

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Near Space: Legal Aspects of Aerospace Activities (2)

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THE ROLE OF AEROSPACE ACTIVITIES IN FORMULATING, NEGOTIATING, AND
IMPLEMENTING A RESILIENT, INCLUSIVE, AND SUSTAINABLE (INTER)NATIONAL LEGAL
REGIME FOR THE NEAR SPACE. TOWARDS SHAPING AN AEROSPACE REGULATORY AND
SECURITY COMPLEX IN THE XXI

Abstract

Throughout its almost seventy years of life, the outer space scenario has gone through a series of diplomatic, legal, and regulatory processes marked by strategic junctures that have fostered the need to generate legal and regulatory bodies at the domestic and international levels to ensure the benefits in the different areas of its use.

In its origins, space activities were marked by the bipolar confrontation characterized by the Cold War confrontation between two social and political systems. Later, the division between North and South framed the slogan of a new international economic order. Currently, the momentum of the forces of commercialization, pluralization, and deregulation has made, on the one hand, new actors emerge (highlighting private companies and emerging countries) that have broken the state monopoly of space activities. On the other hand, space activities have ceased focusing exclusively on security and defense to consolidate the civil and commercial fields.

At each of these junctures, progress has been made in generating regulatory and legal bodies through legislative processes at the domestic and international levels; however, global consensus has not been reached on such long-standing issues as, for example, the delimitation between airspace and outer space. The arrival of new actors and technologies promotes the so-called aerospace activities in stratospheric regions such as sub-space and protozone. That is the fringe of the aerospace region below the altitude at which a satellite can be in orbit and above commercial air flights.

This part of aerospace region is not under the control of any internationally organized regulation, so this paper aims to analyze the scope and limits of the application of air and space law as well as other regulatory bodies in the face of present and future activities in the aerospace region. Based on the preceding, a proposal is presented for creating the so-called aerospace law and its regional security complex that contributes to resolving the current problem regarding aerospace activities such as HAPS, hypersonic transportation, robotic freighters, frequencies allocation, and so on, and avoids stratospheric pollution.