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LESSONS DRAWN FROM JURISDICTION AND CONTROL CONCEPTS APPLIED TO INACTIVE
SPACE OBJECTS

Abstract

Article VIII of the 1967 Treaty provides that states should exercise jurisdiction and control over objects launched into outer space which are registered with them. The Convention on the registration of space objects gives the following definition: "The term 'space objects' includes component parts of a space object as well as its launch vehicle and parts thereof."

The concept of jurisdiction and control is well known in international law, particularly maritime law. If its precise meaning is discussed in the literature, it remains certain that the term refers to the implementation both of legal norms and of the material powers that follow from them. But this consideration relative to the implementation of effective powers seems to be contradicted by the inertia and inaccessibility characteristic of inactive space objects.

The proposed contribution will aim to reflect on the issue of the treatment—whether uniform or case specific—of active and inactive space objects in outer space, particularly with regard to jurisdiction and control, and the effect it may have on the consistency of space law. The study will examine the issue in the light of public international law, including questions about the effects of the impracticability of international positive law, and about the legal consequences of State practice on the substance of a norm of international law. It will then analyse State practice in the context of the implementation of powers of jurisdiction and control over objects launched, in order to give an overall picture of how the standards from space treaties are in fact applied.

The examination of these practices should help bring a fresh look at two related questions: the exploitation of space objects (an issue for which the jurisdiction and control are fundamental), and the legal treatment of the presence in space of inert objects which were previously active. It is hoped that lessons can be drawn from these practices which will enable us to ask questions about the most appropriate legal approach to each of these categories, in particular the question of whether the liability arising from the texts falls within the scope of jurisdiction and control.