



Policy Brief

A Comparative analysis of the Hague International Space Resources Governance Working Group Building Blocks for the Development of an International Framework on Space Resource Activities released in November, 2019 and the Executive Order Encouraging International Support for the Recovery and Use of Space Resources signed by President Donald Trump on April 6, 2020

Overall purpose of each document, from tone and language

Both documents call for moving ahead with space resource activities and highlight safety and legal certainty as important elements for space resource recovery and use. However, the documents are written from differing perspectives or “tones”.

The recent [White House Executive Order \(EO\)](#) is intended to establish a position of leadership in resource utilization and to organize efforts on a case-by-case basis with like-minded states that support private participation. The [Building Blocks](#) document suggests the creation of a global framework that benefits humankind, and considers the interests of all nations, especially those of developing countries.

The Moon Agreement, Heritage of All Humankind, and Global Commons

The Executive Order rejects the [Moon Agreement](#), which intends to create a global regime for space resource utilization and declares that the Moon should be used for the benefit of all humankind. Formally discarding the Moon Agreement is an important step for the United States because it helps deter arguments about that treaty being customary international law, a concept that can be subjective and interpreted in different ways and to different purposes. The EO reassures private companies that they can conduct space resource activities without a global governance framework, such as the one proposed in the Moon Agreement, managing them. In addition, the U.S. rejects the notion that outer space is a global commons, further reassuring individuals wanting to conduct space resource activities that they would not be subjected to global management that makes sure their activities are shared with all the nations of the world.

While the Building Blocks document does not mention the Moon Agreement or the concept of “heritage of all humankind,” the global approach it proposes nevertheless does rely on the overall direction of that treaty. For example, the document proposes an international framework that governs resource activities, and supports equality among countries. The

Moon Agreement uses language such as “States Parties to this Agreement hereby undertake to establish an international regime... to govern the exploitation of the natural resources of the moon” and says the regime must include “the rational management of space resources”. The agreement also has language that supports equity, e.g. “An equitable sharing by all States Parties and the benefits derived from those resources, whereby the interests and needs of the developing countries, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration”.

The Building Blocks also includes language such as “space resource activities shall be carried out for the benefit and in the interest of all countries and humankind irrespective of their degree of economic and scientific development”. Among the benefits they propose sharing with humankind there is access to and exchange of information and the establishment of an international fund. The Building Blocks do mention that the international framework they propose should not require compulsory monetary benefit-sharing, but does say benefit-sharing should be encouraged.

As a more detailed document, the Building Blocks addresses items that the EO does not address. This is because those items are not part of the EO’s immediate objective and because the intention of the EO is to avoid constraining resource utilization efforts:

- The Building Blocks mention the attribution of rights to an operator (company, government entity) to search for and/or recover space resources for a specific period of time and a maximum area upon registration in an international registry;
- The Building Blocks talk about avoiding and mitigating potentially harmful impacts resulting from space resource activities and address liability in case of damage resulting from space resource activities;
- The Building Blocks address mechanisms for settlement of disputes; and finally,
- The Building Blocks call for the establishment of a publicly available international registry for registering priority rights of an operator to search and/or recover space resources and the establishment of an international database for making publicly available notifications of safety measures, best practices, list of designated and internationally endorsed outer space natural and cultural heritage sites.

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