

Statement by the Board of Directors *
Of the International Institute of Space Law (IISL)
On Claims to Property Rights Regarding
The Moon and Other Celestial Bodies

Claims to own the Moon or parts thereof by private parties have been made for many years, but so far such claims have not been taken very seriously. However, this could change, as “deeds to lunar property” have started to appear, raising the opportunity for individuals to be misled. In addition, the scope of such claims has been extended recently to other celestial bodies. Thus, the Board of Directors of the International Institute of Space Law (IISL) has concluded that there is a need for a statement regarding the current legal situation concerning claims to private property rights to the Moon and other celestial bodies or parts thereof. While this issue is only a small part of a much broader context surrounding private sector activities on the Moon and other celestial bodies, this statement is limited only to the topic of claims to private property rights to the Moon and other celestial bodies or parts thereof.

Article II of the 1967 Outer Space Treaty states that “Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” The object and purpose of this provision was to exclude all territorial claims to outer space, including the Moon and other celestial bodies. As of March 2004, the Outer Space Treaty has been ratified by 98 nations, and signed by an additional 27 countries.

Article VI of the Outer Space Treaty provides that “States bear international responsibility for national activities in outer space, including the Moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities”, that is, private parties, and “for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty”. Article VI further provides that “the activities of non-governmental entities in outer space, including the Moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty.”

Therefore, according to international law, and pursuant to Article VI, the activities of non-governmental entities (private parties) are national activities. The prohibition of national appropriation by Article II thus includes appropriation by non-governmental entities (i.e. private entities whether

individuals or corporations) since that would be a national activity. The prohibition of national appropriation also precludes the application of any national legislation on a territorial basis to validate a 'private claim'. Hence, it is not sufficient for sellers of lunar deeds to point to national law, or the silence of national authorities, to justify their ostensible claims. The sellers of such deeds are unable to acquire legal title to their claims. Accordingly, the deeds they sell have no legal value or significance, and convey no recognized rights whatsoever.

According to international law, States party to a treaty are under a duty to implement the terms of that treaty within their national legal systems. Therefore, to comply with their obligations under Articles II and VI of the Outer Space Treaty, States Parties are under a duty to ensure that, in their legal systems, transactions regarding claims to property rights to the Moon and other celestial bodies or parts thereof, have no legal significance or recognised legal effect.

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Note: Notwithstanding matters covered in the above Statement, the Board of Directors of the IISL recognises that other private activities on the Moon and other celestial bodies are permitted. Article VI of the Outer Space Treaty affirms that non-governmental entities, including private individuals, companies, and organizations, have the right to conduct activities in space in accordance with international space law, and subject to the authorization and continuing supervision of the appropriate State Party. The IISL plans to convene a Workshop to explore issues regarding the relationship of government and private sector in space.

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** The views expressed in this Statement represent a consensus of the Members of the IISL Board of Directors acting in their personal capacity, and do not necessarily reflect the views of any entities with which they may be affiliated.*