

55th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Nandasiri Jasentuliyana Keynote Lecture on Space Law & 4th Young Scholars Session (1)

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HOW TO FOSTER THE DEVELOPMENT OF SPACE COMMERCE THROUGH LAW AND
ECONOMICS

Abstract

The purpose of this paper is to find out how law can boost the development of space commerce with all the positive consequences for humankind and Earth that that entails; the methodology is the interdisciplinary approach of law and economics, i.e. the economic analysis of law; the results are: reduced risks of engaging in space-related activities, a competitive market reaching a Nash equilibrium, and faster growth of space commerce, which will accelerate the adoption of an efficient next generation of legal rules for conduct in space, and benefit our economy at the same time.

The conclusion is that a Space Bargaining Code enjoying a wide support in the space arena, amplified by the bandwagon effect, would lower the transaction costs as well as the risks of participating in space commerce. It would also relieve the space lawmakers since facilitated bargaining enables private parties to exchange legal rights and reach efficient outcomes even if the initial allocation of the rights is not efficient. At this stage where the law has yet to catch up with all the technological advancements, fostering space commerce and efficiency through lubricating bargaining and with it, the further development of customary space law, would not only help the economy recover from the recent downturns, but also give the international community the opportunity to create more efficient and widely accepted space rules.

In a Nash equilibrium no individual player can do any better by changing their behavior so long as the other players do not change theirs, which means that no monopol could arise, and with competitive prices for space travel and related services, space commerce could grow at a much faster pace, expanding from the telecommunications industry to tourism, manufacturing, mining, solar energy supply, etc.

The Space Bargaining Code idea is based both on the normative Coase Theorem and the normative Hobbes Theorem that suggest to structure the law so as to remove the impediments to private agreements and minimize the harm caused by failures in private agreements. It's easier to bargain when legal rules are not uncertain. Since the first generation of space law has been focused on countries and has not dealt properly with the private sector's involvement in space commerce, starting the new body of space law by giving the private sector the opportunity to co-create space law might be just the right solution.