

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
National Space Legislation – Harmonisation and Enforcement (3)

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WHAT LEVEL OF DETAIL IN NATIONAL SPACE LEGISLATION IS IDEAL FOR THE
HARMONIZATION AND ENFORCEMENT OF SUCH LEGISLATION AND INTERNATIONAL
SPACE LAW?**Abstract**

The Outer Space Treaty (OST) requires authorization and supervision by the appropriate state party of their national activities in space, including those by commercial actors, in order to ensure compliance with the OST's minimal, substantive obligations. An increasing number of nations are enacting national space legislation and a number of other nations are in the process of updating or amending their national space legislation. A key question in the drafting of new legislation or the amendment of existing legislation for the harmonization of national space legislation and its enforcement, as well as the harmonization (coalescence of view upon) international space law and its enforcement, is what level of detail (regarding international space law obligations) should be incorporated into national space legislation. National legislation that only refers in general terms to international obligations may be an easier model for harmonization of national space legislation. However, in leaving the specifics of what those obligations require to individual reviews of activities that may lack the full transparency of legislation (or secondary level regulations) the harmonization may be somewhat a false narrative for the harmonization (coalescence of view upon) international space law and its enforcement as countries may continue to hold widely varying views on key issues connected with the OST and international space law, and may retain more wiggle-room on enforcement for competitive or other reasons. In contrast, national space legislation drafted with a greater level of detail regarding international space law obligations may not maximize harmonization of national space legislation as much, but will assist in enforcement and also provide a clearer narrative on where harmonization (coalescence of view upon) international space law resides thereby allowing nations drafting or amending legislation to more clearly see the options of which collection of countries (mini-harmonization) to align with on various key issues. The promises of the future of space activity, especially with ever greater commercialization of such activities, depends on achieving the proper level of detail (and corresponding transparency and enforcement) in national space legislation. Highly contrasting national space legislation amendments in terms of their level of detail proposed by the US House of Representatives and the US Senate serve as a launching point for a comparative analysis of a variety of nations' approaches as regards level of detail. Comparison with implementation via national legislation of other treaty regimes will also be briefly addressed.