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POLICY AND LAW ASPECTS OF INTERNATIONAL COOPERATION IN SPACE EXPLORATION

Abstract

Building mutually beneficial relationships of cooperation and coordination in space activities ties nations together for the betterment and safety of all, and international cooperation in the space field between states and their national space agencies, non-governmental institutions, international organizations and private enterprises has a long history of success. Today, amidst shifting geopolitical circumstances and a global economy in flux, national spending on space and even the number of space-faring nations is increasing. Along with the commercialization of some sectors of the space industry, the ending of the United States space shuttle program and the continuation of the International Space Station, international cooperation in space will face many new challenges. This cooperation must be shepherded by optimistic but pragmatic legal practitioners. Undertaken on an international scale, a possible mission to Mars will serve as a hypothetical scenario for this paper's analysis of the possible legal framework for international cooperation. Incorporating agreements (possibly similar to the ISS framework agreement) between member states and Memorandums of Understanding between states and sub-national entities – including national space agencies, research universities, and private industry might form the basis of this cooperation. However, intergovernmental politics, military concerns, and popular perception all inform how international cooperation in space takes place. Many nations place restrictions on cooperation, including the requirement that the cooperation must conform to their national space policy and further the missions of their national space agencies. Additionally, the cooperation must not involve activities that counteract other national priorities like furthering domestic industrial or technological capacity. Export controls, choice of law, IP, and reimbursement issues will also arise. With all of these concerns and obstacles, can a group of actors cooperate for a successful mission to Mars? Informed by economic and international relations theory, but with an emphasis on international space law, national space legislation and space policy, this paper will discuss the legal and policy aspects of possible large and forward-thinking collective international space exploration activities in the years and decades to come.