Is a New Look Necessary in the Age of Exploration and Exploitation?

The views expressed in this presentation are those of the speaker and do not necessarily reflect the official policy of the U.S. Government or any agency or department thereof.

Susan Trepczynski
LL.M., Air and Space Law
23 March 2009
OVERVIEW

• Introduction
• Exploration – The Moon and Beyond
  – Governmental Agencies
  – Commercial Ventures
• From Exploration to Exploitation
  – The Next Step for Space Activities
• Legal Framework
  – Current Regime
  – Legal Challenges
• The Future
INTRODUCTION

• Status of Moon Treaty
  – Extremely limited acceptance
    • 13 ratifications (none by major space powers)

• Lack of Action by States Parties
  – No movement to establish international regime
    • Art. 11(5): As exploitation is “about to become feasible”
  – No review of Treaty by General Assembly
    • Art. 18: Ten years after entry into force

• Fundamental Changes in Space Activities
EXPLORATION

• NASA
  – Vision For Space Exploration
  – Constellation Program

• Other National Space Agencies
  – Demonstrated interest in expanding exploration

• The Global Exploration Strategy
  – Joint work of 14 space agencies
  – Drafted Framework for Coordination
    • Focus on sustained human presence in space
    • Primary targets: Moon, Mars, near-Earth asteroids
    • Recognition of expanding role of industry/commerce
EXPLORATION

• Government Support of Commercial Space
  – Commercial Crew and Cargo Program (C3PO)
    • Commercial Orbital Transportation Services (COTS)
    • ISS Commercial Resupply Services
  – Prizes/Innovative Partnerships
    • Centennial Challenges

• Independent Commercial Space Ventures
  – Space Tourism
  – Other Emerging Industries
EXPLOITATION

• The Next Logical Step for Space Activities
  – Need to move beyond exploration to exploitation
    • Proven ability to explore
  – Limits to exploration led by space agencies
    • Fundamental nature of government programs
    • Fiscal/budget concerns and constraints
  – Exploitation a key to further development
    • Increased economic opportunity/incentive
• Current Regime
  – Solid framework of broad principles
  – Focus on exploration (by states)
  – Product of a different time/political environment

• Legal Challenges
  – Building on and clarifying existing framework
    • Identifying proper (most efficient) forum
  – Anticipating shift from exploration to exploitation
    • Public vs. private
  – Recognizing needs of private/commercial actors
  – Encouraging investment and innovation
THE FUTURE

• Trends
  – Government/commercial space partnerships
  – Multinational/international cooperation and projects
  – Expansion of commercial space sector
  – Shift from exploration to exploitation
    • Establishing permanent human presence in space

• Legal Needs
  – Well-defined foundational laws
    • Minimize ambiguity
    • Responsive to new trends and realities
    • Settle ongoing debates (provide legal certainty)