

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
10th Nandasiri Jasentuliyana Keynote Lecture on Space Law and Young Scholars Session (1)

Author: Mr. Vincent Seffinga
The Netherlands

REGULATING REMOTE SENSING IN NATIONAL SPACE LEGISLATION TO INCREASE LEGAL
CERTAINTY ON AN INTERNATIONAL LEVEL

Abstract

Whether it is Earth Observation (EO) that monitors the Earth's forests, oceans or the Arctic, or remote sensing for military purposes such as target selection or troop movements, our modern society has become increasingly dependent on remote sensing activities, which is one of the most extensively practised space activities. In addition to this general dependency, remote sensing has become a strong and fruitful commercial space activity. Moreover, it is an activity in which the technological capabilities are ever improving; for example, with the Airbus Spot 6 and Spot 7 satellites which boast a 70 cm resolution or Blacksky's Global satellite that boasts a 1 m resolution.

However, these developments occur against a backdrop of meagre legal regulation of the activity, especially considering the extent to which remote sensing activities are carried out and the improvements in the technological capabilities. On an international level, remote sensing activities are primarily addressed through the Remote Sensing Principles under UNGA Resolution 41/65. However, the Principles hardly address private entities, the scope is very limited, and the status of the Principles is contentious. In contrast, national space legislation is binding and can more easily keep up with the developments as the process to adapt such legislation is less complicated than finding consensus within the international community. Therefore, national space legislation will also be able to extent its scope to new technologies where necessary. However, very few states have actually addressed remote sensing in their national space legislation.

This paper will argue that the best approach towards creating a stronger regulation of remote sensing activities, even on an international level, would be a bottom up approach through national space legislation. To argue that point the paper will first shortly examine the regulation of remote sensing under international law. Thereafter, the paper will discuss the regulation of remote sensing activities by states in their national space legislation (US, Canada, France and Germany). After the discussion of the current legal framework, the paper will argue that more states should regulate remote sensing activities in their national space legislation and will consider which aspects of remote sensing should be addressed in national space legislation. Finally, in light of the aforementioned considerations the paper will argue that such an approach will also create more certainty about remote sensing activities on an international level.