

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Interactive Presentations - 61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (IP)

Author: Ms. Akiko Watanabe
Japan

OWNING THE HOSTED PAYLOAD AND INTERNATIONAL SPACE LAW

Abstract

This article deals the issues concerning the hosted payload under international space law and how the national space laws deal such issues. In this article, the contract terms for such projects are discussed, but the harmonization between the risk allocation between the parties concerned and international liability is mainly studied. The hosted payload satellite is said to be the one that the main owner of the satellite spares some space on it for the other party. Such scheme was historically conducted by the governments as the international cooperation projects. However, as the actor of the space activities are shifting from the government to the non-governmental entities, such scheme is also adopted by the non-governmental entities. As the hosted payload satellite has more than one party that has interests in the satellite, it is very important to agree in advance how to allocate the risks between the parties. On this, especially for the projects between the non-governmental entities, the indemnification against the damage of the third parties caused by such satellite should be included. Notwithstanding such allocation, since the damages from the space activities may become enormous and the financial ability of the non-governmental entities may be limited, the State should be the final bearer of the liability against victims as the international space law has in mind. The State liability of the hosted payload should be studied in two respects: (i) the launching State and (ii) the appropriate State. As for the launching State, the definition of the launching State under international space law could be found in the Liability Convention or the Registration Convention. When the hosted payload project is driven by the non-governmental entities, the identification of the launching State becomes difficult; such definition involves States, and makes it difficult to determine the launching State for activities of the non-governmental entities. Moreover, international space law requires the appropriate State to supervise and authorize the activities of its nationals. Since the basis for the attribution of the State liability for space activities is said to be changing to such supervision, it should also be studied how the State regulates by their national space law for the hosted payload projects.