

## ABSTRACT

**TITLE OF PAPER:** Property Rights in Space: Harmonizing commercial space interests with the visions of the United Nations

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Working out internationally accepted rules for the use of lands beyond Earth is today one of the most crucial issues facing us. In the “Outer Space Treaty”, the UN declare space to be “the province of all mankind”. The “Moon Treaty” elaborates that it cannot be someone’s property. To some, this is a major road block preventing us from doing business in space, limiting our freedom and imposing Earth bureaucracy to the free realms of the universe. To others, it’s a very beautiful principle, and a mark against the idea of exporting old territorial thinking to new worlds.

In Europe, the visions of UN are often met by big respect. In Sweden, for example, we have a unique rule called the “Rights of Common Access”. It says that every citizen has the right to move freely across the countryside, even if it’s privately owned land. You can buy, own and use your real estate, but it’s for everyone to enjoy. This rule shares the principle of nature as our common heritage, though they differ in respect of ownership. By open our eyes to such wider, international perspectives, we may find ways to merge UN:s noble vision with our commercial interests - without creating hindering regulations, but also without violating current UN treaties.

Consultations among European scientists, lawmakers and cultural workers undertaken by our organization during the last few years indicates a wide support for at least two basic principles. The first principle stipulates that since the worlds of space are not American territories or jurisdictions, you cannot refer to American law and constitutional rights when defining property rights beyond Earth. Even when a lower court indeed makes a ruling in favor of a real estate claim in space, it’s worthless if not recognized and respected by the international community.

The second principle is that a minimum requirement in any land claim should be that you or your organization physically must have been there, in person or represented by a spacecraft. This might actually speed up the *real* development of the space frontier - in order to own land in space, you must first go there. Naturally, any such claims must also be limited in size. You can’t sit behind a desk on Earth and claim ownership of entire worlds. This is a fundamental principle ruling out all claims for the Moon, asteroids & other worlds so far made.

However, these principles do not solve the fundamental differences between UN:s vision and the space entrepreneur – ownership. But is formal ownership really a prerequisite of private enterprising in space? From the wider perspective we call for, it’s not. Territorial thinking - the idea that you shall conquer your own land, owning it and defending it, is a remnant from our animal and humanoid ancestry, where it was necessary for our survival to guard our territories.

On the space frontier, this type of territorial thinking seems hopelessly out of date. While many entrepreneurs now work to expand our Earth systems to new worlds, many others feel it would be a big mistake. The human civilization is coming of age. We are not a thousand fighting tribes anymore, but a growingly interdependent, globalized world community. When we establish ourselves as a multi-world civilization, it’s time to leave our primitive past behind and come up with more mature systems better reflecting our new role in the cosmos.

The UN vision of space as our common heritage is not only a beautiful principle. It could also ensure our future in space is peaceful. The new rules we need to stimulate off-Earth business should not oppose this principle, but rather go hand in hand with it. And they can, because the crucial issue for space entrepreneurs is not the ownership issue, but the commercial usage of the land and its resources. Thus, the solution we now call for is an international rule, written or unwritten, which meets these needs without giving up the noble principles set forth by the UN:

1. The Moon and all other extraterrestrial lands remains the common heritage of all mankind, and formal ownership of these lands are not legally possible. They are mankind's joint property.
2. Although ownership is not possible, the person or entity first reaching an extraterrestrial land (for example by sending a spacecraft), will gain the exclusive rights to use this land, wisely, including the rights to build on it, to use its resources, and to sell & trade it. The standard size of land to which you can gain the rights, has to be agreed upon in advance. You can not gain the rights to whole worlds, except for smaller asteroids whose size do not exceed the agreed limit.
3. Referring to the Swedish Right of Common Access, you can not forbid access by others. "All mankind" has the right to access all its lands, wisely and without removing its resources.

In reality, this system gives the space entrepreneur most of rights he would have through an regular ownership. The difference is that this system does not oppose the UN principles, and none of the existing UN treaties needs to be violated or renegotiated. Other Treaty paragraphs, such as "*resources derived from the Moon shall be of benefit to all Mankind*", are already today so broad they are not contradicting commercial use. Indeed, in the long term it's pretty clear the opening of the space frontier will be of benefit to all mankind.

The solution proposed here is more similar to renting than owning. Some have also suggested that the legal rights to use lands on the Moon could be sold, and that the incomes could go to various worthwhile purposes in developing countries. This is one option with would fit nicely into UN:s vision. However, to speed up the more long-term benefits of space development, and to avoid too much burecracy, the alternative is simply a quick registration process handled by a new or exisiting space authority, for example the OOSA in Vienna, which would serve as the "international regime" mentioned in the Moon Treaty, article 11, paragraph 5.

This type of win-win solution might be the only quick way out of the current legal dilemma. Ignoring existing UN treaties would create too much opposition and no ownership claims would be globally recognized. gotiate the treaties would take too long time, and there is no guarantee the nations of the world would ever be able to agree. The proposal presented here, however, doesn't change anything fundamental, and could therefore be implemented on the space frontier nearly instantly – even if initially only as a set of common practises, mutually adopted by all involved parties prior to any international agreement.

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