

57th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
The ISS IGA: Lessons learned and looking to the future (3)

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ANALYSIS OF THE LEGAL INSTRUMENTS OPERATING THE ISS AS THE MOST COMPLEX
MULTILATERAL SPACE PROGRAM EVER UNDERTAKEN

Abstract

“The International Space Station (ISS) is the most politically and operationally complex space exploration program ever undertaken” (A/AC.105/C.2/2013/CRP/17, p.2) and without any doubt, the ISS program is one of the most successful multilateral projects in addition to the fact that this is the greatest accomplishment as a human space program. In considering the legal future of the ISS after 2020, this paper reviews the legal instruments of the ISS program to evaluate which elements have brought a success and which elements have to be thought less than successful or even should be changed in its future operation. The ISS has been operated through the combination of government-government, government-international intergovernmental organization, government-agency and agency –agency agreements (both legally binding and non-binding). Among them, of course, the more significant instruments include International Space Station Intergovernmental Agreement (IGA) as a legally binding instrument which provides for basic government-level commitments, and Memoranda of Understanding (MOUs) between NASA and the respective Space Agency of Partners (except Japan for it is the Government of Japan which signed the MOU.) which establish the agency-level cooperation basis. In evaluating the structure and the contents of the ISS-related agreements of international nature, this paper first surveys and evaluates the functions of comprehensive mechanism of operating this complex space program noting the historical background and other international ramifications. Then, other international mechanisms in operating space exploration and use are studied using a comparative methodology in order to find better legal mechanism to make it flourish the ISS after 2020. The provisional outcome of the agenda item of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space (COPUOS), “review of international mechanisms for cooperation in the peaceful uses of outer space” is used in this regard.