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NATIONAL LEGISLATION FOR SPACE RESOURCE UTILISATION

Abstract

Mining of space resources is often seen as an opportunity to bring down the prices of important metals. Currently a host of private entities have invested billions of dollars to mine asteroids, the moon and mars and this has led to a lot of uncertainty because there is practically no law that governs this issue.

Owing to the lack of a legal framework assurances are required to be given to private companies who will potentially be spending billions of dollars on this venture. This led to the passing of the Space Act in USA, which allowed U.S. private operators to extract, utilize and/or sell resources found in outer space. Apart from the Act being against non-appropriation principle of the Outer Space Treaty (OST) there are several other concerns: whether the Government will regulate the prices of the mined products to protect domestic industries? The possibility of a dispute arising between two private companies over exclusivity of mining rights over an asteroid would also need to be examined. Would other countries recognise the private ownership of extracted minerals? If a foreign state refused to extend such recognition, could it impound a returning spacecraft carrying space resource cargo?

Just like nuclear power, even developing and certain under-developed nations would like to mine space resources hence cutting down on certain essential spends for its citizens. Too much mining will reduce the prices to such an extent that it will be a death knell for domestic industries.

Further, the OST expounds that States will be responsible for regulating the activities of private entities in their jurisdiction. This proves to be a challenge as the new Luxembourg Asteroid Mining Law allows foreign space companies to set up their base in Luxembourg. In such cases it would be very difficult to find out the exact country that would be responsible for the actions of the private entity. This is mainly due to the reason that such entities may have their head quarters in one country, operating in another country and paying taxes in the third.

This paper aims to give recommendations for national legislations with regards to space resource mining. It suggests policy framework with checks and balances that not only benefits the governments and private entities involved but also domestic industries as well as mankind as a whole. It also suggests a new framework for international cooperation as well as dispute prevention and resolution methods.