

Commercial Space Program: It's Rescue Operation on Third State and Problems in International Law

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Abstract

Third State is somehow bound to obey the Rescue Agreement, 1967. Commercial Space Company is bound by National Law and International law, so they are bound to obey the agreement. The details discussion about commercial space program and its Rescue operation on a third state is here.

Keywords: International law; Astronauts rescue; Commercial spacecraft; Spacecraft rescue operation; Third state

Introduction

Private Space Company is rocking now. They are sending spacecraft to the space. Now they are planning to send manned mission to space. Astronauts have been treated as envoys of mankind after signing Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, 1962¹. But the question is Is International law can govern there all activities? What will happen when a private spacecraft owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a third State of *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space*?².

Description

Agreement on the Rescue of Astronauts, the Return of Astronauts and the return of objects Launched into Outer Space, 1967³ provided us step by step procedure how to rescue the space objects and Astronauts. But there are some questions that to be answered. Who is third State of Rescue Agreement, 1967⁴. IS third State bound to obey the Rescue Agreement, 1967? Is Commercial Space Company bound to obey the Rescue Agreement, 1967? What will happen when a private spacecraft owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a third State? (Figure 1).

Who is third state?

According to Vienna Convention on the Law of Treaties⁵ Article 2(h) "third State" means a State not a party to the treaty. So, who is not signed the Rescue Agreement, 1967 is third State in the eye of Vienna Convention on the Law of Treaties⁶. Which county have not signed A Rescue Agreement, 1967 is "third State" in eye of International Law. Here is the map showing on Figure 1 about contracting parties, signed but not yet ratified and third State of Rescue Agreement, 1967.

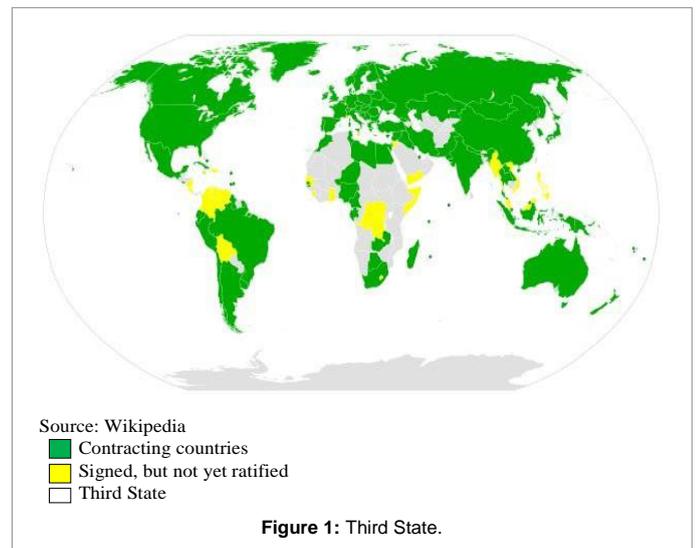


Figure 1: Third State.

Is third state bound to obey the rescue agreement, 1967?

According to Article 34 of Vienna Convention on the Law of Treaties⁷. A treaty does not create either obligations or rights for a third State without its consent." But if an obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing⁸. Some of the treaty provisions have become customary international law. Third State is not bound to obey the Rescue Agreement if any third state expressly accepts that obligation.

⁷Ibid.

⁸Article 35', VIENNA CONVENTION LAW TREATIES', May at.

¹Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, G.A. Res. 1962 (XVIII), para 9, UN Doc. A/AC.105/5721 Rev 1 at 37 (Dec 13, 1963) [hereinafter Declaration of Principles].

²UNOOSA Rescue Agreement', (1967), at.

³UNOOSA Rescue Agreement', (1967), at.

⁴Ibid.

⁵VIENNA CONVENTION ON THE LAW OF TREATIES', May (1969), at.

⁶Ibid.

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Received December 24, 2020; Accepted December 22, 2020; Published December 29, 2020

Citation: Zwaki S (2020) Commercial Space Program: It's Rescue Operation on Third State and Problems in International Law. J Civil Legal Sci 7: 251. doi: [10.4172/2169-0170.1000251](https://doi.org/10.4172/2169-0170.1000251)

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Is commercial space company bound to obey the rescue agreement, 1967?

Article VII of Outer Space Treaty jurisdiction permits the state of registry to subject its space objects and personnel to any national laws which are not in conflict with international law⁹. Article VI of Outer Space Treaty goes on to state that “the activities of non-governmental entities including the moon and other celestial bodies, shall require authorization and continuing supervision by [parties to the treaty]”¹⁰. Accordingly, states may legislate with respect to a broad range of both public and private activities; and, in most circumstances, they exercise a much authority within the vicinity of their space facilities as they would within their territory on Earth.

In editorial compilation of United States Code, 2000 Edition, sec. 70117 (e) Foreign Countries. - The Secretary of Transportation shall - (1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and (2) consider applicable laws and requirements of a foreign country when carrying out this chapter¹¹.

Sub-section (e) - 1 provided that agreement in force between the USA Government and the Government of a foreign country. This section bound the commercial space company to obey the Rescue Agreement, 1967.

What will happen when a private spacecraft owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a third state?

In this situation the third state will notify The UN first. If the

⁹Cepelka and Gilmore, 'Application of General International Law in Outer Space', 36 AIR L COM (1970), at 58.

¹⁰Article 6 of Outer Space Treaty', (1962), at 5.

¹¹Editorial compilation of United States Code', 49 USC CHAPTER 701 - Commer Sp LAUNCH Act (2000), at 20.

launching authority have direct diplomatic ties with the third state then it will negotiate about the situation. If there is no diplomatic relation with the third state the launching state will contact outer state which has diplomatic relationship with the third state. Thus, for example, if an ESRO astronaut lands in Soviet territory due to an accident, the Soviet Union would be required to return him to a location designated by ESRO, assuming that both the Soviet Union and ESRO are subject to the Agreement. While ESRO might designate a member state to deal with the Soviet Union, the Soviet authorities would not have the option of choosing the ESRO member with whom they prefer to deal.

As the same time I can give you another example, if an CNSA astronaut lands in Bangladeshi territory due to an accident, the China has rectified UNOOSA Rescue Agreement', (1967), but Bangladesh has not yet been rectified the UNOOSA Rescue Agreement', (1967). Beside that Bangladesh has very good diplomatic ties with China. So, CNSA can manage to return astronaut.

Who will bear the cost of rescue operation?

According to Article 5 (5) of The Rescue Agreement, payment by the launching authority of expenses incurred by a Contracting Party in recovering and returning a space object or component part pursuant to its obligations under Paragraphs 2 and 3¹². This Article is governing the Commercial space company to fund the rescue cost.

Conclusion

The age of commercial space program has begun. USA, Russia, China, India, Europe, France, Japan, Germany, etc. all are ready to commercial space flit. Obviously this is not a very old tradition to fly to space. So, there are some problems in International Law to govern the Commercial space companies. We need more specific law about Commercial space company and there activities.

¹²UN, 'Paragraph 5 of Article 5, The Rescue Agreement, 1967', (1967), at.