

## **Governance Without a New Government: A Model Resource Agreement**

[Slide 1- Intro]

Hello, my name is Dennis O'Brien. I'm a lawyer and founder of the Space Treaty Project, a scientific and educational nonprofit based in northern California. Our mission is to give people hope and inspiration by helping the nations of Earth to build a common future.

[Slide 2 – Historical Crisis, Imperialism]

I started the Project in 2017 because humanity is approaching a historical crisis as it prepares to leave the home world, when just a slight shift can have a major impact for centuries. The closest historical example we have is the Age of Imperialism that began in the late 15<sup>th</sup> century and lasted all the way through the 20<sup>th</sup>. That period was marked by seemingly endless war, violence, and neglect as the world's Great Powers competed for limited resources and political hegemony, culminating in a Cold War that pitted blocks of nations against each other. It was also marked by the rise of economic interests, mostly corporations chartered by their governments, who sought exclusive control over resources to maximize their profit and power.

[Slide 3 – Blocks]

Anyone who has been following the developments in outer space knows that we are on the verge of repeating the same pattern. There are already two blocks forming, one based on the United States and its Artemis mission partners who have signed the Artemis Accords, and another based on a partnership between Russia and China for building an International Lunar Research Lab. As with the Cold War, there is also a large group of non-aligned countries with growing space capabilities, with India leading the way. Also like the Cold War, the United Nations and much of civil society are working to find ways to secure the benefits of outer space for all without destructive conflicts and exclusive monopolies.

[Slide 4 – COPUOS Mandate]

Most recently, UNOOSA's Committee on the Peaceful Uses of Outer Space (COPUOS) has created a Working Group on Legal Aspects of Space Resource Activities, with a mandate to "assess the benefits of further development of a framework for [space resource] activities, including by way of additional international governance instruments."

[Slide 5 – Model Agreement Principles]

Since 2017, the Space Treaty Project has been working on such an instrument, a Model Resource Agreement for the Moon Treaty that will support private space resource activity while protecting essential public policies. After extensive peer review and public

comment, we have developed a 10-paragraph Agreement that is based on four organizational principles:

1. The Agreement must be **comprehensive** in scope and **support all private activity**.
2. **The Grand Bargain**: Trade private property rights for public policy obligations.
3. **Build upon and integrate** current institutions and processes.
4. **Defer** issues currently at impasse (e.g., monetary sharing of benefits) for future action by the States Parties.

For those who don't like the Moon Treaty, the Model Agreement can also stand on its own or be integrated into another document with minor changes. It was designed to provide the minimum governance necessary for the development of outer space resources, without establishing a new supra-national government like the one in the Convention on the Law of the Seas. **It is only by international agreement that we can achieve polycentric governance without a new government.**

[Slide 6 – Share Resources]

The most important component of the Agreement is the requirement for all countries, including their nationals, to share outer space resources. This is done by sharing access to resources in place (in situ) and by conducting all space resource activity in such a manner so that others can safely access the same resources. Note that resources include the land itself. There are only so many peaks of eternal sunlight and other useful locations. This commitment to sharing will avoid exclusion zones while supporting the principles of free access and nonappropriation that are enshrined in Articles I and II of the Outer Space Treaty. It will also support private resource activity, as any resources removed from in place become the property of whoever did the work, subject to their own national laws. This is the Grand Bargain: private entities are granted private property rights in return for abiding by the public policies that will make space resource activity work for all.

[Slide 7 – Obligations]

What are those public policies obligations? The Model Agreement identifies 10 of them, six of which involve sharing information. All but three are in the Outer Space Treaty. The first of those is to inform the public of the use of radioactive materials. The second is the protection of historic landing sites. The Model Agreement calls for protecting sites from the year 2000 or earlier until the States Parties establish a process for evaluating individual sites.

The other obligation that is not in the Outer Space Treaty, but explicitly stated in the Moon Treaty, is to share information about the discovery of resources. Some consider such discoveries to be scientific discoveries that must be revealed anyway, while some argue that such discoveries by private entities are proprietary information, and that requiring them to be shared would threaten the economic sustainability of private commerce in outer space. But if access to outer space resources must be shared, then

keeping such discoveries confidential has no monetary value, as it cannot form the basis of an exclusive claim. Keeping the discovery of resources secret will not benefit any one private entity, whereas sharing the information will help all of humanity.

[Slide 8 – Other Components]

The Agreement also addresses related activities, such as registration, dispute resolution, and the rights of individuals and settlements. We do not have the time to discuss them in detail. For more information on these subjects, please go to our website, [www.spacetreaty.org](http://www.spacetreaty.org).

[Slide 9 – Summary]

In summary, there is an increasing need to establish an international framework for outer space resource activity that will support private activity while still protecting essential public policies. COPUOS has already created a working group to consider enhanced governance. It is possible to establish polycentric international governance without creating a new supra-national government. The Model Resource Agreement does that, either as part of the Moon Treaty or, with minor changes, as a stand-alone document. Without such an agreement, we risk repeating the mistakes of the Age of Imperialism, with all of its harmful consequences for humanity.

[Slide 10 – Our Mission]

These are challenging times: Every day, people wake up to news of the disastrous effects of climate change, worsening economic inequality, racial/gender injustice, assaults on democracy, and international conflicts. To that has now been added the threat of war in outer space.

The people of Earth are beginning to despair, wondering if there is anything they can really believe in. They are losing hope, and the resulting cynicism is poisoning our politics, our relationships, even our own thinking.

Our mission must be nothing less than to restore that hope, to inspire humanity by giving the people of our planet a future they can believe in. To counter the despair of war and violence and neglect. To build that shining city on a hill that will light the way for all.

For the full Model Agreement and a link to the Share the Moon petition, go to [spacetreaty.org](http://spacetreaty.org), or email [dennisobrien@spacetreaty.org](mailto:dennisobrien@spacetreaty.org).

Thank you for your time and consideration.