

The Moon Agreement: A Prospective Analysis

Almost 40 years have passed since the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Moon Agreement or MOON) was approved in the UN General Assembly through Resolution 34/68. With only 18 ratifications and four signatures, the Moon Agreement marked the end of the hard-law era in space and it is seen as a somewhat failed treaty. As so, besides understanding what the future reserves, it is important to establish if we should still talk about the Moon Agreement. The conclusion of such a discussion shapes the future of the MOON.

We believe the Moon Agreement should not be so rapidly disregarded, indeed, it contains many lessons and some of the questions that arise from it are still important today.

As an introductory step, we will start by understanding what the status of the treaty is: should it be considered as a subsequent treaty that only interprets and applies provisions of the Outer Space Treaty (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, UNGA Resolution 2222 (XXI), entered into force in 1967) or as a subsequent treaty that creates new rights and obligations not deriving from the OST? This also requires a categorization of the MOON according to the Vienna Convention on the Law of Treaties. Such categorization will allow us to understand the relevance of the Moon: is it an important means of interpretation of the OST or is it a new approach and, thus, a failed attempt to create new concepts? This is a very important step, as any prospective analysis requires an understanding of the current relevance of the analyzed variable.

We will look at some of the questions that arise from the MOON and try to establish the most important lessons that derive from it after almost 35 years of its entry into force. This step will require an analysis of the Moon Agreement to determine its most important provisions, the ones that we should carry on to the future and most definitely should be applied to the international community, as opposed to the ones not so relevant which might be disregarded in the long run.

Finally, we will conclude with the current relevance and try to come up with future scenarios for the Moon Agreement. If it is a valid means of interpretation of the Outer Space Treaty, then the MOON is a relevant Treaty, which we should still debate and maybe re-use for future legislation. Should it be seen as a failed attempt to create new concepts, the only discussion left is to understand the lessons learnt and what to keep from them in pursuing new legislation.

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