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Up, up and away: Future legal regimes for long-term presence in space (2)

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SPACE EXPLOITATION – DIGGING IN A LEGAL VACUUM?

Abstract

History has shown over time that the discovery of new natural resources has always led to a new era of scientific development. With the advent of space exploitation, beyond space exploration, humanity has taken the search for new means of resource extraction one step further into a new époque. Asteroids, comets and other celestial bodies, rich in natural resources, are ready to be exploited. The technological capacity for this venture has already been reached. The only question that now remains is who will be the first human (or robot?) to bring back metals to Earth, or which entity will first use water and volatiles from space to build up space bases? While watching ROSETTA, Europe was woken up to its next challenge to explore the comet Churyumov-Gerasimenko. Already in 2013, the world watched closely when President Obama announced that an asteroid was to be retrieved and exploited by the U.S. by 2025. Announcements like these are expected to be put into action by the leading space faring nations and space industries. Technology might be ready for space exploitation, but is society too? In the long-standing tradition of discovering new natural resources, these have often been followed by long lasting conflicts. Article 2 of the Outer Space Treaty forbids any claim of territorial sovereignty, but does not hinder the exploitation of celestial bodies in general. Further, Article 11 para 5 of the Moon Agreement states that an international allotment regime is to be established prior to the exploitation of the Moon. This paper elaborates on the idea of providing mining rights with regard to national legislation. It particularly refers to the Austrian Mineral Exploitation Act which, inter alia, provides for mining rights without claims of territorial sovereignty. In conclusion, the paper provides a post-mission concept to avoid and minimise space debris, and to promote a sustainable use of outer space.