

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Interactive Presentations - 61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (IP)

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RATIFYING THE MOON AGREEMENT WITH A RESERVATION FOR (ARTICLE 11.1)

Abstract

The Moon Agreement is an international treaty concerning the activities of States on celestial bodies, e.g., the moon and its orbits. Declaring that the Moon and its resources are the common heritage of humankind, and not subject to private ownership, is far-reaching and has met with much criticism, leading to a low number of ratifying states. The main problem resides in the fact that the world has recently witnessed many changes in the space sector in all directions by governments and private companies alike, in addition to numerous attempts to explore, colonize and exploit its outer space. Therefore, the fact that these activities must be under international law sets out the powers of these activities. The Moon Treaty is an important international agreement in the organization of space activities, but unfortunately, only a limited number of countries have ratified it. It was found that the reason some countries did not ratify it was because of their fear of the first para of Article 11 of the Moon Agreement. The question here is whether the Moon Agreement allows States to ratify it with a reservation for the (Article 11.1) under the VCLT. Vienna Convention on the law of the treaty in its (Article 19) clearly states that "A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless: (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty". And (Article 20.1): Acceptance of and objection to reservations states the following: 1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides". Since the Moon Agreement is established after the Vienna Convention, this means that the Vienna Convention applies to it. Moreover, the Moon Treaty did not explicitly state in its articles the prohibition of reservations. However, (Article.17) of the Moon Treaty allows the State Parties to propose amendments to the Agreement with the acceptance with other parties of the treaty. Furthermore, there are many states which formulate reservations on international agreements. The aim of this paper is to determine whether there is a possibility to ratify the Moon Agreement with a reservation for (Article 11-1) and under which conditions, and to explore whether this approach could result in a wider acceptance of the Agreement.