Canada

Agenda Item 8 –General exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources.

Delivered by: Curtis Schmeichel, Global Affairs Canada

Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Sixty-fourth session, Vienna, May 5-16, 2025

Chair,

Thank you for the opportunity to share Canada's views on this topic. We wish to thank the Vice Chair of the Working Group, Steven Freeland, for his diligent work developing the draft set of recommended principles on space resource activities which represent a positive and concrete step on this important matter.

Article I of the Outer Space Treaty establishes that the use of outer space, including the Moon and other celestial bodies, is open to everyone. The right to use outer space includes the right to use resources located in outer space, which are available for use by anyone engaging in the peaceful exploration and use of outer space in accordance with international law.

The use of space resources also includes the ability to consume such resources. This is the point of uncovering most resources, to incorporate or transform them into structures or fuel; consuming them in the process. Doing so is consistent with the right to use outer space resources and does not contravene the non-appropriation principle in Article II of the Outer Space Treaty. There is a distinction between use and appropriation; use, including consumption, is permissible so long as it is not exclusive. No one State or person can monopolize or keep resources in place for their exclusive use. Once again, Article I of the Outer Space Treaty makes it clear that outer space, including the Moon

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and other celestial bodies, which include in-situ resources, are available to be used and explored by everyone.

However, the freedom to use space resources cannot be a licence to be reckless with resource utilization or to disregard the interests of other States Parties to the Outer Space Treaty. Safety and sustainability of outer space activities, including space resources activities, is of great importance. This is crucial for ensuring respect for the principle in Article I of the Outer Space Treaty that the exploration and use of outer space be carried out for the benefit and in the interests of all countries irrespective of their degree of economic or scientific development. The challenge is to identify principles and practices that enable safe and sustainable space resource activities, without hindering the development of technical means to do so or the feasibility of such activities.

There are existing models of resource management that can give us some ideas of what to do and what not to do. Some models focus on avoiding interference and conflict, while remaining mostly silent on regulation of the economics and the purpose of the activity. The ITU is an example of such a model. It has been relatively successful at regulating the radiofrequency spectrum on Earth and in space, along with the orbital slots associated with the use of those radiofrequencies.

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There are also other models that are more prescriptive, requiring detailed regulations for different phases of the activity. The International Seabed Authority employs such a model. The legal foundation for the Seabed Authority was developed well in advance of the commencement of seabed mining. It also split its regulatory framework; developing regulations for the prospecting and exploration phase of operations before it moved on to regulations for the extraction phase. This model, which includes a benefit sharing regime, is more detailed than other models and current work on the exploitation regulations has seen very slow progress. As a result, the regulatory framework to enable commercial exploitation of seabed resources is not yet complete, even though such activities are ready to begin.

In addition to the existing regulatory models, there are also examples of principles that guide activities. These are non-legally binding but serve to provide some structure to the activity during its initial stages. Indeed, space law began with the elaboration of non-legally binding principles, which later became the basis for the space treaties. In the field of space resource activities and deep space exploration, there are already some early examples such as the Hague Building Blocks for the Development of an International Framework on Space Resource Activities and the Artemis Accords. Such principles can

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also make a useful contribution to the discussion on legal models for space resource activities.

Chair, Distinguished delegates,

There is no perfect model that can simply be copied and used to manage space resources. That means the international community is free to create the most suitable model by learning from the successes and failures of others. It is important to keep in mind while addressing the topic of legal models for space resource activities that such activities are not guaranteed to occur. Space resource utilization is not yet feasible. There are still significant technological hurdles to overcome. Space resource activities will only become a reality, and humanity will only reap the benefits, if the framework developed for such activities is practical, encourages innovation, and creates the conditions necessary for it to thrive in a safe and sustainable manner.

Thank you