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POSSIBLE INTERNATIONAL LEGAL STATUS OF LONG-TERM SUSTAINABILITY OF OUTER
SPACE ACTIVITIES (LTS)

Abstract

The sources of international law are the evidence that proves the existence of legally binding and universally applicable rules and are legal forms that establish the validity of such rules. According to Article 38 of the Statute of the ICJ, the scope of the law applicable in cases of the ICJ is ranging from treaties, international custom and general legal principles, which are also the primary sources of international law. This article will examine the possibility of the LTS principle becoming the sources of international law. Based on the analysis of the dilemma of promoting the LTS to become international treaties and the general principle of law, this article argues that facilitating the LTS evolving into an international custom is more feasible. The analysis on the paths of becoming international custom is conducted from two ways: (1) From the objective way, the essential elements for forming national practice includes universality, consistency and repeatability. This article claims that the paths of promoting the code of conducts contained in the LTS guidelines become national practices can be broadly divided into two parts. One is to summarize existing relevant practices on Earth and in the outer space to provide general guidance for the formation of the LTS national practices. The second is to guide and promote the development of the LTS national practices according to the specific contents of the LTS guidelines and states positions on the issue of the LTS in the UN platform. (2) In terms of the subjective factor of opinion juris, it is also an indispensable element of an international custom. Each member of the international community should have a subjective perception that particular national practice is legally binding. In the light of the broad criteria of opinion juris, the discussion of the subjective factors that promote the LTS to become international custom can be evaluated from the aspects of domestic space law, jus cogens in international law, the forming rules of international law and the rules of natural justice. It is fortunate that the path of the LTS becoming an international custom is relatively broad, and this article concludes that viewing from the current status quo of the LTS and the positive responses of the international community, making this concept become an international custom is not only realistic but also optimistic.