**Legal Options for the Exchange of Data through the GEOSS Data-CORE**

**Data Sharing Task Force[[1]](#footnote-1)**

**Group on Earth Observations**

**1. Purpose**

1.1 This summary document[[2]](#footnote-2) addresses the legal options for the exchange of data, metadata, and products [referred to individually and collectively as “data” below] through the GEOSS Data Collection of Open Resources for Everyone (Data-CORE). The GEOSS Data-CORE is a distributed pool of documented data contributed by the GEO community under the following principles, as set forth in the 2010 GEOSS Action Plan:

a. The data are free of restrictions on re-use;

b. User registration or login to access or use the data is permitted;

c. Attribution of the data provider is permitted as a condition of use; and

d. Marginal cost recovery charges (i.e., not greater than the cost of reproduction and distribution) are permitted.

1.2 It is important to note that user registration, attribution of provider, and marginal cost recovery charges for access to the data are not considered restrictions in the context of the GEOSS Data-CORE.

**2. Findings and Conclusions**

2.1 The “legal interoperability” of data made available through the GEOSS Data-CORE is essential for the effective sharing of data in GEOSS, which is a priority of the GEO Members. Legal interoperability for data means that the legal rights, terms, and conditions of databases from two or more sources are compatible and the data may be combined and integrated by any user without compromising the legal rights of any of the data sources used.

2.2 When substantial amounts of data are combined from two or more different databases, the new resulting database will acquire the most restrictive rights from any of the databases used.

2.3 Statutory public domain status is the best legal option for meeting the unrestricted re-use, legal interoperability, and re-dissemination of data, and the various social benefits promoted by GEO through the GEOSS Data-CORE. The public domain may be created formally by national legislation or regulation that expressly excludes certain categories of data and information from copyright or other exclusive property protection. Public domain status may also be attained when the protection of the databases has exceeded the statutory term of protection (which is unlikely for almost all data made available through GEOSS). Rights under copyright or database protection laws arise automatically unless expressly excluded or waived. Hence, express legislative or regulatory action is needed to make the data excluded or waived from protection, or make the re-use and re-dissemination of data unrestricted.

2.4 In those cases where public domain status cannot be achieved and the databases come under statutory intellectual property law protection, a legally valid common-use license can serve as a private-law equivalent of public domain status. Such a license can incorporate the registration, attribution, and marginal cost-recovery conditions also allowed by the GEOSS Data-CORE.

2.5 The endorsement by GEO of either standard, accepted licenses, or custom common-use licenses that meet all of the GEOSS Data-CORE conditions of access and unrestricted re-use of data, would help ensure certainty and legal interoperability, and thus support the important GEO societal benefit goals. Common-use licenses also would help promote the contribution and registration of data within the GEOSS Data-CORE, because most jurisdictions do not have a statutory public domain for the data compilations relevant to GEOSS.

2.6 It is important to note that the attribution term may not be legally enforceable for all data used in all jurisdictions. In those cases that it is not, the attribution term may be seen as a normative or moral requirement.

2.7 Data policies regarding full and open data exchange are “soft-law” counterparts to the public law intellectual property statutes and the private law licenses and agreements, but such policies in and of themselves do not have the force of law.

2.8 A strategic mix of statutory public domain and common-use licensing by GEO Members and Participating Organizations can fulfill the requirements for data in the GEOSS Data-CORE for both data providers and users, and for GEO toward achieving one of its most important goals.

**3. Recommendations for the 2011 GEO Plenary**

3.1 The GEOSS Data-CORE’s terms and conditions can best be achieved through a strategic mix of statutory public domain or a common-use license. If a statutory public domain is not in place, the GEO Members and Affiliated Organizations should consider adopting a common-use data license with the following characteristics:

1. *The license must be compatible with the GEOSS Data-CORE principles as established in the 2010 GEOSS Action Plan; specifically:*

*- The data are free of restrictions on re-use;*

*- User registration or login to access or use the data is permitted;*

*- Attribution of the data provider is permitted as a condition of use; and*

*- Marginal cost recovery charges (i.e., not greater than the cost of reproduction and distribution) are permitted.*

1. *The license should be valid under the laws of as many different jurisdictions as possible.*
2. *The license should be clear and simple enough not be confusing to the data provider or user.*
3. *The license should be easy to recognize and find.*
4. *The license should be embeddable in the data as machine readable metadata whenever possible.*
5. *The license should be available in different languages, at a minimum in the language(s) of the country making the data available, as well as in English.*
6. *The license may have any other terms and conditions, such as a disclaimer of warranty and liability, that do not restrict the user or conflict with any of the terms and conditions summarized in a-f above.*
7. *Finally, and perhaps most important, the data and the applicable license must be kept under the legal control of the data providers, and not GEO or GEOSS .*

3.2 Based on these characteristics, the GEO Members and Participating Organizations should consider adopting the following existing, standard common-use licenses:

**a. Creative Commons Public Domain Mark.** The CC Public Domain Mark is used to mark and identify data sets already in the public domain, enabling their more ready identification in global web searches. For a full description, see <http://creativecommons.org/choose/mark/>.

**b. Creative Commons Public Domain Dedication (CC0).** To the extent possible under law across the world, the person or authority who associates CC0 with the work waives all copyright and related or neighboring rights to this work. For the text of this license, see: <http://creativecommons.org/choose/zero/>.

**c. Open Data Commons Public Domain Dedication and License (PDDL).** The PDDL allows the database user to “copy, distribute and use the database”; “produce works from the database”; and “modify, transfer and build upon the database.” See: <http://www.opendatacommons.org/licenses/pddl/1-0/> for the full text of the license.

**d. Creative Commons Attribution License (CC BY 3.0).** The CC BY 3.0 license allows the database user “to Share – to copy, distribute and transmit the work”, and “to Remix – to adapt the work”, as long as the user “attribute[s] the work in the manner specified by the author or licensor” (plus some other conditions described below). See: <http://creativecommons.org/licenses/by/3.0/legalcode> for the full text of the license.

**e. Open Data Commons Attribution License (ODC BY 1.0).** The ODC BY 1.0 license allows the database user “To Share: To copy, distribute and use the work”, “To Create: To produce works from the database”; and “To Adapt: To modify, transform and build upon the database”, as long as the user “attribute[s] any public use of the database, or works produced from the database, in the manner specified in the license.” See <http://www.opendatacommons.org/licenses/by/> for a full text of the license.

3.3 Examples of standard, common-use licenses that meet the GEOSS Data-CORE terms and conditions, but that are geographically limited or constrained to a particular type of data and information (e.g., originating from a public-sector entity) include: the U.K. Open Government Licence for Public Sector Information (OGL), available at <http://www.nationalarchives.gov.uk/doc/open-government-licence/>, and the Norwegian Open Data License for Public Sector Information (NLOD), available at <http://data.norge.no/nlod>.

3.4 Custom licenses that have the same terms and conditions as the characteristics listed in section 3.1 above, or the standard, common-use licenses summarized in section 3.2 above can also be used by the data providers in GEOSS, although such custom licenses will not be vetted and approved by the GEO Members in advance.

1. The Data Sharing Task Force is grateful to its Legal Interoperability Sub-Group members for providing the draft of this summary and related white paper. The Sub-Group members are: … [↑](#footnote-ref-1)
2. The full white paper is available at: … [↑](#footnote-ref-2)