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International Cooperation - a cornerstone of 50 years UN Space Law and space diplomacy (1)

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COMING TO AN AGREEMENT WITHIN UNCOUOS – CONSENSUS DECISION MAKING
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Abstract

In the year of the 50th anniversary of the Outer Space Treaty (OST) it is time for a review of how international cooperation in developing international legal norms works in the context of the peaceful uses of outer space. Recent discussions on how to assure the long-term sustainability of outer space activities show the intrinsic need for international cooperation in this field. In this respect the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) has served as one of the backbones of such cooperation throughout its history, while its decision making process was a central mechanism. COPUOS has been one of the first committees within the UN General Assembly system to use consensus as its official decision making rule. This paper examines the consensus decision making process in respect to a) whether the decision making process is influenced by factors which are said to be favorable for consensus decision making in literature or not, and b) the historical development of consensus decision making within COPUOS through a refined version of the “Discourse Quality Index”. Using a quantitative analysis the Index identifies which actors play/played an important and/or leading role in coming to a consensus by using three indicators: Status and reputation of representatives within the Committee, leadership, and constructive politics. This empirical study analyses the development of five decisions that span over the more than 50 years of the Committee’s existence: the 1967 OST, the 1979 Moon Agreement, the 1986 Remote Sensing Principles, the 1992 Principles on the Use of Nuclear Power Sources and the 2007 Space Debris Mitigation Guidelines. It draws on primary data from the lists of representatives of COPUOS’ Sub-Committees, the Summary Records and the various working papers submitted by different countries during the decision making process. The findings of this study a) do not support statements in existing literature on deliberative processes when it comes to factors that favor consensus oriented settings. Further the analysis shows that there is b) no development over time within COPUOS as to how consensus is reached best. Rather the way consensus is reached depends a lot on the topic and historical circumstances, whereby four patterns are identified. In general, the study lays a sound foundation for further research, particularly into how to optimize processes to make better use of consensus within COPUOS but also e.g. extending the analysis to other international settings that use consensus.