

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
International cooperation on the way to the Moon and Mars (2)

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STANDARDIZATION AS AN INSTRUMENT OF COOPERATION: A SILVER LINING FOR
HARVESTING COMMON BENEFITS ON THE WAY BACK TO THE MOON?

Abstract

Humankind's return to the Moon has begun, and this time it will be a journey that builds upon six decades of spaceflight experience. Standards are capturing the essence of this experience; formulas that "are the distilled wisdom of people with expertise in their subject matter" (ISO, 2021). As such, standards fill an important gap left by space law. They provide for elaborated indications of what is to be regarded as diligent or negligent. Far from being law, they become benchmarks for lawfulness.

Standardization ensures compatibility of technologies and systems on a worldwide basis, and is a prerequisite for interoperability and interaction between interfacing products. Standardization can create markets and facilitate the creation of new products. Standardization can also lower the barrier of entry in to the market by creating a level playing field for space actors. However, it does not have a specific legal meaning, and its nature, objectives and consequences are not uniform. 'Standards' vary greatly with respect to their scope, process of development and specificity. Not least, standardization efforts can be based on different interests.

What are the legal and practical consequences of this development in the context of space exploration? What is their role in determining right or wrong, good or bad, diligence or negligence? What are the issues that can be tackled through standards, who participates in their making? Can standards precede legal regulation in the exploration of the Moon and other celestial bodies?

Starting from the premise that space standardization has the inherent potential to foster international cooperation, this paper will explore whether or not it may also be a way to enhance participation, cooperation and benefits sharing in the new age of space exploration. Those precepts of international space law are hard to meet in planetary exploration, a field that is costly, complex and exclusive. Can standards really open up a level playing field in space exploration? Or are they, on the opposite, a means to raise the barrier such that only few can join the limited circle of lunar returners?