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HOUSTON WE HAVE A LAW. A MODEL FOR NATIONAL REGULATION OF SPACE RESOURCES
ACTIVITIES

Abstract

The field of space resources activities is rapidly maturing, but we still do not have a legal regime able to cope with such development. While in the last five years the number of new space ventures has increased by a percentage of 7000, the state of the law did not make a fraction of that progress.

The United Nations Committee on the Peaceful Uses of Outer Space finally started to debate whether commercialization of space resources is permitted under current international space law only in 2018. So far, no agreement has been reached.

In the meantime, States retain the right to interpret the Outer Space Treaty (OST) and to consequently allow or forbid their nationals to engage in space resources activities. As to February 2019, of the 92 COPUOS' members only the United States and Luxembourg have passed domestic laws enabling their nationals to undertake space resources activities.

However, declaring that space resources activities are lawful under the OST is barely the start.

First, because under Article VI OST private activities in outer space require authorization and continuing supervision by the relevant State. Accordingly, appropriate regulation will need to be enacted to ensure that space resources activities are carried out in conformity with the OST provisions.

Second, because space resources activities are a pioneering business. As such, they need adequate support and a certain degree of flexibility to survive the first decades of operations.

Therefore, the real challenge is how to regulate space resources activities in light of these two equally important needs.

Accordingly, the paper will discuss how to draft national regulation of space mining that is both compatible with the main principles of international space law and also efficient for the industry. This will be done by presenting a draft law redacted in articles, coupled with a comprehensive explanatory note.

Inter alia, the paper will introduce a new "space resources activities" license regulating the exploration and use of celestial bodies for the purpose of extracting space resources.

Further, drawing insights from the US General Mining Law of 1872, it will also propose a balanced authorization regime based on the grant of priority rights regulated in size, number and time extension.

From the above, the paper will conclude that a compromise between the obligation to ensure compliance with international space law and the need to support the development of the space resources activities industry is desirable, possible and sustainable.