### 1AR – T Appropriation

#### 1] We meet – SREU grants authority for private appropriation of space and CIL suggest removed in situ resources are still part of celestial bodies.

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Furthermore, state practice relevant to the question of property rights under the OST goes beyond these examples and analogies of ownership of resources taken from commons. State practice regarding property rights in general must be considered. For example, Professor Fabio Tronchetti disagrees with the oft-cited notion that state practice affirms the SREU Act.

214 According to the professor, “under international law, property rights require a superior authority, a State, entitled to attribute and enforce them.”215 By granting property rights in the SREU Act, the United States impliedly claims that it has the authority to confer property rights over space resources—an authority traditionally reserved for the owner of a resource. This notion clashes with the nonappropriation principles of the OST. Though there is no consensus regarding whether the nonappropriation principle prohibits claims of sovereignty over resources, a strong consensus at least exists that the principle prohibits states from claiming sovereignty over real property in space.216 In some traditional systems of mineral ownership, however, ownership over resources ran with ownership over land.217 For example, under Roman law, property rights over subsurface minerals belonged to the landowner.218 Thus, if the United States cannot have title in space lands under the nonappropriation principle, it cannot have title to the space resources in those lands either. Without title to the resources, the United States cannot bestow such title to its citizens under traditional international property law; by claiming that it can bestow such title, the United States is abrogating Article II of the OST. One could also argue that the in situ resources the Act grants rights in are actually still part of the celestial bodies; thus, the resources are real property prior to their removal, and are off limits under the Treaty.219 Given the limited import of the cited examples of state practice (limited quantity and scientific versus large-scale and commercial), the traditional practice of property rights being conferred from a sovereign to a citizen become incredibly compelling and suggest the SREU Act may abrogate the United States’ treaty obligations.

#### 2] Counterinterp: “Appropriation” includes claims to natural resources, not just real property.

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Appropriation. The term “appropriation” also remains ambiguous. Webster’s defines the verb “appropriate” as “to take to oneself in exclusion of others; to claim or use as by an exclusive or pre-eminent right; as, let no man appropriate a common benefit.”165 Similarly, Black’s Law Dictionary describes “appropriate” as an act “[t]o make a thing one’s own; to make a thing the subject of property; to exercise dominion over an object to the extent, and for the purpose, of making it subserve one’s own proper use or pleasure.”166 Oftentimes, appropriation refers to the setting aside of government funds, the taking of land for public purposes, or a tort of wrongfully taking another’s property as one’s own. The term appropriation is often used not only with respect to real property but also with water. According to U.S. case law, a person completes an appropriation of water by diversion of the water and an application of the water to beneficial use.167 This common use of the term “appropriation” with respect to water illustrates two key points: (1) the term applies to natural resources—e.g., water or minerals—not just real property, and (2) mining space resources and putting them to beneficial use—e.g., selling or manufacturing the mined resources— could reasonably be interpreted as an “appropriation” of outer space. While the ordinary meaning of “appropriation” reasonably includes the taking of natural resources as well as land, whether the drafters and parties to the OST envisioned such a broad meaning of the term remains difficult to determine with any certainty. The prohibition against appropriation “by any other means” supports such a reading, though, by expanding the prohibition to other types not explicitly described.168 As illustrated by this analysis, considerable ambiguity remains after this ordinary-meaning analysis and thus, the question of Treaty obligations and property rights remains unresolved. In order to resolve these ambiguities, an analysis of preparatory materials, historical context, and state practice follows.

#### 3] Aff flex---they overlimit, and under their interp, only one aff which is sovereinty. The topic literature isn’t about complete control because no private entity has tech to dominate entire regions of space yet, it’s about mining or rovers or testing because that’s what’s feasible now---this internal link turns their topic literature argument because it proves that we’re the core controversy. Overlimiting is worse---functional limits check underlimiting whereas overlimiting forecloses topic creativity. Their interp means the only aff is space col bad which is non-inherent.