Searching for ‘Just Right’
Options for Regulating Space Activities on Celestial Bodies

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Introduction

• Increasing activity in relation to celestial bodies
• Need for ‘soft law’ options
• ‘Hard law’ vs. ‘soft law’
• Role of law in space
• Fundamental principles
• Proposals
  – Code of Conduct
  – Model law
  – International Regulation
  – Treaties
‘Hard’ vs. ‘Soft’ Law

• Hard
  – Traditional approach
  – Treaties
  – Peremptory norms – *jus cogens*
  – Binding – ‘hard’ language

• Soft
  – Nuances
  – Declarations, Codes of Conduct, etc
  – Not binding in ‘hard’ sense – ‘soft’ language
  – Possible catalytic effect
Role of Law in Space

- Law should *follow* the development of technology, not *lead* it.
- Consider development of human activities in space.
- Law must seek to encourage development – may be stifled by over-regulation.
- Imagination is for Engineers, not Lawyers (in relation to technology...).
Principles

- Freedom of use and access for all persons
- Equal rights for all States to access outer space and the celestial bodies
- The prevention of ‘appropriation’ and claims of sovereignty (…while protecting rights of prospectors, scientists and explorers)
- Use of celestial bodies for peaceful purposes
- Protection of astronauts as the ‘envoys of mankind’ (perhaps with an extensive safety regime)
- Protection of the space environment
- Freedom of scientific exploration
Proposals

• Code of conduct
• Model law
• International regulator
• Treaty options