

National Center for Remote Sensing, Air and Space Law

Informational resources on the legal aspects of human activities using aerospace technologies

Promoting Access to, and Exchange of, Data and Information Related to Climate Change: a Legal Perspective

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**Legal Implications of Space Applications for Global
Climate Change**





The Context

- **Technologies and practices related to climate change are developing much more quickly than the law**
 - Law is, by design, reactive
 - Technology is, by intent, proactive
 - Practices are, of necessity, responsive and evolutionary
- **Climate transcends all organizational elements of legal institutions, jurisdictions, and competencies**
 - In short, complex





The Collection Landscape for Climate Change Data Sources

Space - Based

Environmental, weather, remote sensing, navigation satellites

Aerial

Aircraft, balloons, sondes, etc.

Other in-situ

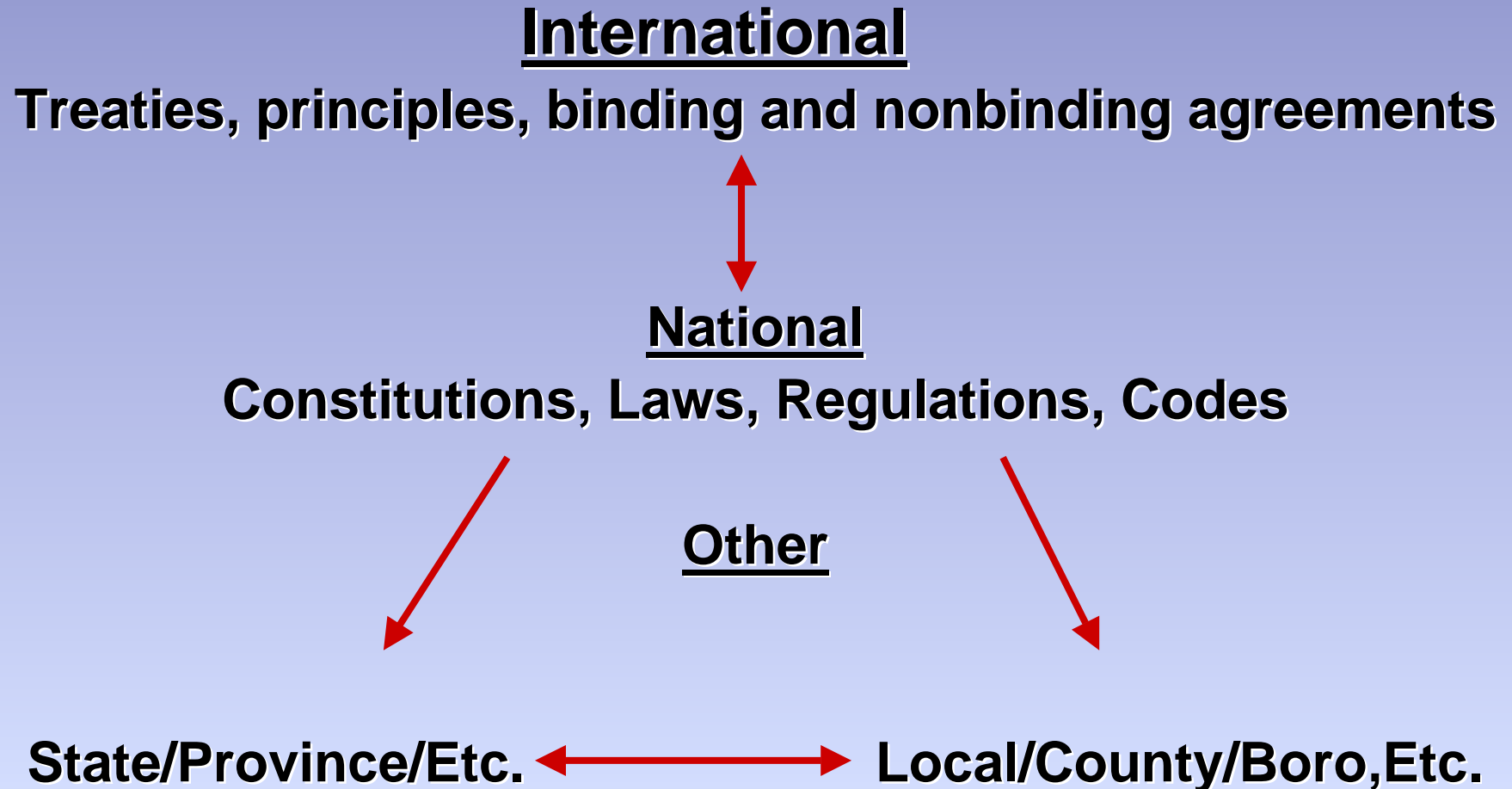
Ground-based sensors, buoys, CTDs, human-made measurements



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The Legal Landscape for Data





Wide Variety of Law, Policy and Guidelines

- **Kyoto Protocol**
- **Principles Relating to Remote Sensing of the Earth from Outer Space**
- **WMO Resolution 40**
- **Montreal Protocol**
- **Agreement Between US NOAA and EUMETSAT on Joint Transition Activities Regarding Polar-orbiting Operational Environmental Satellite Systems**
- **Disasters Charter**
- **Group on Earth Observations Data Principles (in Progress)**

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Access and Exchange Strategies

- **Short -term**
 - **Strengthen coordination and communication among data providers**
 - World Data Centers, WMO, US NSLRSDA, etc.
 - Build on scientific conventions of openly publishing and certifying data sets
- **Medium - term**
 - **Distinguish between scientific and commercial (however defined) value of data**
 - Typically, commercial value decreases over time as scientific value increases
- **Long - term**
 - **Establish and maintain open archives**





Promote Access and Exchange: Presumption of Openness

- **Institutionalize presumption of openness**
 - Generally, this is starting point of existing laws and policies
 - Include specific open access language in all agreements
- **Recognize need for some legitimate exceptions:**
 - Personal privacy
 - Indigenous rights
 - Conservation and protection of sensitive ecological, archaeological, or cultural resources
 - Confidentiality
 - National security
 - Propriety interests





Presumption of Openness

- **Exceptions ought to be adequately clear and limited**
 - Ought not outweigh the presumption
 - Place “sunset clauses” on periods of restricted access
 - Specific date restrictions end
- **Require attribution of all significant data and information sources**
 - Encourages participation
- **Harmonize and clarify inconsistent definitions**
 - “remote sensing”, “raw data”, “value-added”, etc.
- **Publish relevant laws in open, accessible sources**





Legal Trends for Satellite Data

- **Access to data is presumed norm with exceptions for national security**
 - Number and kind of exceptions are growing world-wide
- **Medium to low resolution data more openly available**
 - UN Principles on Remote Sensing and nondiscriminatory access routinely acknowledged
- **High resolution data access more restricted**
 - UN Principles on Remote Sensing and nondiscriminatory access more narrowly construed in national laws



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**Questions?
Comments?**

