

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
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HOW TO IMPLEMENT SPACE SUSTAINABILITY RULES IN PRACTISE? THE REWARD
APPROACH

Abstract

With more than 17,000 satellites to be launched during the next decade, as forecasted by Euroconsult, and even more pieces of debris currently orbiting the Earth, there is more than ever a pressing need to ensure a sustainable use of space.

Although the 1967 Outer Space Treaty contains certain provisions encouraging the respectful use of space and an increasingly number of sustainable guidelines have been adopted, no entity has yet implemented specific and binding rules ensuring the effective protection of the space environment at the international level.

This paper will first review the various initiatives pushing for a more sustainable use of orbits, including both international soft law instruments such as the UN Guidelines for the Long-term Sustainability of Outer Space Activities, as well as national regulations. It will then investigate the different reasons explaining why there is no global consensus on compulsory rules protecting the space environment. Among other things, these reasons might be linked to the legal strategy adopted to address this regulatory challenge itself.

As in any other sector, legal subjects generally accept rules only if the advantages obtained through their implementation are higher than what they might lose by refusing them. While the majority of space stakeholders support the idea of the sustainable use of space, opting for a space environmentally friendly behaviour has a cost which might impact projects' business models. The level of threat on the industry's competitiveness and the commercial viability of some companies might then refrain some stakeholders from adopting binding and strict sustainability rules.

One way to support the discussion and adoption of effective and mandatory sustainability regulations would then consist in incentivizing space players enough to turn cost into opportunities for their space programs. This paper will review different tools that might be used to convince both governments and industry to find a consensus on space sustainability rules. Although sanctions might be an option, this paper will focus on positive rewards and advantages. This could include facilitated administrative procedures, access to international programs and financial support. The paper will further investigate if similar initiatives have already been launched, notably through the example of the Sustainability Rating System presented by ESA, the World Economic Forum and a joint team led by the Space Enabled Research Group at MIT Media Lab in June 2021.