

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Recent Developments in Space Law with Particular Focus on Space Debris Remediation (7)

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THE FEASIBILITY OF APPLYING THE POLLUTER PAYS PRINCIPLE TO SPACE DEBRIS

Abstract

Space debris is one of the most challenging issues of space activities which not only threatens the sustainability of the Earth's orbit but can also have a devastating impact on the Earth's environment. On this ground, and by taking Article IX of the Outer Space Treaty into consideration as a gateway to environmental domains, it could be reasonable to investigate the applicability of environmental law principles to tackle the challenges of outer space activities. Given the general normative structure of the Outer Space Treaty, and considering the international nature of space activities, there should be no problem in resorting to other similar domains of international law, namely international environmental law and international law of the sea, to resolve some similar issues and fill in the existing gaps. Accordingly, provided that the unique features of space activities are taken into account, international environmental principles could be served as basic rules providing direction in attempts to modify the outdated law of outer space from an environmental point of view. In this regard, the Polluter Pays Principle (PPP) could be one of the most relevant environmental principles for space debris issues, suggesting a practical mechanism, and compliance with it could be a condition for sustainable access to outer space. According to this principle, those who produce pollution should bear the costs of managing it to prevent damage to others. If this principle applies to space debris, the producer should take responsibility for cleaning that debris, and this cost should not be imposed on other space actors. However, applying this principle to space debris could be associated with a number of challenges. One of the very challenging issues is the expansive definition of "launching State" in international space law, which encompasses nearly all states involved in a launch. This definition could lead to unfairness in the case of joint launches, particularly when one of the launching States was not engaged in the whole launch process. Moreover, in the situation involving collective responsibility, there may be non-payment of costs by other participants. Furthermore, a strict PPP approach could raise the costs of space activities and hinder the development of the space industry. Finally, by examining its pros and cons, this paper makes an effort to bring to light the feasibility of applying the PPP to space debris.