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Safety Zones on Celestial Bodies and in Outer Space (5)

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SAFETY IN THE SPACE TREATIES: WHY ARE SAFETY ZONES AND SAFETY MEASURES IN
OUTER SPACE NECESSARY?

Abstract

The safe conduct of space activities is of paramount importance both for present and for future space missions. In practical terms, the safety of space operations is critical for every new system launched into outer space, for those already in orbit, as well as for the sustainability of outer space. In terms of the legal framework though, there are no provisions directly addressing space safety. The Outer Space Treaty requires States to conduct their activities in outer space with due regard, to avoid harmful contamination of the Moon and other celestial bodies, and to avoid adverse changes to the Earth's environment. In case of foreseeable harmful interference, States are asked to enter into consultation. Similarly, the Moon Agreement calls for States to take measures to prevent environmental disruption on celestial bodies and on the Earth. Both documents provide on several occasions for the exchange of information among States and cooperation in space activities. Furthermore, the Rescue and Return Agreement aims to protect astronauts in case of emergency and distress. However, the space treaties do not provide, by and large, for safety. Nevertheless, there are mechanisms in place for the allocation of international responsibility for national space activities and for international liability for damages caused as a result of lack of safety in the conduct of space activities.

This paper will support that in addition to the principles related to the protection of the environment of the Earth and of outer space and to the well-being of astronauts, actionable measures are required to ensure safe conduct in outer space. In absence of the latter, compliance with the principles of international space law is cumbersome, uncoordinated, and remains dependent on the good faith of States to perform according to their international commitments. For the purpose of the analysis, the paper will assess whether the aforementioned principles entail obligations of conduct or obligations of result and whether that influences the way in which States should carry out activities in outer space. Notwithstanding the freedom of exploration and use, the freedom of access, and the prohibition of appropriation, this paper will ultimately support that safety zones and other safety measures should be considered as means of implementation of the provisions related to safe conduct prescribed in the space treaties.