII provides that ownership of a space object or its component parts is not divested by their presence in space. More important, though, is Outer Space Treaty Article III's mandate that international law applies in the use of outer space. This supports the extension of the legal principles governing expropriation to outer space. Applying expropriation to outer space may allow a launching State or a State exercising its Article VI supervisory powers over non-governmental entities to "take" title to a space object or its component part(s) from its owner.

This paper will analyze and discuss legal issues associated with a State's expropriation of a non-national space object situated in outer space for purposes of orbital debris remediation. It will entail exploring whether expropriation of a non-national's space object may legally occur given the Registration Convention as well as the perpetual jurisdictional and ownership rights granted by the Outer Space Treaty.