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THE INTERNATIONAL REGIME GOVERNING EXPLOITATION OF NATURAL RESOURCES IN
OUTER SPACE: POTENTIAL PROCESS OF FORMULATION

Abstract

With the development of space technology, the commercialization of space activities have brought urgent needs for international space law, one of which is the establishment of the international regime for the exploitation of natural resources in outer space.

This paper will focus on two key issues. Firstly, to what extent could the virtue of the Moon Agreement, i.e. the ideology of “common heritage of mankind” influence the formulation of the international regime? Secondly, what approaches could be adopted to establish such a regime?

On one hand, this paper will analyze the legal ambiguity of the Moon Agreement and the Outer Space Treaty, especially the former which articulates in its Article 11 that “States Parties . . . to establish an international regime . . . to govern the exploitation of the natural resources of the Moon as such exploitation is about to become feasible”, while there is no explicit provisions further interpreting the term “feasible”. On another, this paper will compare the ideology of “common heritage of mankind” under the respective context of the Outer Space Treaty and the Moon Agreement and reveal the core value of “free use” while trying to point out the necessity of the establishment of an international regime governing the exploitation of natural resources in outer space.

The paper will then present legal recommendation for the formulation of such an international regime, mainly on three perspectives: one, clarifying rights, obligations and responsibilities through amending the Moon Agreement; two, founding the Authority to authorize and supervise the exploitation of natural resources in outer space, the detailed regulations of which could be mirrored from Part XI of the United Nations Convention on the Law of the Sea, in correspondence with the term “common heritage of mankind”; three, developing international norms of exploiting natural resources in outer space through bilateral or multilateral agreements between space faring nations.