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REBUS SIC STANTIBUS AND INTERNATIONAL SPACE LAW: THE EVOLUTION OF THE SPACE
TREATIES IN THE NEXT FIFTY YEARS

Abstract

The unanimous adoption of the space treaties in the peak of Cold War was considered great success at the time. During the past five decades though, the image of the space sector has changed drastically, in terms of both international cooperation and technological progress. The Space Treaties are often criticised for not reflecting the said changes in an adequate manner. The lack of key terms and definitions, as well as the generic character of their provisions, which leaves room for various interpretation, are frequently attributed to the political circumstances and the level of technological development under which the Treaties were concluded. Nevertheless, their significance is undisputed, as they contain fundamental principles that have been followed consistently. However, it was not until recently that their relevance to the current status of the space sector started being contested. The increasing participation of private actors in space activities, along with the enormous technological progress and innovation in the space sector were not foreseen by the drafters of the Treaties, who attempted to reconcile different national interests in order to accommodate the demands of all their States parties. Space resources utilisation, human travel and settlement in outer space, liability for large satellite constellations, debris risks posed by small satellites, are only few of the issues that the space treaties are challenged to tackle.

This paper will discuss the concept of reviewing the treaties once significant changes take place, as well as the ways for the law to cope with policy and technological developments in the space sector. In addressing these questions, the paper will examine the space treaties in the framework of the public international law principle of *rebus sic stantibus*. According to the latter, treaties shall become inapplicable when fundamental changes of circumstances occur. The paper will debate on whether this is a feasible solution to respond to raising legal challenges and how this principle could influence future regulation of space activities. In particular, it will stress the importance for the existing and future regulatory regime to take into account the fast-moving pace of the space sector. With view to the next fifty years of space treaties, acknowledging their relevance to the contemporary stage of space technology is essential in safeguarding the efficient application and successful evolution of international space law.