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THE FREE ACCESS TO OUTER SPACE PRINCIPLE IN THE LIGHT OF THE RELEVANT SECURITY COUNCIL RESOLUTIONS

Abstract

The free access to the outer space as a most important principle of the space law has been well established both in the 1967 Outer Space Treaty and the customary international law. The 1967Outer Space Treaty recognizes the rights of all states to freely enter and use outer space for civilian or peaceful military purposes. Alongside treaty law, since the 1950s up to present time, both the space practice and opinio juris of the space faring States have made the free access principle as a well-established principle of customary international law too. Therefore, generally, the access to outer space is guaranteed by the international law. However this principle has been affected by some legal factors including the non proliferation regimes, national export controls laws and the United Nations collective security system. This article tries to deal with the relationship between the free access to space and the relevant Security Council Resolutions. The Security Council which is primarily responsible for the maintenance of international peace and security, has adopted some Resolutions including Resolutions 1929 and 2087 which are addressing the proliferation challenges posed by Iran and North Korea. Considering the fact that these Resolutions have prohibited their ballistic missiles programs and due to this fact that space technology is dual-use and similar to the technologies required for civilian space programs, it seeks to answer the question that whether these adopted Resolutions extend also to the civil space programs of these States and consequently have impeded them. Obviously, dealing with this question will have important implications for their space programs.