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Author: Ms. Yangzi Tao
Beijing Institute of Technology, China, gloria.yangzi.tao@gmail.com

ANALYSIS OF THE JURISDICTION OVER FACILITIES BUILT ON THE MOON

Abstract

With the exploration and use of the Moon being the province of all mankind, it is essential to get legally prepared for potential disputes related to the jurisdiction of the facilities built on the Moon. Assume that in the near future, there will be facilities and structures being built on the Moon. States will launch preliminary materials for the purpose of building manned complex, and they will probably start to process resources from the Moon to continue with further building. Due to the change of economic policies, the consideration of scientific research or any other reason, a State may very well abandon facilities and structures on the Moon, which can immediately be occupied by other States. Under the circumstance that Outer space activities are high-risk, these facilities and structures may lead to the damage to personnel and property of the occupying State or even a third Party. In the wake of potential detriments in such outer space activities, questions concerning liability are raised, which ultimately lead to the clarification of jurisdiction. This paper presents and analyzes the existing rules and regulations regarding jurisdiction of space objects in current international law, in particular with the character of the facilities on the Moon as a compound of materials made of resources from both the Earth and the Moon. This paper then points out relevant conflict between the Registration Convention and the Moon Agreement. The latter specifies the Moon and its resources as the common heritage of mankind, which in the case of facilities containing resources from the Moon, contradicts with the former because a State of registry has jurisdiction over a space object, leaving doubts regarding jurisdiction over the registered part from the Moon. Possible explanations in the light of Vienna Convention on the Law of Treaties are presented with further appropriate solutions. The issue of whether a State could abandon its jurisdiction over space objects without any change of the registration in UN is presented, which is then developed by discussing relevant responsibility based on the abandonment. Last but not least, the author tries to analyze the respective role of ownership and jurisdiction in the liability regime in both private law and international law. The analysis of jurisdiction over facilities built on the Moon provides possible solutions for determining liability and also raises issue of defining space objects while the objects comes from both the Earth and the Moon.