



## Secure World Foundation

### General Exchange of Views on Potential Legal Models for Activities in Exploration, Exploitation and Utilization of Space Resources

#### United Nations Committee on the Peaceful Uses of Outer Space

#### Legal Subcommittee

April 2019

Mr. Chairman, distinguished delegates, the Secure World Foundation welcomes this opportunity, as an Observer to this Committee, to offer its observations of the discussion on this agenda item. From the discussion at last year's session of this Committee, as well as views expressed this year, we are pleased that the conversation has moved past stark disagreements regarding the legality or illegality of using space resources. As we reflect upon various global space exploration programs and policies, it is fundamental to recognize that space resource utilization is a critical element of any sustained human presence in, or the development of, outer space. This Committee seems to accept that any advanced space activities, especially any long-duration human spaceflight missions, require that the resources at those destinations be harnessed and utilized; and, that such activity is, indeed, permissible.

It is likewise reassuring to hear that the correct phrases are being used. The first sentence of Article I of the Outer Space Treaty uses the phrase '*the exploration and use of outer space*' as the subject of its sentence. It stipulates that this 'exploration and use' shall adhere to two requirements: 1) that it shall be carried out for the benefit and in the interests of all countries; and 2) that these activities, 'exploration' and 'use', shall be the province of all mankind. Therefore, it is the *activity* of exploring and of using space, which is the province of all humankind, rather than the physical domain itself. Space, including celestial bodies, is not somehow the collective property of all humankind, nor is that what the treaty language says. Fidelity to the treaty language is of utmost importance as we continue discussions on how best to advance human spaceflight activities and the development of outer space.

Distinguished delegates, judging from the extensive discussions the topic of space resources has created, it is clear that there are a multiplicity of views regarding how best to approach the development of space resources. What organizational framework will assist humankind in accessing and utilizing these resources in a way which furthers the benefits from space exploration and development, yet does not infringe on the corresponding interests and the sensitivities of other actors in this activity, and – especially important to my organization – how this can be done in a sustainable fashion?

My organization notes with interest the Working Paper introduced by Greece and Belgium offering a proposal for the establishment of a Working Group for the development of an international regime for the utilization and exploitation of space resources. Consideration of such a proposal is of course in keeping with COPUOS's role as a key body for the discussion of international legal principles and approaches for space activities.

I appreciate the opportunity to again draw your attention to the ongoing important work being done by the The Hague International Space Resources Governance Working Group, of which Secure World is a Member. In September of 2017, the Working Group released its Draft Building Blocks for the Development of an International Framework on Space Resource Activities, followed by a year-long period in which the draft Building Blocks were open for public and stakeholder commentary which closed in October, 2018. The Working Group is now working to finalize the proposed Building Blocks, a process which it expects to complete in 2019.

In the view of the Secure World Foundation, these Hague Building Blocks set out the basic principles and topics that should be considered by any multilateral fora or *domestic authorities* in developing adaptive frameworks for the governance of space resource utilization. Indeed the Building Blocks developed by the Hague Working Group offer suggestions and discussion on most of the issues raised in Paragraph 29 of the Belgian and Greek proposal as deserving of priority treatment. We are pleased to see this alignment, and look forward to further consideration of the Building Blocks as they are finalized, and as COPUOS further reflects on the proposed Working Group on Space Resources.

Taking further note of the proposal by Greece and Belgium, we are pleased to see emphasis placed on inclusion of technical Expert Group input in their proposed Working Group. As the experience of the Hague group shows, governance of space resource issues requires an adaptive approach. Given the technical, scientific, and economic uncertainties inherent in space resource utilization, a rational and sustainable governance regime cannot be developed without inclusion of perspectives and information from the scientific, economic, policy and business experts in space resources.

We also applaud their included reference to the Working Group on the Long-Term Sustainability of Outer Space Activities. The LTS effort shows the value of *coordinated principles*, rather the sole reliance on hard law, as a tool in constructive approaches to the international governance of space activities. Relative to space resource activities, the development of *governance principles* can help to clarify a relationship to the four core treaties, and inform the coordination to the tenants of domestic law and regulation addressing space resources.

However, given how uncertain we are about how space resource activities will actually develop, this Committee might not want to begin negotiating a legally binding instrument in the abstract. Would this Committee draft laws before we know how, when, and even who will be accessing and harnessing space resources? Just as importantly, would new rules foster, or would they stifle and prevent, the peaceful development of space resources?

By way of comparison, Mr. Chairman, the Moon Agreement was negotiated when I was an infant; 40 years ago. It is clear that it did not assist or foster space exploration. Do we risk that again? COPUOS ought not to engage in international lawmaking before the activity to be regulated is performed for even the first time.

Mr. Chairman, distinguished delegates, in conclusion, we look forward to further discussions on this important topic, and appropriate and competent action when the day arises.

Thank you for your kind attention.

Secure World Foundation

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