

Why the Moon Agreement was Adopted Despite Major States' Opposition?
(Mengapa Perjanjian Bulan Diterima Walaupun Ditentang Negara-Negara Utama?)

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ABSTRACT

This paper examines why the Moon Agreement was adopted in 1979 despite its subsequent rejection by major spacefaring states. Through a combination of historical research and review of United Nations negotiation records, the study examines how key provisions of the Agreement—particularly Articles 1(1), 5(1), and 11(1) and (5)—became focal points in negotiations and shaped states' positions, and evaluates their legal and political implications. The findings indicate that the Agreement's more detailed regulatory approach, including its designation of the Moon and its natural resources as the *common heritage of mankind* and its call for an eventual international regime for resource exploitation, generated significant resistance from technologically advanced states concerned about operational constraints and economic uncertainty. At the same time, the Agreement's adoption was made possible by structural changes within the Committee on the Peaceful Uses of Outer Space (COPUOS), including the expanding membership of newly independent developing countries and the growing perception that the Outer Space Treaty no longer provided sufficient guidance for emerging lunar activities. These factors, combined with the consensus-based procedures of COPUOS, created conditions for adoption even without superpower support. The study concludes that the Moon Agreement's trajectory offers valuable lessons for designing future governance frameworks for extraterrestrial resources, particularly the need to balance normative goals with technological and political realities.

Keywords: Moon Agreement, Common Heritage of Mankind, COPUOS, International Space Law, Consensus

ABSTRAK

Makalah ini meneliti sebab Perjanjian Bulan (Moon Agreement) diterima pakai pada tahun 1979 walaupun kemudian ditolak oleh negara-negara angkasa lepas utama. Melalui gabungan analisis doktrinal, kajian sejarah, dan semakan rekod perundingan Pertubuhan Bangsa-Bangsa Bersatu, kajian ini menilai peruntukan utama Perjanjian tersebut—terutamanya Artikel 1(1), 5(1), serta 11(1) dan 11(5)—serta implikasi undang-undang dan politiknya. Dapatan menunjukkan bahawa pendekatan peraturan yang lebih terperinci, termasuk penetapan Bulan dan sumber semula jadinya sebagai warisan bersama manusia serta cadangan pembentukan rejim antarabangsa bagi eksploitasi sumber, telah menimbulkan tentangan ketara daripada negara-negara maju yang bimbang tentang kekangan operasi dan ketidakpastian ekonomi. Pada masa yang sama, penerimaan Perjanjian tersebut dapat berlaku disebabkan perubahan struktur dalam Jawatankuasa Penggunaan Aman Angkasa Lepas (COPUOS), termasuk pertambahan keanggotaan negara-negara membangun yang baru merdeka dan persepsi semakin meningkat bahawa Perjanjian Angkasa Lepas tidak lagi menyediakan panduan yang mencukupi untuk aktiviti lunar yang baharu muncul. Faktor-faktor ini, digabungkan dengan prosedur konsensus COPUOS, mewujudkan keadaan yang memungkinkan penerimaan Perjanjian tersebut walaupun tanpa sokongan kuasa besar. Kajian ini menyimpulkan bahawa trajektori Perjanjian Bulan menawarkan panduan penting bagi merangka kerangka tadbir urus masa depan untuk sumber angkasa lepas, khususnya keperluan menyeimbangkan aspirasi normatif dengan realiti teknologi dan politik.

Kata Kunci: Perjanjian Bulan; Warisan Bersama Umat Manusia; COPUOS; Undang-undang Angkasa Lepas Antarabangsa; Konsensus

INTRODUCTION

With the rapid advancement of space development and the increasing feasibility of lunar resource utilisation by both governmental and private actors, the need for internationally accepted legal frameworks has become increasingly urgent. In this context, this paper examines the Agreement Governing Activities of States on the Moon and Other Celestial Bodies (Moon Agreement). The Moon Agreement was adopted in December 1979 by the United Nations General Assembly and drafted under the Committee on the Peaceful Uses of Outer Space (COPUOS), and it constitutes one of the five core United Nations treaties governing outer space. Following nearly a decade of negotiation, it marked a significant development by designating the resources of the Moon and other celestial bodies as the “Common Heritage of Mankind” (CHM) and by introducing the notion of international oversight for their utilisation.

Despite these objectives, the Moon Agreement currently has only 17 States Parties (United Nations Treaty Collection, n.d.). Importantly, major spacefaring states, including the United States, Russia, and China, have not ratified the Agreement, thereby limiting its practical impact and normative reach.

