

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

Dr. Jasentuliyana Keynote lecture by a leading space law expert and IISL Young Scholars session (1)

Author: Mr. João Marques de Azevedo
Portugal, joao.azevedo@cedis.fd.unl.pt

THE MOON AGREEMENT AFTER 35 YEARS OF ITS ENTRY INTO FORCE

Abstract

Almost 40 years have passed since the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Moon Agreement or MOON) was approved in the UN General Assembly through Resolution 34/68. With 18 ratifications and 4 signatures (as of January 2018), the Moon Agreement marked the end of the hard-law era in space and it is seen as a somewhat failed treaty. However, the Moon Agreement should not be so rapidly disregarded, indeed, it contains many lessons and some of the questions that arise from it are still important today.

We will look at some of the questions that arise from the MOON and try to establish the most important lessons that derive from it after almost 35 years of its entry into force.

We will start by understanding if it should be considered as a subsequent treaty that only interprets and applies provisions of the Outer Space Treaty, or it is a subsequent treaty that creates new rights and obligations not deriving from the OST. The concept of common heritage of mankind is of course at the center stage of this debate, its inception on the MOON being the strong argument of those who regard the Moon Agreement as a treaty creating new rights and obligations and, thus, any discussion about its relevance must be connected to a discussion about this concept.

From there we will move on to categorizing the MOON according to the Vienna Convention on the Law of Treaties. This categorization will allow us to understand the relevance of the Moon: it is an important means of interpretation of the OST or it is a new approach and, thus, a failed attempt to create new concepts?

Finally we will conclude with the current relevance and the future for the Moon Agreement: if it is a valid means of interpretation of the OST, then, the MOON is a relevant treaty which we should still debate and maybe re-use for future legislation; should it be seen as a failed attempt to create new concepts, the only discussion left is to understand if we should still speak about concepts like common heritage of mankind in space at all.