Paper ID: 16381
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56th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Joint IAF/IISL Session on Legal Framework for Cooperative Space (7-B3.8)

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LEGAL ASPECTS OF THE ISECG NON-BINDING COORDINATING MECHANISM

Abstract

In 2007, fourteen of the world's space agencies published the Global Exploration Strategy as a vision for share, cooperative, and coordinated human and robotic exploration of the solar system, and subsequently established the International Space Exploration Coordination Group (ISECG). In furtherance of the Global Exploration Strategy, the 2011 publication of the Global Exploration Roadmap encompasses the first iteration of the ISECG's international efforts to define feasible and sustainable exploration pathways to the Moon, near-Earth asteroids, and Mars. The ISECG "Coordinating Mechanism" (as found in the 2007 Global Exploration Strategy and the ISECG Terms of Reference), is a non-binding tool between space agencies to share information and priorities on space exploration, increase synergies though coordinated efforts, and reduce or eliminate duplication of efforts. The non-binding nature of this cooperation meets the interests of space agencies beholden to domestic governmental oversight, and while some may dismiss the use of non-binding "soft law" as without enforcement provisions, the ISECG's Coordinating Mechanism relies on voluntary compliance and programmatic feasibility and adaptability. As such, its four principles for further work are that ISECG coordination be open and inclusive, flexible and evolutionary, effective, and of mutual interest. This paper will look at the nature and use of "soft law" in cooperative space activities, aiming to parse out some of the strengths of non-binding mechanisms such as the ISECG's Coordinating Mechanism, and how this approach to cooperation might aid subsequent and more formalized multilateral and bilateral collaboration on specific space projects and programs. A look at the contracting practices between space agencies on particular projects might serve as possible examples for bringing the ISECG to greater use.