

59th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Interactive Presentations (IP)

Author: Mr. Dejian KONG

International Institute of Air and Space Law, Leiden University, The Netherlands

SHAPING A LEGAL SYSTEM FOR CHINA'S BEIDOU NAVIGATION SATELLITE SYSTEM

Abstract

Although China's BeiDou Navigation Satellite System (BDS) has made great progress on technical issues, its institutional, policy and legal arrangements have been left too far behind. Firstly, no clear governance structure has been worked out which results in supervision conflicts between civil and military sector in general, between internal peer agencies in civil and/or military sector, between different regional governments. Secondly, no operation structure of BDS with enough consideration for civil interests has appeared. Thirdly, no feasible cost recovery mechanism has been proposed let alone profit plan. Last but not least, the following legal uncertainties would be major barriers for the development of BDS: (a) No national space legislation has been made in China, which makes the development and application of BDS lack basic norm of law; (b) Only few space regulations and rules are focusing on such issues as registration of space objects, which could not be applied to BDS directly; (c) The State released certain national plans about satellite navigation industry, and meanwhile several agencies with military nature issued several internal policy documents about the management of civil applications of BDS, but none of them have formal legal binding effect under current Chinese legal system; (d) The only related regulation with binding force was issued by 'General Staff Department of People's Liberation Army', with its inevitably inherent limitation: one the one hand, its scope of application is limited to military applications of BDS rather than the whole system; one the other hand, it was issued by military agency without public access which makes it is impossible to regulate civil issues of BDS; (e) It is not possible for Chinese government anchors its hope on international laws as no international convention regarding GNSS would be set down in near future. Therefore, the proposed paper is intended to seek for feasible solutions for above problems with a clear path as follows: (1) figure out current governance structure and national laws which may be applied to BDS; (2) discuss the need and advantages for China to develop a comprehensive legal system including a clear institutional framework for BDS; (3) suggest the elements to be inserted in it, with the reference to positive features and shortcomings in the U.S., the EU and Russian national legal systems regarding GNSS from a comparative perspective; (4) recommend possible course of actions to be taken by Chinese policy and law-makers to shape legal framework for BDS.