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BRINGING SPACE LAW IN THE 21ST CENTURY: THE PERMANENT COURT OF ARBITRATION
ADOPTS OPTIONAL RULES FOR ARBITRATION OF DISPUTES RELATING TO OUTER SPACE
ACTIVITIES

Abstract

As the commercialization of outer space expands and the number of space activities increases, it is nearly inevitable that international disputes related to the use of outer space will occur on a progressive scale. Until recently, international space law did not contain, with the notable exception of the mechanism created under the 1972 Liability Convention, any dedicated machinery to settle international outer space-related disputes, particularly those involving private actors. This absence significantly weakened the applicability and enforceability of space law and contributed to create a climate of uncertainty discouraging economic undertakings. In order to address these issues the Permanent Court of Arbitration (PCA) adopted the Optional Rules for Arbitration of Disputes Relating to Outer Space Activities on 6 December 2011. The PCA Space Rules represent a significant development in the field of space law because they provide a voluntary and binding dispute settlement method accessible to all space actors and modeled on the specific legal and economic characteristics of space activities. While it remains to be seen how States, inter-governmental organizations, and private entities will react to the PCA Space Rules, the present paper argues that such Rules should be expected to be used on a gradually increasing scale. By means of fictional cases, this paper will aim at demonstrating the advantages of making recourse to the PCA Rules as well as their innovative character. Particular attention will be dedicated to the positive impact of the Rules in relation to the settlement of disputes arising out of collisions caused by space debris and breach of launch service arrangements.