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“SPACE OBJECTS” OR “SPACE DEBRIS”? LEGAL DEFINITIONS AND MAIN DISTINCTIONS

Abstract

Clear legal definitions are the basis for the application of legal discipline. When the target of some rules is not precisely identified, then some issues related to it might remain uncovered or unresolved. This is especially true in the context of international law, where seeking common legal definitions is usually more difficult than in other areas. Concerning international space law, one of the most relevant definition issues regards the differences between “space objects” and “space debris”. In particular, a clear distinction of these terms would strongly help the application of the rules on the liability for damages caused in outer space and on ground.

First, the necessity of a definition is discussed. The question on whether to distinguish space objects and space debris was raised back in 1989 by COSPAR. Lawyers – more than scientists – have agreed that a definition of “objects” and “debris” is necessary. Two different possibilities have then been explored. Firstly, the category of space debris could be absorbed into the one of space objects. This definition allows the application of the Liability Convention to all the artefacts in orbit. There is a limit to such a definition: the Convention is applicable only if it is possible to identify a link between an “object” and its launching State. Anyway, this link cannot be found when the object is partially or completely untraceable. Secondly, space debris could be considered as an autonomous category. This is a possibility recently explored by IADC and UN COPUOS. Here the idea is to address the problem of some orbits becoming increasingly congested; there is no single State responsible for it, but the whole community must find a solution. For this reason, the definition of debris proposed by those Committees is as broad as possible. Even this idea has an important limit, however: satellites which are actively controllable should not be considered debris as not to allow the State that could manage them to ignore it.

Therefore, the solution to the defining issue presented seems to be linked to two aspects in particular: the possibility to identify the launching State of an artifact and the possibility to actively control it while in orbit. As a consequence, the two categories of space objects and space debris should both survive. In any case, overlaps between them could exist but they must be regulated with special caution.