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Space Resources, the Enabler of the Earth-Moon Econosphere (5)

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LAUNCH STATUS CHECK: COMMERCIAL LUNAR ACTIVITY IN 2020

Abstract

We will review the latest developments in national and international space law and policy in order to determine the legal status of commercial resource utilization on and around the Moon. We will update and expand our previous analysis with a new focus on the development of an Earth-Moon econosphere. The resulting paper will evaluate various jurisdictions in terms of whether and to what extent national governments in the United States and elsewhere are prepared to facilitate commercial use of lunar resources, particularly water ice for life support, propellant, construction, and other uses. We will also discuss recent developments in international norms as well as emerging consensus among legal scholars on lunar resource utilization. Our analysis will specifically identify and assess legal and regulatory obstacles, ambiguities, or gaps that would confront a hypothetical commercial lunar or cislunar venture that is otherwise technically equipped and has sufficient capital to identify, reach, extract, use, transport, and/or sell lunar resources. Recent developments for consideration will include the United States' Artemis Program, Commercial Lunar Payload Services Program, 2015 SPACE Act, and the proposed Space Frontier Act. We will also address China's approach to lunar resource activities under the Chinese Lunar Exploration Program ("CLEP"), as well as relevant laws and policies emerging in Luxembourg, the United Arab Emirates, and other nations. International legal considerations will include the participation of international partners in the Artemis Program and CLEP, positions taken by participants in the UN Committee on Peaceful Uses of Outer Space and the Space Resources Governance Working Group, and opinions of legal scholars. We will evaluate the effects that recent laws and policies would have upon hypothetical lunar and cislunar commercial enterprises, including all phases of hypothetical missions. Our analysis will address whether any laws or regulations would prohibit any aspect of commercial lunar resource utilization, or whether omissions or ambiguities in laws or regulations would fail to provide necessary support or authorization for such activity. We will conclude by determining which jurisdictions are legally prepared to launch commercial lunar and cislunar missions at the present date. If we find that they are not yet prepared, we will identify the laws, regulations, and/or treaty provisions that would need to be drafted or amended in order to allow for such missions.