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SOFT LAW IN OUTER SPACE:MECHANISM AND RECENT PRACTICE

Abstract

Without emergence of any new space treaty in recent three decades, soft law, also called non-binding norms, has played an essential role in international space activities, which has become as important as treaty law to some extent. This paper would like to discuss the mechanism and recent practice of soft law, consequently divided into three parts. The first part deals with the working principle of soft law mechanism and its advantages compared with hard law. Firstly, the process of establishment of soft law has more flexibility and will therefore bring efficiency. Secondly, the non-binding nature of soft law makes it easier to be accepted and implemented by states. Thirdly, from the perspective of economic analysis, the establishment and implementation of soft law is more cost-effective and will enhance the economicalism of the whole process. The second part looks into recent achievement of soft law in outer space. The development of space activities leaves greater space for soft law in current international space law regime, which works quite well in, for instance, space debris mitigation, nuclear power source application and transparency and confidential building mechanism. The third part discusses the implementation of soft law. Referring to practice in international space law, as well as other fields of law, there are three possible approach to implement soft law: codification approach, national legislation approach, and non-binding norm approach; either approach is supported with enormous practice in international law such as environmental law, aviation law, trade law, and financial law, though some of which have not achieved the original goal. Finally, this paper would like to conclude that in the current stage, soft law has irreplaceable status because of its nature, also proved by recent practice. However, there is no need to change it into hard law in a hurry. Instead, a multi-disciplined approach would be the best way.