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IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Supervision of Space Activities (5)

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STATES AS GUARDIAN ANGELS; NATIONAL REGULATORY FRAMEWORKS IN PROMOTING SAFETY AND SUSTAINABILITY IN OUTER SPACE

Abstract

Outer Space exploration started out as a purely governmental issue in the quest for political prestige. However, the space sector is no longer dominated by the monopoly of a few spacefaring nations; present day financial developments and technological advancements have revolutionized access to Outer Space, which is now viewed as an area suitable for commercial ventures. Although private space activities are rapidly proliferating, Article VI OST raises the issue into a matter of public law and policy and ultimately provides that States remain the responsible players in the space domain. In the present paper, the authors will first examine which shall be the *"appropriate State"* to authorize and continuously supervise national space activities and ensure the responsible behavior of private operators in compliance with the duty to pay due regard to the interests of other States under Article IX OST. The meaning and the criteria of the said obligation will be analyzed independently. In this context, we will explore how national legal frameworks, space policies and licensing procedures could serve to ensure a safe and sustainable space environment. Specifically, we will review through a comparative analysis whether and how different jurisdictions have implemented several soft law instruments (i.e. international technical standards, guidelines, best practices etc.) to address the safety and reliability of space operations under their jurisdiction and control with particular regard to space debris mitigation. Furthermore, it will be argued that the effectiveness of national regulatory regimes in ensuring space safety and developing a comprehensive STM architecture depends on the quality of information derived from SSA data and on the existence of appropriate communication channels within and among relevant competent authorities. Accordingly, we will examine current international and regional efforts in strengthening existing SST capabilities to improve data accuracy in support of debris mitigation and collision avoidance decisions and in building regulations that are consistent, predictable and transparent. Admittedly, the serious challenges posed due to the exponential increase of space objects highlights the need for States to ensure that all actors involved in space exploration uphold the fundamental principles of space law. Overall, the authors will conclude that current differences in regulatory schemes, as well as the absence of clear enforcement mechanisms may hamper the future of space operations. To avoid such undesired developments, we will discuss what should be the role of the international community in facilitating cooperation and promoting alignment of national regulations to improve compliance.