

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
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ItalyAN INTERNATIONAL/CONTRACTUAL MODEL FOR FUTURE SPACE ACTIVITIES - A NEW
STATUS FOR PRIVATE COMPANIES?**Abstract**

The entry of private companies into the space sector has posed a critical dilemma: can the “classical framework” meet the needs of the new space economy? That said legal framework was conceived during the Cold War to prevent space from becoming a new arena of confrontation where, in the absence of any regulation, the two superpowers could have competed to occupy its resources (which would be considered *res nullius*) or to militarise every corner of it. The application of the current legal regime may give rise to some inconsistencies from both an economic and a legal point of view. Given that Article XII Outer Space Treaty (OST) acknowledges that states can place facilities on celestial bodies, what if a chattel is permanently affixed to the land? Would it become common property or would it result in a violation of the freedom of access (Art. I OST) or of the appropriation prohibition (Art. II OST)? Also on the horizon, problematic inconsistencies may arise between the OST and national laws; the full exploitation of an asteroid, to the point of causing its destruction, may constitute appropriation, prohibited by Article II OST but allowed by the 2015 Space Resource Exploration and Utilization Act (which enables US citizens to use space resources). The aim of this paper is to analyse the weaknesses within the current framework, both from the economic point of view and from that of new space economy’s future sustainability, as well as to propose new legal solutions. Since private companies will be the leaders of such activity, a new paradigm of international space law will be proposed, in which the focus is no longer on nations but on private companies. Private enterprises would be placed at the centre of international space law and would assume the legal status of subjects of international law (a status only currently held by states), which in turn could bring about a new sense of innovation for other areas of international law. The relations between private companies and national agencies would also be organised on a private-contractual model that would facilitate the resolution of disputes, with the possibility of resorting to rapid compensation procedure. In this dual international/contractual model for future space activities, emphasis is also placed on the renewed effectiveness of international environmental law principles.