

Key Objections to the Moon Treaty

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“Common Heritage of Mankind” Language:

Article XI of the Moon Treaty provides that “the Moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement, in particular Paragraph 5 of this Article.”

Like the identical language contained in the Law of the Sea Treaty, the “common heritage” language of the Moon Treaty constitutes a finding that all nations of the world - whether or not they expend any effort or risk any capital - have rights to Lunar resources. This means that any effort to develop resources would require the consent of all nations, a process that would be slow, cumbersome and prone to blackmail.

Ban on Property Rights:

That this is the goal is made clear by Paragraph 3 of Article XI, which provides that:

“neither the surface nor the subsurface of the Moon, nor any part thereof or natural resources in place, shall become the property of any state, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person.”

Without property rights, economic development of the Moon would be frustrated - unless it were conducted by the special monopolistic regime that the treaty contemplates in Article XI, Paragraphs 5 & 7.

The International Regime:

According to Paragraph 5 of the Treaty, there will be established

“an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the Moon as such exploitation is about to become feasible.”

Paragraph 7 provides (among other things) that the regime shall promote

“orderly and safe development [of lunar resources], rational management [of them and the] equitable sharing by all states parties in the benefits derived from those resources.”

Although the Moon Treaty itself provides little guidance on what these terms mean, the very similar Law of the Sea Treaty interprets them to involve the creation of an international authority to govern or conduct all resource extraction, with a hefty share of the proceeds going to less-developed countries regardless of whether they have any investment in the activity or not. That would discourage - if not outright prevent - the development of Lunar resources any time soon.

Other Problems:

Although styled the “Moon Treaty,” this agreement by its terms also extends to other celestial bodies, including near-Earth asteroids and Mars (Article I). The Moon Treaty is silent on the question of human rights in space, except to deny them in the case of property rights (see above) and privacy rights (Article XV). And it limits use of the Moon to “scientific purposes” until an international regime is established pursuant to Article XI (Article IV). This might even prohibit space tourism or space power systems, or other beneficial but non-scientific uses of the Moon and other celestial bodies.

In short, the Moon Treaty could pose a serious barrier to space development. It’s up to us to keep that from happening.

NOTE: Due to the serious objections to the Treaty by space activists before Senate hearings, the United States has refused to ratify the so-called “Moon Treaty.”

