

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

Author: Ms. Dimitra Stefoudi  
Leiden University, The Netherlands, d.stefoudi@law.leidenuniv.nl

FORGET SPACE RESOURCES. THE MOON AGREEMENT IS ABOUT PEACE AND THE  
ENVIRONMENT.

**Abstract**

The discussion around the Moon Agreement is usually consumed with the dilemma between its adoption by consensus and the limited number of ratifications. It is speculated that the lack of commitment is partly due to the provisions that concern the utilization of space resources. The principle of common heritage of humankind, paired with the prohibition of appropriation of the subsurface and natural resources, are believed to put a moratorium on space resource activities. However, the Moon Agreement foresees the adoption of an international regime for the governance of space resources, once this becomes feasible. Now that space resource utilization is close to fruition, this type of international arrangement seems the most appropriate way forward. Nevertheless, discussing the Moon Agreement solely within the context of space resources overlooks its value with regard to two other topics that emerge with the development of space activities, namely the peaceful use and the environmental protection of outer space. Although in most parts the Moon Agreement mirrors the Outer Space Treaty, the parts that differ are the ones addressing the aforementioned topics. Whereas the Outer Space Treaty calls for countries to refrain from harmfully interfering with the activities of others and contaminating space, the Moon Agreement refers generally to disruption of the existing environmental balance, thus offering wider protection. On the issue of peaceful use, the Moon Agreement specifies that the use of force, any hostile act, any threat thereof, as well as engaging to such acts are prohibited. Hence it adds more context to the general principle of exclusively peaceful purposes of the Outer Space Treaty. This paper will make a case for using the provisions of the Moon Agreement to fill in the gaps that are attributed to the Outer Space Treaty and concern issues that are currently high on the international agenda. To this end, it will support that the Moon Agreement is a forward-looking document that takes into account the current developments in the space field. Furthermore, it will posit that the Moon Agreement is better suited to promote the sustainable development of space activities compared to the other space treaties. Acknowledging the low likelihood of a revival of the Moon Agreement, the paper will examine ways in which countries can subscribe to the principles of the Moon Agreement without committing to the provisions that do not suit their national policies.