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RETHINKING THE PRIVATE PROPERTY IN OUTER SPACE.

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This paper presents an analysis of Article II of the Outer Space Treaty - OST in its juridical and political context (policies); and how the prohibition of appropriation of outer space may be an obstacle for the development of lower cost and more responsive space systems.

The non-appropriation of outer space by any State or natural persons is a principle that has no discussion in International Law; it has become a norm of *ius cogens* or mandatory commitment. Since the 1963 Declaration of Legal Principles Governing the Activities of States in the Exploration and Uses of Outer Space, followed by the Article II of the Outer Space Treaty and finally, Article XI of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, the idea of not change the norm has been consistent. But, if main driver of human exploration has been the desire by acquisition of real state or private property, is difficult not to do a question: How will be the last frontier (outer space) conquered without implementing this right? And then, is it necessary to rephrase Article II of the OST, to encourage the private exploration of outer space in the next decades?

We try to establish with this paper, that to achieve more participation of private industry, it is necessary to amend Article II of the OST, and allow the appropriation of some areas of outer space like asteroids, some sections of the moon, and even areas of empty space, reinventing the space for future generations.