

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
A new look at (how far are we with) Space Traffic Management (3)

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RECONCILING SSA DATA SHARING LEGAL PRACTICES THROUGH A COMPARATIVE
APPROACH

Abstract

With the intensification of space activities the urgency of STM has emerged and with it the necessity to harmonize, or at least coordinate, SSA data sharing practices. However, at the moment, the existing data sharing models mainly present a domestic approach in the determination of legal clauses and standards definition and display potential issues in terms of long-term sustainability of this model, also vis-à-vis the amount of heterogeneous sources of SSA data expected to increase. This domestic approach to SSA sharing practices essentially poses three risks: i) with the increase of the private offer and integration of SSA data (e.g. SDA, ExonAnalytic and Lockheed Martin) and services (Analytical Graphics Inc, Applied Defence Solutions), unilaterally determined SSA practices (and with it domestic liability waiver clauses) will find less and less consensus in the long-term; ii) multiple and parallel SSA data sharing models will lead to inefficiency and inconsistency; iii) in the absence of a regulatory framework and a standardization of data sharing processes, legal uncertainty will translate into a rising number of disputes, both at the international and domestic level, mistrust and escalating tension in international relations. Therefore, through a comparative legal methodology with a problem-solving approach, the present contribution will focus on the current SSA sharing legal arrangements currently under implementation in the US, the EU and China. Here, the domestic legal framework of the different types of SSA data sharing practices will be investigated, identifying the main criticalities and opportunities of each model. Moreover, specific attention will be placed on the current restrictions deriving by the practice of SSA sharing agreements and on the potential limitations deriving by regional coordination at the European level (also analyzed in light of the current space governance reform process undergoing at the EU level). In this phase, also the integration of private SSA data, or services, will be considered and the potential liability issues analyzed. Finally, this comparative investigation will come out with a clear identification of what are the core elements of the data sharing practices currently implemented in the different legal systems, their abidance (or not) with the already agreed and existing rudimentary international legal framework (both deriving from hard and soft space law instruments, such as Guidelines B.1, B.2 and C.2 of the LTS Guidelines) and the common (or divergent) elements of the existing international and/or regional data sharing practices, in order to identify potential gaps and propose mitigation measures.