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30 Years of the Moon Agreement: Perspectives (2)

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THE MOON TREATY AFTER 30 YEARS: RATIONALE FOR A UTILITARIAN FUTURE

Abstract

The Moon Treaty has been dissected, examined, praised, criticized, promulgated for signature and ratification, and largely ignored by the international community. This paper addresses perceived problems with the Moon Treaty for the purpose of presenting a proposed path forward. Many nations are unwilling to adhere to the treaty in its present form. It may be that the solution to the problem of lacking subscription can be solved primarily by rethinking one of the major aspects of the treaty, Article 11.

If a review conference were to be requested by one third of the States Parties to the Agreement, the Secretary General of the United Nations is authorized in Article 18 to convene a conference to review the Agreement, with the concurrence of a majority of the States Parties.

A case could be made that, although the agreement has some structural problems and lacks internal consistency, the agreement might be found substantially more palatable by countries if Article 11, paragraph 7(d) were to be deleted. This paragraph provides that “An equitable sharing by all States Parties in the benefits derived from those [lunar] resources, whereby the interests and needs of the developing countries, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration.”

Here is a declaration that all parties to the Agreement should participate in an equitable sharing in the benefits derived from any exploitation of lunar resources. Considering that exploitation of lunar resources requires significant investment, substantial time and effort, and eliminating and overcoming many inherent risks in such a venture, there is nothing equitable about having to share the derived benefits with Parties who contributed nothing, made no effort, took no risks, but wished to share in the benefits.

The crux of the problem with the Moon Agreement is the inequitable sharing of benefits required under the present language in the agreement. If a meaningful review conference were to be held, resolving the issue of participation in benefits would be crucial to forming a treaty, which many nations may feel more willing to accept.