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LUNAR EXPLORATION TOWARDS A NEW TREATY OF TORDESILLAS SITUATION

Abstract

In 1494 the recently discovered New World was divided between the two maritime powers of the time, the Portuguese and Spanish Empires, through the Treaty of Tordesillas. The document drew an equinoctial line dividing the world between the Iberic states, which was heavily opposed by others state leaders. With more European states improving their navigation capabilities in the 16th century, the New World became highly disputed, and the Treaty of Tordesillas more contested. Several nations did not recognise the treaty's legitimacy, embarking on colonising the so-called Iberic possessions. More than 500 years later, history can be repeated on the Moon. Now that it presents potential for lucrative enterprises, space has become highly contested, but is still poorly regulated. Commercial prospects like space mining and space colonization are becoming a reality but are not directly addressed through conventional multilateral processes. In fact, individual nations are now regulating future lunar activities via either national legislation or bilateral agreements with like-minded countries. The Artemis Accords offer a clear case in this respect. The initiative raised criticism from other countries, including China and Russia, that do not agree with the concept of regulating space issues outside the UN multilateral channels, not recognizing it as a legitimate legal source and establishing their own Moon initiative, the International Lunar Research station (ILRS). While it is still unclear if this project will also require adherence to a specific set of rules, the fact is that the Moon could slide into a new Tordesillas situation, with two different normative systems that do not recognize each other resulting in a tense and unpredictable environment. Against this background, this paper aims to provide an in-depth assessment of the current sources of space regulation for lunar exploration and provide a comparative analysis with the Treaty of Tordesillas context. The paper will first analyse the failure of the traditional multilateral model of creation space law. Subsequently, it will address the new space regulation approach, with the primacy of soft law, focusing on the Artemis Accords. By doing so, the paper will also investigate aspects related to the new space demands and legitimate sources of space law. Finally, recommendations on how to meet the new demands of space through broadly accepted space regulations will be provided.