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THE RESOLUTION OF OUTER SPACE RELATED INTERNATIONAL DISPUTES

Abstract

The global space related industry has expanded considerably, with a move towards many private companies entering the arena. The original Space Law Treaties provide a basic framework for outer space related activities, but not really cover many of the legal issues now encountered. Domestic legislation dealing with satellites and launch vehicles will become more prevalent. As will international disputes arising from space related activities.

The Permanent Court of Arbitration at The Hague (the PCA), established by the Hague Convention on the Pacific Settlement of International Disputes in 1899. It is an intergovernmental organisation comprising 122 member States and providing a variety of dispute resolution services. The PCA sought to address the complex dispute resolution issues associated with satellite and other space-related activities. The Administrative Council of the PCA approved the establishment in 2009 of an Advisory Group (the Advisory Group) of experts in air and space law, led by the PCA Secretary-General

The Advisory Group worked for three to develop a specialist set of rules, and in May 2011 a Preliminary Draft set of Optional Rules was produced and sent to States for comment. After receiving feedback, the draft was amended and, on 6 December 2011, the PCA gave effect to the Optional Rules for Arbitration of Disputes Relating to Outer Space Activities (Outer Space Rules). The Outer Space Rules issued provided a framework for international cross-border dispute resolution in relation to space related activities.

This paper seeks to consider the challenges faced in relation to the settlement of disputes arising in relation to the design, manufacture supply and launching of space vehicles and satellites. The particular issues raised by the Outer Space Rules will be considered, together with some examples from the limited caselaw that exist in relation to this area.

Consideration will also be given to the well-established international arbitration rules such as those of the International Chamber of Commerce, and London Court of International Arbitration. Other means of private dispute resolution will also be considered such as adjudication, expert determination and mediation.