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Current Developments in Space Law with Particular Consideration for Latin America (5)

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RECENT BRAZILIAN INITIATIVES TO ADDRESS LEGAL GAPS AND BARRIERS THAT AFFECT
THE DEVELOPMENT OF THE NATIONAL SPACE INDUSTRY

Abstract

When trying to build their national space industry, developing nations often face limited financial resources and lack of technical expertise. The situation is compounded by legal gaps and barriers that prevent the government from properly addressing these challenges and also create uncertainty to private investors. The situation of Brazil is illustrative: although the country has set out a clearly defined national policy (PNAE 2012-2021), it is laden with legal and managerial obstacles that mean that the policy falls short of reaching its aims. These obstacles include the lack of a general space law that is combined with the existence of a fragmented regulatory regime and a complex tax system that burdens the private sector. Additionally, the Brazilian Space Agency (AEB) lacks the necessary financing and autonomy required to improve its role as coordinator of the National System for the Development of Space Activities (SINDAE), which is yet widely fragmented. Domestic cooperation should be facilitated by focusing on common national goals. Recently, the National Council for the High Studies and Technological Evaluation from the Brazilian House of Representatives examined some alternatives that the government could adopt to foster the development of space activities. It suggested that the implementation of PNAE should be pursued further and proposed a bill, currently under examination in the Senate, to provide tax incentives and cuts for the import of goods to be used by the space industry. In addition, the Provisional Decree n. 544/11, in 2012, revised national security policies to lift some taxes and simplify the import of goods used by the defense space industry. Since many space technologies are dual-use, this decree could positively affect the private sector. Furthermore, Brazilian space activities could be seen as a combined priority for both civil and military programs. Brazil could benefit from legal and regulatory regimes that create a better structure for its space activities by combining the efforts of its different space organizations to avoid fragmentation. This paper aims to analyse these recent initiatives and their positive impacts on the Brazilian space industry. Furthermore, it discusses the legal gaps in the Brazilian space sector which could be addressed by the enactment of the general law for space activities that improve financial and managerial aspects of the Brazilian Space Agency, simplifying the existing system. Finally, unnecessary legal barriers to the domestic industry should be removed. Such analysis could assist other developing nations facing similar challenges.