Previous research on the Moon Agreement has focused on its normative foundations and its contemporary relevance. For instance, Bini (2010) argues that the Agreement was conceived on the basis of principles such as the peaceful use of outer space, international cooperation, and the notion of the “common heritage of mankind,” and examines its legal framework and potential role in the twenty-first century. In addition, Kopal (2008) provides a detailed historical account of the negotiation process leading to the adoption of the Agreement, tracing the evolution of proposals and deliberations among States. Furthermore, Wedenig and Nelson (2023) observe recent developments, including the limited number of States parties, instances of withdrawal, and the emergence of the Artemis Accords, thereby questioning the Agreement’s effectiveness and its future viability.

However, these studies predominantly concentrate on the normative significance of the Moon Agreement, its contemporary evaluation, the causes of its limited effectiveness, or descriptive accounts of the negotiation process itself. As such, they do not sufficiently address a critical question: why the Agreement was ultimately adopted despite the lack of strong support from major spacefaring States.

This article addresses this gap by examining the underlying political and legal dynamics that enabled the adoption of the Moon Agreement. In

particular, it argues that major space powers refrained from ratification because they were compelled to accept provisions that did not fully reflect their national interests. At the same time, it demonstrates that changes in the composition of COPUOS, especially the increasing presence of developing countries, played a decisive role in facilitating the Agreement’s adoption.

Examining both the adoption and the limited acceptance of the Moon Agreement is therefore significant not only for understanding the historical evolution of international space law but also for illuminating broader questions of global governance. In particular, the Agreement’s articulation of the Common Heritage of Mankind and its approach to regulating resource utilisation echo contemporary debates concerning climate change, especially principles such as “common but differentiated responsibilities” and the equitable management of global commons. The Moon Agreement thus provides a valuable reference for ongoing discussions regarding the justification, allocation, and governance of shared resources.

METHODOLOGY

This study addresses the research question outlined above through a structured three-part analysis. The first section examines the provisions of the Moon Agreement that are considered particularly significant. The clauses analysed include Article 1(1), Article 5(1), and Articles 11(1) and 11(5). The second section investigates the factors underlying the limited number of ratifications of the Moon Agreement, while the third section explores the circumstances that led to its adoption despite the rejection by major spacefaring states, considering the implications for international space law.

This study primarily employs a combination of literature review, legal interpretation, and historical-legal analysis. First, the provisions of the Moon Agreement are examined using doctrinal methods, focusing on the textual wording and the underlying purpose of each clause to elucidate their legal content. Second, historical analysis is conducted based on primary sources, including United Nations General Assembly records, COPUOS meeting documents, and materials submitted by member states. These sources allow for a reconstruction of the historical context in which the Moon Agreement was drafted, negotiated, and ultimately adopted. Finally, the study assesses both the reasons why the Agreement was not accepted by major spacefaring states and the diplomatic processes that enabled its adoption.

Secondary literature is also utilised to provide

scholarly perspectives on the Moon Agreement. This inclusion acknowledges that interpretations and evaluations of the Agreement vary, highlighting the existence of differing viewpoints within the literature. This variation is recognised as a limitation of the study, as the analysis is necessarily shaped by the available sources and prevailing scholarly interpretations. Nevertheless, by integrating doctrinal, historical, and contextual approaches, this study seeks to provide a comprehensive understanding of the Moon Agreement's legal framework, adoption process, and broader significance in international space law.

RESULTS & DISCUSSION

Overview of the Moon Agreement

The Meaning of the Moon Agreement in International Space Law

The Moon Agreement occupies a distinct position within the body of international space law, which is primarily shaped through the work of COPUOS. Established in 1959 as a permanent committee of the United Nations, COPUOS aims to promote international cooperation in the peaceful use of outer space (United Nations Office for Outer Space Affairs, n.d.a). Its core responsibilities include supporting space research, facilitating the exchange of information among states, and examining technical and legal challenges related to peaceful uses of outer space, with outcomes reported to the UN General Assembly (United Nations Office for Outer Space Affairs, n.d.a). As of 2025, the committee comprises 110 member states, including Japan (United Nations Office for Outer Space Affairs, n.d.b). From its inception, there has been a shared understanding that the international legal order in outer space should be developed gradually in line with the cooperative needs of states, and that all decisions should, in principle, be adopted by consensus (Kopal, 2008).

