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
The Legal Landscape for Data

**International**
Treaties, principles, binding and nonbinding agreements

**National**
Constitutions, Laws, Regulations, Codes

**Other**

State/Province/Etc. ↔ Local/County/Boro,Etc.
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)
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
Questions?
Comments?