

Who Owns the Moon and its Resources?

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Over a quarter century ago I purchased a “Lunar Deed” from Dennis M. Hope for the purchase of 10 (ten) sercas (approx. 1,777.58 acres) on the lightened Lunar surface (lot number 098). This deed is recorded in the Lunar Embassy, located in Rio Vista, California, United States of America.

After all this time and the new “race” to establish permanent human presence on the Moon – I was wondering who really “owns” the Moon?

Asking chatGPT I got the following answer which I could verify and augment with the inserted references:

The Outer Space Treaty of 1967 [1], which has been ratified by 110 countries, including the United States, Russia, and China, prohibits any nation from claiming ownership of any celestial body, including the Moon. However, it does not prohibit private individuals or entities from doing so. This is where Hope's legal argument comes in. He argues that since the treaty does not explicitly forbid private ownership of the moon, it is legally permissible to do so.

Yet, the treaty allows for exploration and use of outer space and celestial bodies for peaceful purposes, such as scientific research. This means that countries and private entities can send missions to the Moon and conduct scientific activities, but they cannot claim ownership of any territory.

Additionally, the Moon Agreement of 1979 attempted to extend the Outer Space Treaty to prohibit any exploitation of the Moon's natural resources without the equitable sharing of benefits among all nations. It turns jurisdiction of all celestial bodies (including the orbits around such bodies) over to the participant countries. Thus, all activities would conform to international law, including the United Nations Charter. [2]

However, only 18 countries have signed the agreement, and none of the major spacefaring nations, including the United States, Russia, and China, have signed it. Therefore, the Moon remains unowned and open to exploration and peaceful use.

In addition, the Outer Space Treaty of 1967 does not address the specific issue of resource exploitation.

In 1984, the UN attempted to plug the Outer Space Treaty loophole, by introducing the “ill-fated” Moon Treaty. That treaty forbids the exploitation of extraterrestrial resources (which includes ownership) for anyone, also individuals and corporations. The only problem is, that when it was up for vote, out of 185 UN Member Nations, only six supported it. The vast majority of Member States refused to sign it and did not sign it. [3]

In 2015, the U.S. Commercial Space Launch Competitiveness Act [4] stated that U.S. citizens or companies could "possess, own, transport, use, and sell" resources obtained from celestial bodies such as the Moon, without specifying how this would be in line with the Outer Space Treaty.

Other countries such as China and Russia have expressed their opposition to the U.S. law, and discussions are ongoing within the international community on how to address the issue of resource exploitation in a way that is consistent with international law and the principles of peaceful cooperation in space.

European and German Situation

European companies are not subject to the UN treaties on space. However, the Outer Space Treaty obliges states to authorize and constantly monitor private space activities and generally to ensure that

such activities also comply with international law. This is best facilitated by national law which is not ratified in Germany yet.

Unfortunately the EU lacks the competence to harmonize this for the countries within the EU. The article 189 of the Treaty on the Functioning of the European Union [5] excludes any harmonization of the legal provisions of the Member States in the field of space exploration.

Chinese and Russian Situation

In the case of the Moon, this is regulated much more clearly for China [and Russia]. The three most important countries in the world have signed the agreement. The UN Outer Space Treaty was passed in 1967 and signed by 110 countries, including the USA, China and Russia. The treaty clearly states that no other planet can be occupied by a country, nor can the mineral resources there be claimed by any earth country. So the moon or parts of the planets cannot become American, Russian or Chinese. "There are no loopholes," says Kai-Uwe Schrogl, President of the International Institute of Space Law (IISL) in The Hague, Holland. "Anyone who does not comply is breaking international law." But international law is often still the law of the strongest. In this respect, the world community should take a close look. [6]

Coming back to Dennis Hope's selling property on the Moon according to the homesteading claims act, which was granted to Hope by American officials, it is important to note that many legal experts dispute the validity of Hope's claim.

While the Outer Space Treaty does not explicitly forbid private ownership of celestial bodies, it also does not provide any legal basis for such ownership. The United States however, have passed laws explicitly enabling individuals from claiming ownership of celestial bodies' resources [3], which are disputed by China and Russia.

As soon as profitable return of resources from the Moon becomes reality, international lawyers will have a field day with a predictable outcome: The law of the strongest will prevail.

So, my property on the Moon currently is nothing else than a "novelty gift" without practical value – however Dennis Hope became rich with this kind of "moon-minig".

References

- [1] https://en.wikipedia.org/wiki/Outer_Space_Treaty
- [2] https://en.wikipedia.org/wiki/Moon_Treaty
- [3] <https://web.archive.org/web/20210306171853/https://lunarembassy.com/buying-land-on-the-moon-faq-lunar-embassy>
- [4] https://en.wikipedia.org/wiki/Commercial_Space_Launch_Competitiveness_Act_of_2015
- [5] https://en.wikipedia.org/wiki/Treaty_on_the_Functioning_of_the_European_Union
- [6] <http://www.oushinet.com/static/content/germany/Beobachter/2023-02-27/1079722929207513088.html>
- [7] <https://www.baunetzwerk.biz/bauen-auf-dem-ond>



Specifically, Komatsu is developing a digital hydraulic excavator in space and comparing its movements with those of construction machinery on Earth to check how accurate the simulation is. [7]