The legal framework for outer space activities developed over time, beginning with the 1967 Outer Space Treaty, followed by the 1968 Rescue Agreement, the 1972 Liability Convention, and the 1976 Registration Convention. The Moon Agreement, adopted by the UN General Assembly in 1979, constitutes the fifth treaty within this international legal framework. While the Outer Space Treaty sets broad principles governing the use of outer space, the Moon Agreement elaborates on these principles by addressing specific operational issues, including resource utilisation, scientific exploration, environmental protection, and information disclosure. The detailed nature of these provisions,

while groundbreaking, has also been a source of difficulty for major spacefaring states. Since none of the major spacefaring nations has ratified the Moon Agreement, its effectiveness within the international community has been regarded as limited (Aoki et al., 2005). The situation was further emphasised by Saudi Arabia's withdrawal from the Agreement in 2023 under Article 20, reducing the number of States Parties to 17 (United Nations, n.d.).

Interpretation of the Agreement Provisions

The Moon Agreement consists of 21 articles. This study focuses on Articles 1(1), 5(1), and 11(1) and (5), which are central to the normative structure of the Agreement and essential for understanding its legal and political implications.

Article 1, Paragraph 1 of the Moon Agreement designates the scope of application as the Moon and other celestial bodies. This provision serves to clarify the range of activities to which subsequent regulations on resource utilisation, environmental protection, and exploration apply. For instance, while the appropriation of celestial land is prohibited, questions remain regarding the legal framework applicable to the extraction of subsurface resources, and the Moon Agreement provides some guidance in this regard (Aoki et al., 2005). In other words, by specifying the entities and activities governed by its regulatory principles and obligations, this provision serves as a key reference for understanding the legal constraints imposed on state activities in outer space.

Article 5(1) concerns the provision of information regarding the exploration and use of the Moon, and it explicitly requires that such information be provided to the "greatest extent feasible and practicable", following the precedent set by Article 11 of the Outer Space Treaty. However, for missions to the Moon, a temporal element was newly introduced: information on the mission is to be provided after launch, while results, including scientific outcomes, are to be furnished upon completion of the mission. Although this provision is more specific than its counterpart in the Outer Space Treaty, it did rise to disagreements over its interpretation. Moreover, some have criticised the Moon Agreement for including terms and expressions, such as "to the greatest extent feasible and practicable" (Article 5, Moon Agreement), which leave considerable room for subjective interpretation by the parties (Griffin, 1981). At the same time, this ambiguity may itself have acted as a catalyst for disputes, intensifying differences among negotiating states.

Article 11(1) of the Moon Agreement designates

the Moon and its natural resources as the common heritage of mankind, marking it as the first treaty to explicitly adopt the CHM concept (Samata, 2018). The CHM principle in Article 11(1) is structured so that its legal effect is confined to States Parties, clarifying that the provision produces legal consequences only among those parties (Henri, 1991). Article 5 obliges the States Parties, once the development of lunar natural resources becomes feasible, to establish an international regime governing such development, including appropriate procedures. This provision has been regarded as a pioneering effort, comparable to the deep seabed regime formulated under the 1982 United Nations Convention on the Law of the Sea, which was developed almost concurrently with the adoption of the Moon Agreement (Yamaguchi, 2024).

Reasons the Moon Agreement Was Not Accepted by Major Spacefaring States

The limited acceptance of the Moon Agreement among major spacefaring states—most notably the United States and the Soviet Union—can be attributed to the deep-seated disagreements that emerged during the negotiations. Both states perceived that several provisions of the draft agreement had the potential to constrain their strategic and scientific interests in outer space. The major points of contention may be grouped into three broad issues.

Diverging Views on the Scope of Application

The United States argued that the principles governing lunar exploration should naturally extend to other celestial bodies such as Mars or Venus. As robotic missions to these planets were becoming realistic, the U.S. delegation emphasised the need for a comprehensive regime applicable to all celestial bodies, pointing also to existing cooperative frameworks beyond lunar activities (U.N. Doc. A/AC. 105/C. 2/SR. 188).

In contrast, the Soviet Union maintained that the Moon, as Earth's only natural satellite, occupied a unique legal and scientific position. It therefore insisted that the priority should be to establish a solid regulatory framework for the Moon, while leaving the status of other bodies to be determined in light of future developments (U.N. Doc. A/AC. 105/C. 2/SR. 187). Some states, including Japan, expressed additional concerns. They noted that while a meaningful body of knowledge already existed regarding the Moon, other celestial bodies remained largely unknown. In their view, including such bodies within the treaty's scope would be premature (U.N. Doc. A/AC. 105/C. 2/SR.

