ExpertView

Centre for Air Power Studies (CAPS)
Forum for National Security Studies (FNSS)

11/24

Why Nations are Rallying Behind the Artemis Accords

Group Captain (Dr) Swaim Prakash Singh
Visiting Fellow, CAPS
23 December 2024

Keywords: Artemis Accords, Moon Agreement, Ratification, Exploration, Exploitation, Benefits

On October 13, 2024, Estonia became the 45th nation to sign the Artemis Accords. Although Estonia does not have a space agency, it is onboard the Artemis accords. So is the case with many other non-spacefaring nations. Exactly four years ago, on October 13, 2020, the much-known Artemis Accords were signed by eight nations, namely Australia, Canada, Italy, Japan, Luxembourg, the United Arab Emirates, the United Kingdom, and the United States. This is a National Aeronautics and Space Administration's (NASA) driven, US-led initiative claiming to be supporting the "commitments of the Artemis Accords and efforts by the signatories to advance implementation of these principles support the safe and sustainable exploration of space."[1] Within two months since Estonia signed it, Cyprus, Chile, Denmark, Panama, Austria and Thailand have joined the movement, adding the quorum to 51 countries as of December 16, 2024.[2]

Some argue that it is a poorly drafted treaty as it has many contradictions with the core treaties on space law. This may be so for those who have taken the Accords at face value. A careful reading between the lines reveals that the Artemis Accords is one of the most thoughtful, intelligent, and cleverly written documents under the garb of benign commitment to all outer space treaties for peaceful purposes, except for the Moon Agreement of 1979.

The growing influence and importance of the Artemis Accords is evident from the global support it has garnered. Within just four years of its inception, 51 countries, including India, have made political commitments with the US and signed the Accords. In contrast, the Moon Agreement, which has been in existence for 45 years, has only been ratified by 18 countries. The recent decision of Saudi Arabia to join Artemis and withdraw from the Moon Agreement in January 2023, reducing the count to 17, further underscores the Accords' global appeal.

Why is it that the Artemis Accords, which lays down the "Principles for Cooperation in the Civil Exploration and Use of the Moon, Mars, Comets, and Asteroids for Peaceful Purposes", has been gaining so much traction in contrast to the Moon Agreement, which was exclusively designed for peaceful purposes? It is interesting to note that Australia is the only country that is party to both instruments. However, practically no spacefaring nation has ratified the Moon agreement yet. France and India, the only spacefaring nations that are signatories, have shown no indications that they will ever ratify the agreement.

