Paper ID: 60574
oral

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Legal Implications of Evolving Remote Sensing Technologies (3)

Author: Prof. Setsuko Aoki
Keio University, Japan

THE SIGNIFICANCE OF THE RESTRAINT OF PERSONAL JURISDICTION: WILL IT PROMOTE PRIVATE SATELLITE DATA DISTRIBUTION?

Abstract

This article studies if the restraint of personal jurisdiction will promote private space business through the distribution of satellite remote sensing data. This is not a theoretical exercise. Rather, a concrete case study of the Remote Sensing Data Act of Japan (RSDA) (Act No. 77 of 2016), promulgated on 16 November 2016 and fully entered into force on 15 November 2017. This world fourth act focusing only on remote sensing data distribution is unique in its strong restraint of exercising personal jurisdiction even in the form of the legislative jurisdiction. Japan's RSDA was made for accomplishing two purposes: i) promoting private space activities using satellite remote sensing data; and ii) protecting both national and international peace and security. In order to strike a fine balance between the two purposes, this act provides only territorial jurisdiction for a person who intends to operate a satellite remote sensing instrument (not the operation of a satellite itself) and to handle the data obtained through the ground radio station for command and control located in Japanese territory including ships and aircraft with Japanese nationality. The aim of the drafter to restrict the national jurisdiction to the territorial element including quasi-territorial exceptions is to avoid double licensing possibilities and save resources for making an effort to exercise uncertain enforcement jurisdiction outside the territory. First, by analysis of the real application of the RSDA for almost three years now, the significance of the restraint of the personal jurisdiction to promote space business is considered. In doing so, the question is answered if and to what degree another purpose of protecting security could compromise the purpose of promoting business. RSDA explicitly provides that the prime minister may order not to sell data to the person who is entitled to do so ("data handler") to a potential buyer ("data holder") only when both "data handler" and "data holder" are located in Japan irrespective of the nationality. Such restraint of national jurisdiction is beneficial to the satellite data business? Finally, the significance of national jurisdiction in the international responsibility under international space law is also considered but only in conjunction with the RSDA.