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EXPLORING THE ROLE OF “RESPONSIBLE BEHAVIOR” IN THE CASE OF DUAL-USE SPACE
TECHNOLOGIES TRADE —A REVELATION FROM TCBMS

Abstract

With a growing number of space activities, as well as the new space actors join the club, outer space is now considered as a dynamic environment, being congested, contested, and competitive. In order to boom the aerospace business in the worldwide range, the proliferation of space technology is doubtless a positive development. However, what addresses our concern is the dual-use nature, as which the civil space technologies have a close relationship to military technologies. Considering such threats to the national security, States implement Comsat export control system through a licensing authorization process. For instance, the United State Department just updated its satellite export control rules under the International Traffic in Arms Regulations (ITAR).

This paper will first explore the roots of “responsible behavior”, search the body of space law and its implications on peaceful use of outer space, in facing of the decades debate of dual-use technology transfers. Relying on the example of the United States, it will be demonstrated how the existing framework of national space export control regulation works. In dealing with such technology export and security concerns, the paper will then examine the role of Transparency and Confidence-Building Measures (TCBMs), the non-binding agreements and guidelines. Furthermore, the author will compare these aforementioned “soft law” to the legally binding “hard law”, or known as disarmament approach. Finally, it will conclude that the current international law and space treaties are not adequate to address the potential legal controversies arising in this context, thus lessons can be learned from updated successful TCBMs.