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LEGAL STATUS OF A LUNAR STATION: NON-APPROPRIATION OF THE MOON AND ITS
FURTHER CONDITIONS

Abstract

After initial outcomes achieved during the past decades, lunar activities are entering the next stage: preparation for the construction of lunar stations. The US-led Artemis programme and China-Russia led International Lunar Research Station project are now the most ambitious lunar missions that aim at long-term lunar robotic and human presence. Nevertheless, lunar stations activities are not sufficiently covered by current space law, and among the legal issues raised, the legal status of a lunar station is the first to be discussed. Building stations on lunar surfaces could influence the free access to all areas of the Moon of other states and challenge the non-appropriation principle in Article II of the Outer Space Treaty. Therefore, it is necessary to discuss whether the construction of lunar stations is according to the non-appropriation principle and what further regulation is needed to supplement the principle.

This paper first introduces the characteristics of lunar stations relevant to determining the legal status of lunar stations. Then, this paper examines Articles I, II and XII of the Outer Space Treaty and discuss whether lunar stations activities constitute national appropriation. The province of all mankind, freedom of exploration and non-appropriation provisions are the core of space law and the basis for determining the legal status of lunar stations. Besides, Articles 8, 9 and 15 of the Moon Agreement are analyzed. Though the Moon Agreement is not legally binding for most states planning lunar stations projects, it can still be a reference for studying legal proposals of lunar stations as it contains comprehensive rules regarding lunar stations. Finally, this paper concludes that the construction of lunar stations is supported by the Outer Space Treaty and complies with the non-appropriation principle with certain conditions that should be met: (a) restrained and efficient use of lunar surface; (b) transparency and continuously updated information of lunar surface used; and (c) free access to all areas of the Moon of other countries should not be impeded, and lunar stations should be open to other countries on a reciprocal basis.