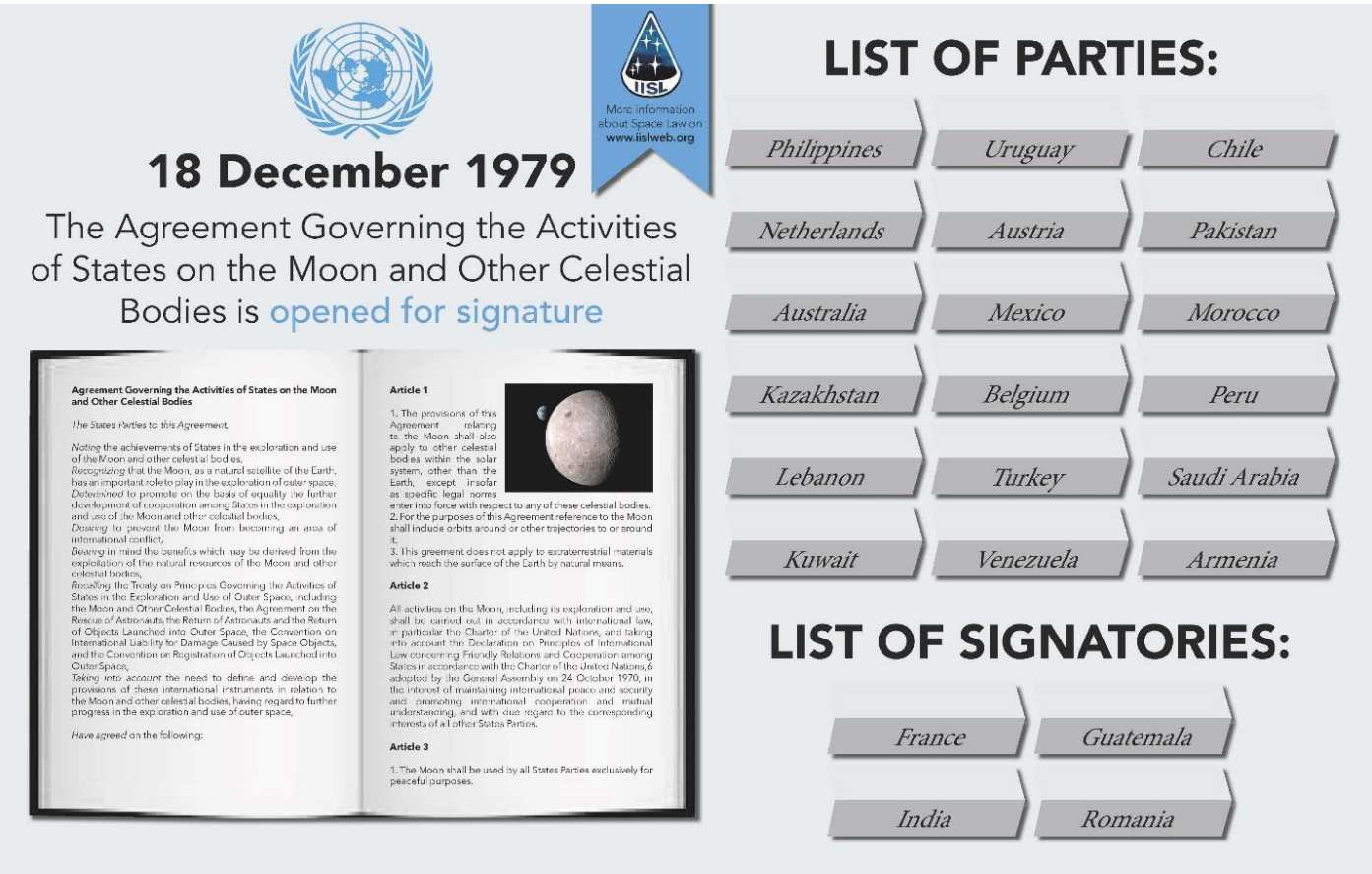

Figure 1: Ratification and signature status by countries for the Moon Agreement, 1979. (www.iisl.space)

So, let us analyse what additional benefits the Artemis Accords offer to the world, which has largely aligned itself with the US-led programme. It has 13 articles that have managed to gain global support. In fact, it brings to mind the bipolar world of the Cold War era.

This legally non-binding document has given 'due regard' to various space treaties and does not contradict them. Wherever it has tended to deviate from the benign thoughts and viewpoints, such as on 'appropriation' and 'jurisdiction', the argument or provisions have appeared to be succinctly justified under the noble thoughts of 'Space Heritage' and 'deconfliction of space activities', showcasing it to conform to the Outer Space treaty and related agreements. So far, this narrative has worked well in favour of the US, and it is continuously attracting both spacefaring and non-spacefaring countries to join it.

This Accords demonstrates its potential as a disruptor in space law and exploration. It represents a departure from conventional space treaties by advocating for collaboration, particularly with private enterprises, in lunar exploration and resource extraction. It has transitioned to bilateral and coalition-based political commitments rather than the traditionally consensus-based approach in space governance.

The main stated objective of the Artemis Accords is to foster peaceful and collaborative exploration of space, including the Moon, Mars, comets, and asteroids. However, this initiative also lays the foundation for resource exploitation. Section 11 clearly outlines the establishment of 'safety zones' around designated operational sites to prevent interference. This permits the creation of exclusive zones, a principle that is more aligned with resource exploitation than with pure exploration. This framework allows nations to pursue their national interests, granting them a first-mover advantage, especially in the emerging lunar economy.

The Artemis Accords, through its fundamental objectivity regarding space exploration, is carefully facilitating the prospects for exploitation, extraction, and, indirectly, the possibility of weaponisation. The growing establishment of 'safety zones' around extraction sites may inadvertently promote the militarisation of space by designating areas that could be secured or fortified under the pretext of safeguarding national investments.

The Outer Space Treaty (OST) asserts that space is a 'global common' and that resources cannot be nationally appropriated. However, the Artemis Accords reinterpret this to allow the extraction and utilisation of space resources by both corporations and states. In conjunction with the Accords' framework, these measures provide legitimacy to extraction activities, thereby incentivising governmental and non-governmental entities to enhance their extraction capabilities as an essential part of lunar and celestial initiatives.

As states and companies enhance their investments and dependence on resources from space, the importance of controlling those assets further escalates. The historical deployment of military assets by countries to safeguard terrestrial resource claims suggests that the expansion into extraterrestrial mining could prompt nations to establish defensive or protective measures for their operations. Such actions would fundamentally contradict the principles of core space laws, including the Outer Space Treaty.

The geopolitical, or rather astropolitical scenario in space is becoming more competitive than collaborative, as nations such as China and Russia launch alternative space initiatives, such as the Sino-Russian International Lunar Research Station (ILRS). The Artemis Accords establish a framework that has the potential to evolve into a paradigm in which economic endeavours in space are protected by security

measures, potentially resulting in the militarisation of space, like the historical conflicts over resources and land on Earth.

Despite these perceived lacunae, the Artemis Accords has gained more traction than expected. The reason is the benefit of exploration and exploitation, especially for the non-spacefaring nations without investing much into it. On the other hand, for spacefaring nations, apart from the benefits, the technological collaboration and knowledge gained is a low-hanging fruit to be part of the political commitment.

The major difference between the Moon Agreement and the Artemis Accords is in the intent of space exploration. Article 4 of the Moon Treaty of 1979 envisions an idealistic scene for space as 'the province of all mankind'. The elegantly phrased and idealistic article encourages the peaceful exploration of space, cooperation, and an even and fair distribution of resources in space. It aims to keep the Moon and the heavenly bodies free from strife, exploitation, or dominance. The article intends that the great resources and opportunities afforded in the near future by space be for the benefit of humanity and not for the benefit of a few elites.

