

56th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Legal Aspects of Space Debris Remediation (4)

Author: Prof. SOUICHIROU KOZUKA
Gakushuin University, Japan, souichirou.kozuka@gakushuin.ac.jp

Ms. Motoko Uchitomi
Japan Aerospace Exploration Agency (JAXA), Japan, uchitomi.motoko@jaxa.jp
Mr. Hiroyuki Kishindo
Japan Aerospace Exploration Agency (JAXA), Japan, kishindo.hiroyuki@jaxa.jp

THE INTERNATIONAL REGIME FOR SPACE DEBRIS REMEDIATION IN LIGHT OF
COMMERCIALIZED SPACE ACTIVITIES

Abstract

The need for an international regime to enable effective remediation of space debris has become apparent, as the threat of debris to free and safe activities in the outer space is becoming ever larger. While there have been some proposals made toward this end, many issues are yet to be solved. This paper argues that answers to such problems must be given by appropriately taking into consideration the fact that space activities have been commercialized since decades and will be even more commercialized in the future. Specifically, this paper raises three points to be examined when designing the workable regime.

First, the regime should address private law aspects of the debris as well as its status under the public international law. Because the source of the space debris can be a launcher or satellite that was owned by commercial entities, the remediation activities cannot ignore the problem of ownership or other rights that might remain in the debris. In this relation, the rules of maritime law on the wreck removal are worth being studied, because salvors working on the ocean usually presume that the rights of the owner of the ship or cargo could remain on the wrecks. The Nairobi Convention on the Removal of Wrecks, adopted in 2007, is of importance in particular.

Secondly the regime for debris remediation may need to look more to the developments of environmental law. The principle of “polluter pays”, which is now universally accepted, may have significance with regard to the space debris, in particular when the debris derives from the space objects owned by commercial entities. Then the question is how this principle can be adapted to the principles of space law established by the UN treaties on the Outer Space.

Thirdly, it may be conceived that the remediation itself can be conducted by private entities. Again, commercial salvors have a long tradition in maritime activities with good reputation. In the outer space, however, such a commercial “space salvor” may require exemption (or at least limitation) of liability in case of failure of remediation because of the inherent dangers and technical uncertainties. Further, who pays for their activity will pose a serious question. In order for commercial space salvors to appear, these problems will have to be solved.