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THE CHALLENGES IN DRAFTING NATIONAL LAW FOR SPACE ACTIVITIES – A BRAZILIAN
EXPERIENCE

Abstract

The international space law regime mandates that individual nation states are both responsible and liable for their respective national space activities. This is one of the most important norms of space law, which face today more than ever the challenge to regulate many serious legal issues emerged in full force last decades in space activities, like space security, permanent sustainability of the use and exploration of outer space, global space governance, space cooperation for the sustainable national development of the majority of States in all continents, and many others. In this context, the participation of all States, whether individually or multilaterally, is essential to achieve more effective advances in the progressive development of international space law. Indeed, international space law is now confronted with subjects as varied as the manufacture and deployment of small satellites, space debris, transfer of ownership of space objects while in orbit, space tourism, and the avoidance of flags of convenience in space activities, among others. Each State has the right to create its national policy and legislation for space activities, which must be in accordance with the international space law in force and the general international law. Consequently, nation states such as Brazil that intend to develop their national space industries and become launching states should draft national space legislation which promotes both the safety as well as adequate supervision and control of space-related activities within their respective territory. The creation of a new general law regarding space activities in Brazil is outlined in its new National Space Activities Program (PNAE 2012-2021) issued by the Brazilian Space Agency in 2012. In order to cooperate with the Agency in achieving this objective, the Brazilian Association of Air and Space Law (SBDA), through its Space Law Working Group, has been working since the beginning of last year (2013) to prepare a proposed project of Brazilian national space legislation in concert with the PNAE which takes into account the salient features of the space legislation of other national states as well as the Sofia Guidelines. The objective of this paper is to examine the outcomes of these experiences and to make recommendations that could incentive other developing nations to consider undertaking similar initiatives.