187). Therefore, the disagreement was not a bilateral U.S.–Soviet confrontation but reflected a layered debate shaped by the uneven maturity of space science and exploration technologies among states.

Conflicts over the Proposed Advance-Notification System

The United States took an active stance on this issue and, in 1972, proposed a working paper requiring states to notify the UN Secretary-General and the scientific community of any mission to the Moon or other celestial bodies sixty days in advance (U.N. Doc. A/AC. 105/C. 2(XI)/WP. 3). The proposal aimed to prevent interference among missions, ensure the safety of operations, and encourage scientific data sharing for environmental protection of celestial bodies (U.N. Doc. A/AC. 105/C. 2/SR. 205). At the heart of the debate lies the tension between a state's authority to freely conduct and manage its own space activities and the international community's interest in transparency and collective scientific progress (Stephen, 2024). The Soviet Union opposed the U.S. proposal, and ultimately, the advance-notification system failed to gain sufficient support. At the time, space activities were not yet conducted in a manner that transcended national interests, nor had states reached a level of scientific cooperation that would allow for the full exchange of mission-related information (Nakamura, 1983).

The Controversy over the Common Heritage of Mankind

The initial impetus for drafting the Moon Agreement was a proposal submitted by Argentina in July 1970, which explicitly characterised lunar resources as the “Common Heritage of Mankind” (U.N. Doc. A/AC. 105/C. 2/L. 71 and Corr. 1). The Soviet Union strongly objected to this formulation. In a 1971 submission to the Secretary-General, it conspicuously avoided reference to the CHM (U.N. Doc. A/8391 and Corr. 1). Moreover, in 1973 the Soviet Union issued a separate document criticizing the concept, arguing that the term “heritage” did not exist in Soviet civil law and could only be interpreted in a philosophical, not legal, sense (U.N. Doc. A/AC. 105/115 Annex I). Meanwhile, states such as India and Iran incorporated the CHM concept into their alternative drafts on natural resources, endorsing Argentina's proposal (U.N. Doc. A/AC. 105/115 Annex I). The United States, too, acknowledged a form of shared ownership, though phrased differently. The Soviet rejection, however, stalled negotiations (Stephen, 2024). Ultimately, through informal consultations, a compromise emerged based on a Brazilian proposal, forming the basis of the current Article 11(1) of the

Moon Agreement (Marboe, 2019).

In summary, disagreements over the scope of application, the advance-notification system, and the CHM principle became deeply intertwined. As negotiations progressed under these conditions, compromises became unavoidable, and the resulting structure of the Moon Agreement ultimately rendered it unacceptable to major spacefaring states. By contrast, the Outer Space Treaty employed more general and less burdensome formulations, avoiding rigid obligations and encouraging communication to prevent conflict (Blount, 2012). This contrast in regulatory intensity likely contributed to the stark difference in the number of ratifications between the two treaties.

Why the Moon Agreement Was Adopted Despite Limited Support

Despite the opposition of major spacefaring states, the Moon Agreement was ultimately adopted. Its adoption can be understood as the product of several converging developments, such as technological, institutional, and political, that reshaped the international community's expectations for lunar governance.

Growing Recognition of the Limits of the Outer Space Treaty

The successful landing of Apollo 11 in 1969 marked a turning point in the global understanding of lunar activities. As the Moon shifted from a distant objective to a tangible site of human activity, the provisions of the Outer Space Treaty came to be seen as overly abstract and insufficient for addressing the practical realities of lunar exploration. Concerns grew that states achieving early lunar success, especially the United States, might monopolise scientific findings or potential resources. This anxiety was particularly acute among developing countries, many of which feared that lunar resources could become concentrated in the hands of a small number of technologically advanced states (Tanaka, 1990). The emergence of such structural concerns provided a shared rationale for shaping a more detailed and binding legal framework specifically focused on the Moon and other celestial bodies, rather than outer space in general. It is within this climate that the call for a dedicated treaty gained momentum.

Transformation of COPUOS Member States and the Rise of the Global South

A second factor lies in the transformation of the member states of the COPUOS. Between its inaugural session in 1959 and the adoption of the Moon Agreement in

1979, the number of member states nearly doubled from 24 to roughly 50 states (United Nations Office for Outer Space Affairs, n.d.b). Many of the newly admitted members were developing countries that had only recently achieved independence amidst the wave of decolonisation. These states often shared the broader political agenda of restructuring the international economic order, and this orientation sharpened the existing tension between their demands for equitable access to space resources and the reluctance of the United States and the Soviet Union to accept new constraints on their space programs. This tension was clearly visible in the negotiations. The Indian delegation, for example, emphasised that the interests and needs of developing countries must be reflected in any lunar regime (U.N. Doc. A/AC. 105/C. 2/SR. 209). The numerical expansion and political cohesion of the Global South thus exerted significant pressure in favor of adopting a treaty, even over the reservations of the major space powers.

