

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Safety Zones on Celestial Bodies and in Outer Space (5)

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RIGHTS AND OBLIGATIONS IN INTERNATIONAL CONSULTATION FOR ESTABLISHING
SAFETY ZONES IN OUTER SPACE

Abstract

There is no doubt that the concept of safety zones in outer space embraces the safety of activities in space but discourages any notion of space hegemony. This idea has already found application in providing clear space or separation for safety in aviation, safety distance at launch pads, and safety bubbles for conjunction assessment around spacecrafts. Another analogy is a no-fly zone or Air Defense Identification Zone (ADIZ), sometimes established unilaterally. The differences between the analogies lie in their operational nature. An object-centric safety zone, such as separation or a bubble, can be seen as an extension of the current operation of spacecraft where there are some established practices. The other is an area-centric, no-fly zone, or ADIZ, which is a novel concept when applied in outer space; it requires deep scrutiny. This paper discusses the legality of the two potential types of safety zones under the UN Space Treaties, *inter alia*, regarding the rights and obligations of Article IX of the Outer Space Treaty (OST). Establishing a safety zone can be seen as a declaration of hazardous activities by the establishing State. Conceptually, the State establishing the safety zone may perform as the area controller of ADIZ and deny entry to the zone. This may be unacceptable under OST Article 2. Therefore, even in an area-centric safety zone, the innocent passage of another State's vehicle through that zone should be granted. In other words, a safety zone needs to be an area without a general coercive authority. Consequently, Article IX is the only requirement imposed on a State to establish a safety zone. This Article imposes the obligation of consultation with the State conducting space activities of potentially harmful interference with another State's activities. The Article also acknowledges the right of the affected State to request a consultation with the conducting State. Through a conceptual analysis of the legality of acts of those players, this paper describes the burden of risks of the State establishing the safety zone and the State passing through them. The final goal of this paper is to identify the legally desirable conditions for establishing and operating safety zones in outer space.