SPACE PROPERTY RIGHTS
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Sources of International Law

- Treaties, Conventions, Multi-Lateral Agreements and Other International Arrangements
- Fundamental Principles/International Custom as evidence of a general practice accepted as law
- Legislation enacted by a Nation
WHAT DO WE MEAN BY “OUTER SPACE”?  

Where Does Space Begin?  

There is no internationally recognized boundary of space
What do we mean by “Space Property”? 

- Actual real estate 
- Structures built upon the Moon or a Celestial Body 
- Leases 
- Mining Licenses/Occupancy Permits 
- Objects launched into space 
- Objects created in space
What do we mean by “Space Property”? 

- Objects created in space and launched from another planet or from a space station
- Raw materials extracted from a Celestial Body
- Orbital slots
- Spectrum rights
- Intellectual property
United Nations Committee for the Peaceful Uses of Outer Space (COPUOS)

- Established in 1958
- COPUOS decisions and recommendations created the basic structure of space law
- International cooperation/consensus procedure (no voting by majority)
- Through this process COPUOS produced the 5 major international treaties addressing space activities:
International Treaties

- 1967 OUTER SPACE TREATY
- 1968 RESCUE AND RETURN AGREEMENT
- 1972 LIABILITY CONVENTION
- 1975 REGISTRATION CONVENTION
- 1979 MOON TREATY
1967 Outer Space Treaty

- Makes clear that the Moon and other bodies are not subject to national appropriation by claim of sovereignty, use or occupancy (Article II).

- National appropriation cannot be accomplished through “ANY OTHER MEANS” (Article II), meaning that private parties cannot appropriate real estate.
1967 Outer Space Treaty

- Exploration must be in accordance with International Law (Article III).

- The Moon and Other Celestial Bodies shall be used exclusively for peaceful purposes (Article IV).

- Exploration and use shall be carried out for the benefit and in the interests of all countries (Article I).
1967 Outer Space Treaty

- Space exploration AND USE shall be free of restraint and discrimination (Article I).
- Free access to all parts of space for all nations (Article I).
1967 Outer Space Treaty

The USE of EQUIPMENT or FACILITIES necessary for peaceful exploration of the Moon and Other Celestial Bodies shall not be prohibited (Article IV), and shall be on a NON-INTERFERENCE basis (Article IX).
1967 Outer Space Treaty

States have responsibility for ACTIVITIES in outer space, on the Moon and Other Celestial Bodies even if activities are carried on by non-governmental entities (Article VI).
1967 Outer Space Treaty

- **ACTIVITIES** of non-governmental entities require supervision by the appropriate state party to the Treaty (Article VI).

- States and their citizens do not lose sovereignty over the objects they place into space or on a Celestial Body (Article VIII).
1967 Outer Space Treaty

All stations, installations and equipment and space vehicles on the Moon and Other Celestial Bodies shall be open to representatives of other States Parties to the Treaty on the basis of reciprocity if reasonable notice of visit is given (Article XII).
Other International Treaties And Agreements Can Serve As Models

- International Telecommunications Union (ITU)
  - Administers geostationary orbital slots and frequencies for all satellite communication
ITU

- Geostationary orbital slots are akin to real estate.
- ITU assigns orbital slots – Two modes have been developed:
  - C Band – a posteriori (first-come first-served)
  - Ku and Ka band – a priori (allocated to countries).
- In neither case does the satellite owner own the orbital slot.
ITU

- First come/first served (no interference physically or electronically with existing satellites)
- Tremendous economic value
- ITU operates a special international organization
- Not permanent ownership or use
ITU

- A segment of space (orbital slots) has been allocated, bought and sold as a commodity.

- Companies finance, build, launch and operate satellites without any real property ownership in the orbital slots.
ITU

- Satellites and/or orbital locations have been swapped, sold and leased.
- Geostationary orbit has become its own economy.
Other International Treaties And Agreements Can Serve As Models

- The Antarctic Treaty System
  - Regulates scientific study
  - Provides guidelines for management operations
  - Guidelines for safety and rescue of humans
The Antarctic Treaty System

- Plans for tourism
- Environmental protection provisions
- Dispute resolution by negotiation, arbitration or International Court of Justice
- Fails to deal with mining of minerals
Other International Treaties And Agreements Can Serve As Models

  - Licenses and regulates mining of deep seabeds of the Earth’s oceans located more than 200 miles from a nation’s coast
UNCLOS

- Area and its resources declared “common heritage of mankind”
- Central International Seabed Authority to grant mining licenses to private parties
- Specialized tribunal to hear disputes
- U.S. failed to ratify and lost its provisional membership
U.S. Deep Seabed Hard Mineral Resources Act

Temporary measure to be used until a widely accepted Law of the Sea Treaty is created

Duty of reasonable regard for the interests of other states
U.S. Deep Seabed Hard Mineral Resources Act

- Use in line with international law
- Requires miners to apply for licenses and permits of limited duration
- Licenses require environmental protection and accident prevention
- Termination of permit if no activity
- Transition to international mining regime
Interim Solutions/ISS

- Each module of ISS is the sovereign territory of the registering country.
- Each partner or space agency retains jurisdiction over its infrastructure, crew, spacecraft, equipment, structures, and intellectual property developed on its module.
Interim Solutions/ISS

- Inventions are deemed to have occurred within the jurisdiction of the Partner State which registered the relevant element

- Disputes are adjudicated by the World Trade Organization or the International Court of Justice
Interim Solutions

- **Exclusive Economic Zones (EEZs)**
  - U.S. established EEZs, even though failed to ratify UNCLOS
  - Under UNCLOS, country may create an EEZ between its coast and 200 miles
Interim Solutions/EEZs

- Country has exclusive right to
  - Explore
  - Exploit
  - Conserve
  - Manage

the natural resources in this area, including the deep sea bed
Interim Solutions/EEZs

- Country may construct
  - artificial islands
  - installations
  - structures

- Cannot interfere with sea lanes or safety of ships
Interim Solutions/EEZs

- Other countries allowed to:
  - Navigate through the waters
  - Fly over the area
  - Lay pipelines or cables on the sea floor
Interim Solutions/EEZs

- Other countries **may not:**
  - Conduct research
  - Catch fish
  - Pollute
  - Take EEZ resources (unless emergency)
Interim Solutions/EEZs

- Country may grant licenses or permits to other nations to:
  - fish
  - use resources
  OR
  impose quotas or taxes to limit foreign fishing
Interim Solutions

Create Lunar Exclusive Economic Zones (LEEZs) In Space

- Build a structure or occupy an orbit
- Claim a small safety zone around structure or space craft as agreed by international parties

(similar to ISS or safety zones around drilling platforms on the continental shelf)
Interim Solutions/LEEZs

- Retain jurisdiction over a LEEZ and create regulations and permitting procedures for a LEEZ
- Establish an international organization similar to ITU or UNCLOS to manage the utilization of property and economic development of Moon
POSSIBLE FUTURE REGIME

International Governing Body or NGO to Administer Legal System:

- Develops guidelines for lunar exploration
- Issues licenses/permits for activities
- Addresses construction and mining operations
POSSIBLE FUTURE REGIME

International Governing Body or NGO to Administer Legal System:

- Coordinates habitation
- Manages accident liability
- Establishes a specialized space tribunal to resolve accident liability and legal claims
Thank You!

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