However, the same principles that make Article 4 so noble and visionary have also hindered the Moon Treaty's broader appeal and ratification. The 'equitable sharing' and 'common heritage' requirements of Article 4 imply a level of perceived control and redistribution that many countries, particularly those with significant space investments, find restrictive and contrary to their national interests. The prospect of pooling space resources into an international framework and sharing benefits is generally seen to infringe on national sovereignty and enterprise. Space powers have been arguing this framework would limit their autonomy and the potential returns on their significant investments in space exploration and technology.

The Moon Agreement calls for the Moon and its resources to be used for the benefit of all humanity. In contrast, the Artemis Accords represent a competing framework more suited to technological capabilities and economic interests. So effectively, the Moon Agreement gives no extra benefit to the spacefaring nations for investing in the capabilities required to reach the Moon, explore, extract and return to Earth under the noble thought of the 'benefit to mankind or humanity'. This is the main reason why only 17 nations ratified the Moon Agreement, marking the absence of major space players like the US, Russia, China and India.

Another reason for the global appeal of the Accords is that the US wants countries to get along so that it can effectively undermine the Moon Agreement through standard practice. It is often stated that if one wishes to avoid adhering to a law, one should consider changing it. The Artemis Accords are effectively achieving the same objective. Given that the Moon Agreement is perceived as non-beneficial and has yet to

be ratified by major players, it is prudent to establish a mechanism based on customary law through state practice and acceptance. In International Law, Customary International Law (CIL) serves as a significant mechanism to effectuate actions that may not align with the existing legal framework.

CIL serves as a solution that arises when states consistently adhere to a specific practice driven by a sense of legal obligation. Through the collaboration of various nations in adopting the Artemis Accords, the US has the potential to create standardised practices regarding resource utilisation and safe zones on the Moon, thereby progressively integrating these norms into customary law. As of December 2024, 51 countries have signed on, and each nation that adheres to these protocols reinforces the foundation for these practices to evolve into widely accepted norms, extending beyond the signatories of the Accords.

Excluding Russia and China, all nations engaged in space exploration, such as Japan, the UK, Canada, the UAE, and India, have joined the accords. This collective action helps the United States advance a legal framework that normalises resource extraction. As time progresses, should a sufficient number of nations embrace and implement these principles, it reinforces the assertion that resource extraction and safety zones are in harmony with established norms, thereby evolving into a new space law framework that circumvents the conventional ratification process via the United Nations.

One significant step that is often ignored in the niceties of Artemis Accords is the US national space legislation called 'US Commercial Space Launch Competitiveness Act 2015'. This national act marked a watershed moment in space law, as its intent, bold language and clear vision lay the path for the call to reform outdated space treaties. It also promoted space commercialisation and the inclusion of private players effectively. Introducing terms such as "allies in space", "commercial exploration and recovery", "entitled to space resources including to possess, own, transport, use and sell" was never the narrative of core space treaties before. Though the Act was highly criticised, it compelled countries to wear a thinking hat and as a result, many countries have developed their national space laws along similar lines. As of now, the US's only rival in space is China, which, in association with Russia, is on a similar spree with the ILRS programme. As of December 2024, the ILRS has been able to garner the support of 13 countries, including Pakistan, Azerbaijan and Belarus. Interestingly, Thailand is one country that is a signatory to both the Artemis Accords and ILRS, reflecting complex global Astro-politics to come in the future.[3]

To conclude, India, as a responsible country with a credible diplomatic standing on the global stage, made a strategic decision after four years of careful consideration to join the Artemis Accords. This move underscores India's commitment to global space cooperation and its interest in participating in lunar exploration missions. India's decision to join the Artemis Accords is not just a formality but also a clear

indication of its intention to engage in technological and scientific collaboration, aligning with its ambition to become a significant contributor to outer space by 2047. By joining the accords, India is favourably positioned to collaborate with other nations, including the United States, in future missions to the Moon, sharing knowledge and expertise while contributing to the broader goals of advancing scientific research, technological development, and expanding humanity's presence in space. It wouldn't be surprising if India, with its effective and result-oriented pluralistic approach, partners with China and Russia in their ILRS programme in the future for the collective benefit of humankind.

(Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS])

Notes:

[1] "The Artemis Accords: Principles for a Safe, Peaceful, and Prosperous Future in Space," National Aeronautics and Space Administration, https://www.nasa.gov/artemis-accords/, accessed on October 23, 2024.

[2] "The Artemis Accords: Principles for a Safe, Peaceful, and Prosperous Future in Space," National Aeronautics and Space Administration, https://www.nasa.gov/wp-content/uploads/2024/10/signatories-02.pdf?emrc=451d5f, accessed on December 20, 2024.

[3] "Lunar Space Cooperation Initiatives." Secure World Foundation, https://swfound.org/lunar-space-cooperation-initiatives/, accessed on December 20, 2024.