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AN INTERNATIONAL LEGAL TRUST SYSTEM TO DEAL WITH THE NEW SPACE ERA

Abstract

Considering the worsening climate changes, in the future outer space might be our last Noah's Ark. Now, humans must look to space as an opportunity to support growing resource requirements. Asteroids are rich in metals, which could be transported back to Earth. Unfortunately, the existing international legal framework discourages investments in the space economy. Once an enterprise invests billions of dollars in discovering and developing a mining site, it cannot claim any ownership because of the non-appropriation principle stipulated in Article 2 of the Outer Space Treaty. Thus, other entities could legally access and exploit the same resource without any participation in the initial financial investment, increasing the risk of potential conflict. Bearing this in mind, the question arises, which legal regime could ensure effective allocation of space resources, avoiding a chaotic race to acquire valuable assets? The aim of this research is to argue that an international legal trust system should be set up, which would guarantee exclusive rights, adaptable to the nature of the celestial body. E.g., property rights could be preferable to a lease over asteroids, as they could be exploited to their disappearance. The system would be supervised by the United Nations Office for Outer Space Affairs (UNOOSA), as the main trustee. More precisely, when a company is interested in the exploitation of a resource or in building a facility on a celestial body, prior to initiating any operation, it will send a work plan to the UNOOSA. The plan of work shall be consistent with the legal parameters of economic and environmental sustainability, and it shall provide benefit-sharing, based on a combination of production charges and share of net proceeds. If the work plan is approved, the country in which the company has been registered assumes the role of co-trustee for that resource. Thus, as co-trustees, countries would investigate whether all activities of their national companies are consistent with the work plan. When the applicant for the space activity is a state, the trustee would be the UN. Finally, this research will demonstrate the valuable outcome of the International Legal Trust System and its advantages for all humankind. Private companies would rely on exclusive rights, while the income of benefit-sharing could be used to finance global objectives, such as the 17 Sustainable Development Goals adopted by the UN in 2015, which addresses peace, climate change, inequalities and poverty.