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THE CONCEPT OF LAUNCHING STATE IN DEMOCRATIZED NEWSPACE

Abstract

The process of ‘democratization’ of space is described as outer space becoming accessible to developing countries, start-ups, educational institutes and other small to mid-size private enterprises, as opposed to only being limited to the most developed States and large multinational organizations. Led by the advent of the NewSpace industry, democratization can be credited to technological advancements such as additive manufacturing, micro-computing and innovative launch solutions which drastically reduce the cost of access to space. With an ever greater number of players now being involved in the space sector, it is not uncommon to see the rise of companies with ownership vested in more than one State; it is also common to see objects being launched into space as a result of collaboration between multiple States.

A ‘launching State’ is defined as any State (party to the Outer Space Treaty of 1967 or the Liability Convention of 1972) that ‘launches or procures the launching of an object into outer space’, and/or any State ‘from whose territory or facility an object is launched’.

This paper will explore how a democratized NewSpace industry challenges the generally accepted notion of ‘launching State’. It will examine the different types of space entities that can be established and how these fit into, or muddle the idea of a traditional launching State. It will additionally explore how the commercialization of space is discouraged by the doctrine of ‘once a launching State, always a launching State’, and how States are circumventing this in order to pursue commercial space activities. It will analyze the historical reasoning behind using the concept of launching State as a barometer for spatial activities and how this concept has gradually evolved with the development of the space industry. It will conclude with a determination of the importance of retaining this concept in order to maintain the superstructure of State responsibility in outer space, however, it will also stress upon the need to develop globally accepted standard operating procedures³ in order to encourage democratization and commercialization of space.