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Legal Aspects of Space Debris Remediation (4)

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SPACE DEBRIS REMEDIATION- COMMON BUT DIFFERENTIATED RESPONSIBILITY

Abstract

The topic of Space Debris in the context of long term sustainability of outer space activities for peaceful purposes is gaining momentum and raising concerns, due to ever growing human made debris population in outer space. With the increase in the scope of outer space activities driven by vast application areas vis-à-vis increase in number of space-faring nations and related players, the situation warrants certain remediation measures beyond mitigation measures. Cleaning-up of the debris dumped all these years of space activities, is quite imperative. While the concept of Active Debris Removal (ADR), poses many technical challenges in terms of development, demonstration and implementation, it poses certain non-technical challenges to international space community relating to policy aspects, international consensus collaboration, investment economic viability and legal issues. Legal challenges include a host of issues such as definitional issues on space debris vis-à-vis space objects, affiliation of ownership and responsibility of space objects/ debris originating from 'launching state', 'state-of-registry', liability issues in the course of disposal activities, enforcement of technology controls safeguards, intellectual property protection, right of salvage and so on. The provisions under UN Treaties on outer space activities such as Space Object, Launching State, State responsibility, Liability, Jurisdiction Control, avoidance of harmful contamination causing environmental damages etc., which indirectly address the problems of space debris could also support the legal issues associated with topic of ADR. Prevailing UN Guidelines on space debris mitigation, national policies and regulations and the current development of Code of conduct for outer space activities are non-binding arrangements. Some analogy could be drawn from the Law of Sea. Article 60 and Article 80 of UN Convention on the Law of Sea, (1982), which stipulate the responsibility of a state to remove the abandoned or disused installations and structures in the EEZ and Continental Shelf, are very much comparable to the responsibility of a launching state or state of registry in respect of their inactive space objects like defunct spacecraft. The economic dimension of the concept and operation of ADR and associated operational liability issues could be addressed through sharing of burden in an equitable manner. The logic of 'polluters pay' could be applied on the basis of common but differentiated responsibility amongst the space faring nations. ADR activities could be facilitated, monitored and governed by an international body under UN arrangement. An informed debate in international fora is the need of the hour.