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UTILIZATION – CONSUMPTION – APPROPRIATION: ASTEROID MINING IS IN THE PIPELINE

Abstract

Asteroid mining will incontestably come, with or without “the right” to do so. Therefore the question is not if mining on an asteroid may be allowed or not, the question imposed by the facts is more how to “regulate” asteroid mining likewise as fishing on High Sea may be exercised freely but within boundaries (like the respect of rules for environment protection/avoidance of overfishing ...). Hence considerations have to be undertaken in view of an international rule regulating the “well behaviour” for asteroid mining in order to assure that this kind of activity is exercised for the benefit of humanity and its unique universe. Therefore an international regulation (not a national act) is needed which should nevertheless differ from the existing international Moon Treaty which only found some states willing to be engaged by its stipulations.

Starting point for this “endeavour” shall be a linguistic approach of the terms “utilization” – “consumption” – “appropriation”. By doing this, the first question already reveals certain problematic aspects which have to be analysed beforehand like what is meant by utilization? The Latin word “usus” like the old French “user” (departing point for the English term “to use”/utilization) implies “to consume”. But until which extend the consumption of an asteroid may be considered as a utilization and not a (de facto) appropriation? Moreover the question arises if a distinction has to be made between utilization for scientific or commercial purpose? And even if the mining has a commercial purpose, may the fact that it is beneficial nevertheless for the humanity or environment on Earth be taken into account? Furthermore deriving from the term “utilization” questions around the aspect of “sharing” an asteroid have to be considered in case more interested parties would like to use the same asteroid... who is entitled to resolve such conflicting situations or to distribute “concessions” ... and what happens with actors who are coming/claiming later their part? May a system of “reservation” (perhaps for a certain timeframe) be useful or more the system “use it, or loose it” which currently is already the rule for other space activities? Additionally, does a kind of fixed installation on the asteroid may be just considered as utilization or does it imply a kind of sovereignty?

Therefore an international regulation on asteroid mining should take into account a variety of aspects which are to be discussed and analysed before further steps are made.