

SPACE DEBRIS SYMPOSIUM (A6)

(joint session with Space Security Committee): Policy, Legal, Institutional and Economic Aspects of Space Debris Detection, Mitigation and Removal (8)

Author: Ms. Olga S. Stelmakh
Parliament of Ukraine / DRSB Group Int., Ukraine

ADR ACTIVITIES: FACET OF RESPONSIBLE USE OF OUTER SPACE AND LIMITS OF THEIR
LEGALITY

Abstract

In this paper the ADR mechanism will be considered as a constituent element of responsible use of outer space. It will be noted that for the moment there is no explicit internationally binding obligation imposed on the launching states to remove the space object from orbit once it is no more functional or cooperative. However through the array of soft law documents, in particular space debris mitigation guidelines, planetary protection policies and code of conduct, this implicit obligation can be distilled and introduced as an explicit commitment to remove space object from orbit upon the end of its efficient exploitation. For this purpose the continuing legal relationship between the object and launching states together with extension of their jurisdiction over the object once launched in the outer space will be analyzed. Here it will be also important to see the difference in the context of legal rights and obligations relevant to ADR activities between the launching states and the state of registry. An attempt will be done towards schematizing the legal prerequisites and mandatory steps for ADR. Special focus will be placed on transparency and confidence building measures as well as on the provision enshrined in the article IX of the Outer Space Treaty regarding obligation to undertake appropriate international consultations before proceeding with an activity or experiment that could cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space. Moreover, the attention will be drawn to its article XI pertaining to promotion of the international space cooperation through informing the UN Secretary-General as well as of the public and the international scientific community, to the greatest extent feasible and practicable, of the nature, conduct, locations and results of activities in the outer space. Important that under the international space law the said information should be disseminated immediately and effectively.

Finally, taking into account the hazardous nature of ADR activities, the issue of authorization, supervision and control will be envisaged to ensure that it falls under the legal scope and therefore cannot be seen as an “international wrongful act”. The high risk of damage posed by ADR activities will also require proper consideration of applicable responsibility and liability regime.