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SPACE MINING AND ENVIRONMENTAL PROTECTION: RECYCLING INTERNATIONAL
AGREEMENTS INTO NEW LEGAL PRACTICES

Abstract

The increasing interest in extracting natural resources from celestial bodies raises many issues, among which guaranteeing environmental standards is paramount. There is more than a reasonable concern that industrial exploitation of the outer space lead to similar or even greater disasters than the ones already afflicting Earth. There is a consensus among the legal community that international law does provide environmental protection through the Outer Space Treaty in its Article IX; it prevents harmful contamination, mandates due regard and recommends consultation. However, this provision, applicable to all space activities, is too general. It precludes the agreement from effectively protecting the outer space's environment in the context of specific activities. The contribution aims at exploring appropriate legal responses. It is often proposed that such a response should be to prepare a new international agreement. However, treaty-making process involves a long time. Not even considering the reluctance of States to adopt binding international documents limiting their freedom in space, there is a high chance that space mining activities will have started by the time there is any kind of international agreement. This is why another approach must be envisaged; one which takes into account the analysis of existing environmental standards that could be leveraged to answer the challenges of space mining activities. Special attention will be paid to the enforcement of the Outer Space Treaty and how it should be combined with what is usually referred to as "soft laws"—such as the work of the international Committee on Space Research (COSPAR) on planetary protection policies. As a conclusion, the contribution attempts to answer the question of the transforming role of States in complementing existing international standards for the protection of the outer space environment.