

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

IISL Young Scholars session and Dr. Jasentuliyana Keynote lecture by a leading space law expert (1)

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Catholic University of Santos, Brazil(DO) WE HAVE A LIFT OFF! A COMPARATIVE ANALYSIS OF THE NATIONAL SPACE
LEGISLATION FOR THE FEASIBILITY OF COMMERCIAL SPACEPORTS: MAKING THE CASE
FOR LAUNCH SITES IN BRAZIL AND PORTUGAL**Abstract**

Small satellites have become particularly popular in the private space industry due to the increasing privatisation and commercialisation of outer space activities. The democratisation of space introduced new launch providers with competitive prices and flexibility. This new shift in paradigm has created a market for the launch of micro and small satellites in States that, until recently, did not have their own launching capabilities, resulting in the ongoing proliferation of new launch sites and commercial spaceports and the subsequent need for specific legal frameworks for national spaceports. Several new “Launching States” have enacted or are in the process of enacting national space laws to provide private operators with the conditions for authorisation, to regulate and control private space activities, and to enable commercial space launches from their territory, with a view of maintaining conformity with international space law. This paper will, therefore, analyse the national and regulatory framework for the feasibility of commercial spaceports, using the case of Brazil and Portugal. Firstly, this paper analyses the Brazilian Draft on Space Activities currently being discussed in Congress and the US-Brazil Technology Safeguards Agreement associated with US participation in space launches from Brazil, as part of a plan established by the Brazilian Government to enable launch operations in the Alcantara Launch Centre and attract small commercial satellites operators and small rocket launches. Secondly, it focuses on the Portuguese national space law providing a favourable environment to attract private investors and to the conditions for licenses for satellite constellations, including a one-stop shop for all licenses required for the space operation from Portugal. Portugal, with technical support from the ESA, is building a spaceport on the Azores, an island in the middle of the Atlantic, for the launching of small, commercial satellites, that would affect the Brazilian attempts to position itself in the launch market with new investment in the Alcantara Space Centre. Due to the similarities between the Brazilian and Portuguese legal systems, the Portuguese national space law is considered a relevant and significant model for a Brazilian law and contains provisions endowed with a commercial feature also sought by the Brazilian authorities, in order to address legal and regulatory concerns from the private sector and the feasibility of a commercial spaceport. Finally, the authors look at the successful New Zealand model for commercial launches from the operational Mahia Launch Complex as inspiration for a more optional legal framework for commercial spaceports.