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EMERGING SPACE TRANSPORTATION SYSTEM URGE FOR DELIMITATION OF OUTER SPACE

Abstract

Space X, 'Falcon Heavy' test demonstrated, two of the three-booster rocket successfully landed onto parallel launchpads near where they took off in Cape Canaveral, Florida on February 6, 2018. It is foreseeable that a paradigm shift in space transportation is likely. With realisation of commercial operation of Falcon Heavy, re-entry of rockets is likely to be a frequent phenomenon that necessitates delimitation of outer space because liability for damages in space law is two fold – absolute liability on earth and fault based elsewhere. Reusable launch vehicles (RLV), and SpaceShipOne model of space transportation further support that the delimitation of outer space issue requires an urgent attention with ever increasing necessity. In absence of a defined boundary of the outer space there exists not only an uncertainty as to the liability rules but also an overlap with air law. This paper highlights the distinct nature of two field of laws and argues that emerging space transportation system calls for an immediate attention to address the delimitation issue. Though the problem has been on the agenda of UNCOPUOS since its early days but for conflicting interest of States no solution has been achievable. It is argued that national space legislation can aid in defining the boundary of outer space and if more and more states address it in their respective national space legislations, an international customary law may even develop in this respect.