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OMITTING THE MOON TREATY: THE POINT OF NO RETURN

Abstract

The quantitative and qualitative increase of private funded actors investing in Moon and Mars landings and in asteroid mining denote that we will see those technologies rapidly flourishing in the next few years. In the case of the exploitation of natural resources of the Moon and other celestial bodies, the international space law cannot later on respond to technological and operational achievements that will take place. Waiting the operational achievements to happen can be a dangerous premise to maintain a free-of-law field and cooperate to decades of outrageous profit-guided exploitation. The fifty-first Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space (UN COPUOS) expressed that the Moon Agreement, in all its aspects, should continue to be discussed by the Subcommittee, and that the growing understanding of the provisions of the Moon Agreement, was prompting a reflection by some States on the possibility of becoming parties to the Moon Agreement. In the other hand, some actors, private or State funded may act as drivers for States to omit the Moon Agreement and the need to establish an international regime on the exploitation of natural resources of the Moon and other celestial bodies. Space activities must be bound to the principles of non-appropriation of outer space, including the Moon and other celestial bodies, by claim of sovereignty, use, occupation or any other means; equitable and rational use of outer space and its natural resources, means to promote higher standards of living and economic and social progress and development. These fundamental principles can be in full remembered and in place only if an international regime is discussed and formulated before major stakeholders unbalance the law making process with other principles linked to their financial strength and the in-fact capability to move extraterrestrial natural resources. Simultaneously, international space law must be interpreted, discussed and articulated in way to – preserving the five outer space treaties, stimulate private endeavor in commercial space activities, in the exploration and exploitation of lunar surface and subsurface, of Mars and of asteroids.