Paper ID: 47115
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61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
10th Nandasiri Jasentuliyana Keynote Lecture on Space Law and Young Scholars Session (1)

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A COMPARATIVE ANALYSIS BETWEEN THE ACT ON THE EXPLORATION AND USE OF SPACE RESOURCES (LUXEMBURG) AND THE COMMERCIAL SPACE LAUNCH COMPETITIVENESS ACT (U.S.): WAYS FORWARD FOR NATIONAL SPACE LAW

Abstract

The Act on the Exploration and Use of Space Resources (the Space Resources Act) adopted by Luxemburg Parliament in July 2017, in particular Article 1 which stipulates that "Space resources are capable of being appropriated", has raised various discussions in the international community. Along with the U.S. Commercial Space Launch Competitiveness Act of 2015 (CSLCA), State Parties to the Outer Space Treaty (OST), which prohibits national appropriation of outer space whereby, has taken the first step towards an overall commercial exploitation of space resources by national recognition of private property rights thereon. Yet, such initiative, creating property rights over space resources obtained in missions conducted by private entities, has raised an inevitable question for other space-faring nations who might be State Parties to the OST or the Moon Agreement (MOON) or both of them: what should they do in their domestic laws?

The CSLCA, in particular Title IV, was deliberately designed in a way that obviously act in accordance with existing international law. However, it grants ownership and other rights of space resources only to citizens of U.S., because of which the controversies raised by this nationality-oriented approach are continuing to focus on if its unilateral interpretation does accord with Art. I and II of the OST. The Space Resources Act, however, by stipulating conformity with Luxemburg's international obligations in Art. 2(3) in the Space Resources Act, has taken an approach that is heading to the same direction yet different goal. Luxemburg is neither one of the super space powers nor a potential one when it officially announced its ambition on a domestic regulatory framework for commercial space industries. At the current stage, the legal certainty provided by the Space Resources Act works for the blueprint for the promising commercial investment in the space field.

This article examines the similarities and differences between the CSLCA, in particular Title IV, and the Space Resources Act. By such review, this article presents the legal interpretation of core principles of international space law which converge to States' practices on a national basis, and demonstrates to what extent are they in consistency with international space law to try to figure out for other States if there are more options of establishing a national legal framework for exploiting space resources.