Regulating Space Mining: use a system that works

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ABSTRACT

This presentation discusses the need to provide legal certainty over rights to prospect, explore and mine space resources, which under existing treaty agreements cannot be subject to nation state sovereignty. The Hayabusa2 probe was launched in December 2014 and it took six years to recover samples from asteroid Ryugu and return them to Woomera. No investor will undertake an expense like that without enforceable legal rights to exploit a valuable resource that its probe identifies.

Analogues from the attempt to have a treaty regime for mining in Antarctica and the UNCLOS III treaties for Deep Seabed mining, where an international authority regulates any mining have not been workable solutions. An individual nation state regime cannot provide the legal certainty investors will require without the backing of and international agreement. The best analogue for space mining is good national state regulation of mining on Earth, backed by international agreement to provide clear titles to prospect, mine and explore in return for compliance with internationally agreed standards of regulation and payment of royalty to an internationally administered fund to satisfy the benefit to all mankind.

The very large investments needed to prospect, mine and explore space resources require a clear title and regulatory regime. There are profound benefits for the whole of mankind in unlocking and sharing the value of space resource. But an inadequate regulatory regime risks disputes over mine sites and ownership of resources which might involve nation state conflicts and the risk of poorly skilled and resourced miners causing a major accident such as a catastrophic collision of an asteroid with Earth.

References can be found in Cannon, A "The Great Space Rush: Regulating Space Mining", the *Australian Resource and Energy Law Journal,* (August 2020) Vol 39(1) pp 1-17.