Institutional Dynamics of the Consensus Procedure

A further structural factor was the consensus-based decision-making system used within COPUOS and its Legal Subcommittee. Under this system, no provision could move forward without the explicit agreement of all participating states. This meant that every state from those with no space capabilities to major spacefaring nations, held the power to block draft language (Stephen, 2024). Paradoxically, this system sometimes facilitated progress rather than halting it. Because any state could derail negotiations, all parties were compelled to adjust the treaty language toward the minimum threshold of agreement. In certain moments, the persistent resistance of even a single state forced broader compromises that ultimately made the text acceptable to the majority. In this way, the consensus procedure, combined with the shifting political composition of COPUOS, functioned as an institutional mechanism that guided negotiations toward an outcome even when not all major actors were willing to endorse it enthusiastically.

These developments made it possible for the international community to agree—at least at a minimal level—that clearer rules governing lunar activities were necessary. Even without the active support of the major spacefaring states, this shared sense of institutional need ultimately propelled the treaty toward adoption.

CONCLUSION

This study has examined both the reasons why the Moon Agreement failed to gain the support of major

spacefaring states and the international political processes that nevertheless enabled its adoption. While the Agreement builds upon the foundational principles of the Outer Space Treaty, it distinguishes itself by providing more detailed rules tailored to activities on the lunar surface, including the prohibition of military uses, the freedom of scientific investigation, and the protection of the lunar environment. Its most significant provision—framing the Moon and its natural resources as the “common heritage of mankind”—was intended to advance the equitable use of outer space and to prevent unilateral appropriation. Yet this normative aspiration posed significant political and economic constraints for the United States, the Soviet Union, and other technologically advanced states, deepening conflicts over the scope of state obligations. The fierce disagreements over the pre-mission notification system and the philosophical disputes surrounding the CHM concept illustrate this divide. Under the consensus-based procedure of COPUOS, negotiators were ultimately unable to craft language that accommodated both present and future interests of all states, leaving provisions that major space actors found unacceptable. As a result, although the Moon Agreement was formally adopted, it received almost no ratifications from the very states capable of carrying out lunar activities.

At the same time, the 1970s were marked by growing anxiety that lunar resources might be monopolised by a handful of technologically advanced states, especially in the aftermath of the Apollo missions. This concern coincided with a dramatic change in the composition of COPUOS, as newly independent developing countries, many with limited technological capacity but strong political cohesion, became a numerical majority. Their collective push for an international system that could guarantee equitable resource management exerted substantial pressure on the drafting process and shaped the final contours of the Agreement. These structural changes within the international community made it possible for the treaty to be adopted, even though major spacefaring states ultimately declined to ratify it.

Today, as commercial actors expand rapidly into space resource activities, no new comprehensive international treaty has emerged since the adoption of the Moon Agreement. The international community thus faces a renewed institutional gap (Yamaguchi, 2024). The experience of the Moon Agreement illustrates that norms formulated without sufficient attention to state interests, technological realities, or commercial incentives may struggle to gain legitimacy and acceptance. Future legal frameworks will need to take a more incremental and flexible approach—one

that seeks to reconcile aspirational principles with the operational and economic realities of contemporary space activities. The history of the Moon Agreement demonstrates that space law inevitably operates at the intersection of normative ideals and pragmatic consensus.

A particularly significant unresolved issue concerns Article 11(5), which defers the establishment of an “international regime” to govern resource exploitation on the Moon. More than four decades later, no such regime has materialised, and the provision remains a focal point of debate (Anthony, 1986). As lunar resource extraction becomes increasingly plausible and private-sector involvement accelerates, the need for a concrete and effective international framework is far more urgent than the drafters of the Agreement may have anticipated.

In this sense, the adoption process and inherent limitations of the Moon Agreement, as identified in this study, offer important insights for the future development of international space law. How the existing institutional gap surrounding Article 11(5) should be addressed, and how a workable international regime can be formed, remains a central question for future research. The resolution of this issue will play a critical role in determining the long-term sustainability and legitimacy of the global space governance system.

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