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CODE OF CONDUCT FOR SPACE ACTIVITIES - EVOLUTION OR REGRESSION?

Abstract

CODE OF CONDUCT FOR SPACE ACTIVITIES – EVOLUTION OR REGRESSION?

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The draft code of Conduct for outer space activities was proposed by the European Union to other space-faring States for discussion in December 2008. It must be evaluated in relation to the 1967 Outer Space Treaty, which is considered the Magna Carta of international space law in force today. After all, this draft Code is a political proposal, not yet a legally binding document. Nevertheless, it offers alternatives for the current international legal framework on the military uses of outer space aiming at preventing an arms race. The action is clearly of a political nature, although it seems to have ultimately a certain legal objective, but does not amount to a binding mechanism. The draft Code presents a great opportunity to examine the relationship between the political and the legal initiatives and tendencies in strategic fields in the present world context. We have before us an evident option for voluntary political solution, instead a legal one, with their unique benefits of certainty, predictability and security. What are the reasons for such a preference? Why does the European Union not submit the draft Code of Conduct for discussion at the United Nations Committee for Peaceful Uses of Outer Space (COPUOS)? Is it an evolution or a regression, if we compare with the reality of the sixties and seventies, when all five-space treaties were elaborated and adopted, together with other relevant instruments involving space activities? These are the major questions this intends tries to answer.