

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Key Governance Issues in the New Space Age (4)

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RISING IMPORTANCE OF NEAR SPACE - THE NEED OF LEGAL DELIMITATION OF AIRSPACE
AND OUTER SPACE IN THE NEW SPACE AGE

Abstract

It has become a cliché that the space treaties have become in many ways obsolete and are not always fit to respond to the challenges of the new space age. A notable example is the lack of definition of "outer space", "space activity", no rules for delimitation between airspace and outer space meanwhile the legal status of the two areas are sharply different.

The debate on delimitation is not new, however it was considered by the majority of stakeholders as merely theoretical. I argue that it changes in the new space age and the question quickly becomes a practical problem. Here, it is enough to think to space tourism realized by space jumping, suborbital aircraft representing the future of air transport or the notable Chinese balloon shot down by the United States.

Hence, the starting point and basic premise of my presentation is that the debate that has been on the table in the UN for a long time is not a theoretical one in the new space age and clear rules should be adopted.

In my presentation, the most important scientific theories that attempt to delimitate the two areas will be presented, as well as their criticisms. I compare the most important theories based on altitude (spatial approach) with the functionalist approach, explaining the limitations of their practical applicability.

Since there is no international legal norm, and one of the pillars of the development of space law is the national law, in the third part of my presentation I will present the national laws that attempt to answer the question, from Colombia, through the United States, Austria, Kazakhstan, to Australia.

Finally, I separately discuss the near space or meso space theories based on the maritime law analogy, making an attempt to formulate a *de lege ferenda* proposal.