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

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PROVIDING FOR SUSTAINABLE EXPLORATION AND USE OF OUTER SPACE ENVIRONMENTS

Abstract

The challenges of human presence and long-term activities in space are growing more and more concrete—an encouraging trend. One of the hopeful threads in current space flight and exploration planning is the emergence of capable non-State Parties with goals that may have both eclectic and commercial relevance. Because this emergence is essential to the development of a true space economy, it has long been a feature in science fiction, but now with the rise of private actors an elaboration of the legal and regulatory regimes associated with the use of extraterrestrial planetary environments appears necessary. For example, non-State Parties launching from a State signatory to the 1967 Outer Space Treaty (OST) [1] are subject to the Treaty’s articles, but different launching venues differ greatly in the specifics of their implementation and enforcement of the Treaty. Too, there is no general provision under the OST to provide for Treaty-sanctioned use of specific outer space environments, nor for the practical prevention of “harmful contamination” of celestial bodies. Thus, OST implementation provisions in national laws differ, or may be nonexistent. For the future expansion of planetary exploration, including the diversity of proposed commercial private uses of outer space environments, it is time to consider steps to be taken to clarify and complement the current legal regime. A new framework is needed to enable both greater legal protection for outer space environments and a consistent and predictable legal landscape for commercial space endeavors. Based in part on several workshops held under the auspices of COSPAR during the last three years [cf., 2] and a 2010 report from the IAA on “Protecting the Environment of Celestial Bodies” [3] we will discuss an approach to the development, adoption, and implementation of a convention subordinate to the OST that can provide for the administration and enforcement of these contrary (to some) principles.

References: 1. United Nations, Treaty on principles governing the activities of states in the exploration and use of outer space, including the moon and other celestial bodies, U.N. Doc.A/RES/2222/(XXI); TIAS No. 6347, 25Jan1967. 2. Ehrenfreund, P., H. Herzfeld, K. Howells, Workshop Report: COSPAR Workshop on Developing a Responsible Environmental Regime for Celestial Bodies. Space Policy Institute, GWU, and COSPAR, Washington, DC 2013. 3. Hofmann, M, P. Rettberg, M. Williamson (eds.), Protecting the Environment of Celestial Bodies (PECB). IAA Cosmic Study, IAA, Paris.