

The IISL Position Paper & The Hague Working Group on Space Resource Utilisation

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The current scene

- International space law sets down a general framework for conduct of all space activities, including those of private entities
- It does not include detailed provisions about exploitation of natural resources of outer space
- National law is being created to provide legal certainty to pioneering industry
- Now, a more specific international legal regime for exploitation of resources, based on current international space law, is needed

Why position paper/ working group?

- The IISL Position Paper and The Hague Working Group are intended to further the international dialogue on future governance of space resources utilisation
- Such dialogue, in addition to that taking place in other fora like UNCOPUOS, ECSL, ESPI, etc., is essential, as recognised by all major stakeholders

IISL Statements



- Adopted by consensus by Board of Directors, after preparation of draft by Directorate of Studies
- Current Board: 21 members/ 13 nationalities
 - Argentina, Australia, Brazil, China, Czech Rep., France, Germany, India, Italy, Japan, Netherlands, UK, USA
- 2004: Claims to property rights regarding the Moon and other celestial bodies
 - Lunar deeds have no legal value or significance, and convey no recognized rights whatsoever

IISL statement 2009

- Further clarification of 2004 statement
 - ‘At present, international space legislation does not include detailed provisions with regard to the exploitation of natural resources of outer space, the moon and other celestial bodies, although it does set down a general framework for the conduct of all space activities, including those of private persons and companies, with respect to such natural resources’

IISL statement 2009 (cont'd)

- 'A specific legal regime for the exploitation of resources should be elaborated through the UN, on the basis of present international space law, for the purposes of clarity and legal certainty in the near future'

IISL Position Paper 2015

- Specifically focused on the US Space Act
 - It is uncontested under international law that any appropriation of “territory” even in outer space (e.g. orbital slots) or on celestial bodies is prohibited by Art. II OST
 - It is less clear whether it also prohibits the taking of resources, i.e. whether “free use” includes the right to take and consume non-renewable natural resources, including minerals and water on celestial bodies
 - Moon Agreement requires setting up a regime, but is not binding on US

IISL Position Paper - cont'd

- In view of the absence of a clear prohibition of the taking of resources in the Outer Space Treaty, one can conclude that the use of space resources is permitted
- The US Space Act is a **possible interpretation** of OST; whether and to what extent this interpretation is shared by other States remains to be seen
- It can be a **starting point** for development of international rules to coordinate the free exploration and use of outer space, including resource extraction, for the benefit and in the interests of all countries

The Hague space resource governance working group

- Website: www.iiasl.aero – follow the link
- See also A/AC.105/C.2/2016/CRP.17
- Multi-stakeholder group with consortium partners, members and observers



Consortium

- The WG is hosted by a Consortium of organizations located on all continents
- 1st partner:
 - International Institute of Air and Space Law, Leiden Univ.(NL)
- Other partners :
 - Secure World Foundation (USA)
 - Indonesian Centre for Air and Space Law (Padjajaran University, Indonesia)
 - University of Cape Town (South Africa)
 - Catholic University of Santos (Brazil)

Management

- Executive Secretary & Assistant Secretary, embedded in the International Institute of Air and Space Law, Leiden
- Chair, Vice Chairs, Members, Observers
- Work period: 2015-2017
- Main financial support: NL gov't, SWF

Members/Observers

- **Members**
 - Major stakeholders from government, industry, universities, research centres (20-25)
 - Australia, Brazil, China, France, India, Indonesia, Italy, Japan, Luxembourg, Mexico, Netherlands, Nigeria, South Africa, UAE, UK, USA
- **Observers**
 - Professionals directly involved in space resources issues (no limit)
 - Additionally: Germany, Japan, Russia

Aim

- Assess the need for a regulatory framework for space resource activities and prepare the basis for such regulatory framework
- If there is such a need:
 - Encourage States to engage in negotiations for an international agreement or non-legally binding instrument
 - Identify/formulate building blocks for governance of space resource activities as a basis for negotiations on an international agreement or non-legally binding instrument
 - Recommend on implementation strategy and forum for negotiations on an international agreement or non-legally binding instrument
- First face to face meeting 18-19 April in Leiden

Examples of 'building blocks'

- Objective of international legal framework
- Definition of key terms
- Exercise of jurisdiction
- Access to / Utilization of space resources
- Sharing of benefits
- Safety of activities / Capacity building
- Liability
- Compliance
- Etc.

Way forward?

- Hopefully these initiatives may contribute to building of mutual understanding and eventually an international agreement on international governance of space resources utilisation
- A way must be found to realise the potential benefit for mankind, striking a balance between all interests at stake

Thank you

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