

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Launching into Outer Space (4)

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TOWARD THE CLARIFICATION OF THE CONCEPT OF “STATE WHICH PROCURES THE
LAUNCHING”**Abstract**

20 years have passed since the resolution of “Application of the concept of the “launching State”” (A/RES/59/115) was adopted in UNGA, which aims to clarify the term “launching State” as used in the Liability Convention (LC) and the Registration Convention (RC). According to Article VII of Outer Space Treaty (OST), it is apparent that the State Party is internationally liable in the case the actor who procures the launching of space objects is the State Party itself, but there are no established answers whether the State Party is internationally liable in the case its actor is private entities. Of course, this State Party becomes the launching State if it shall register the space object based on Article II of Registration Convention. On the other hand, many space objects remain to be unregistered worldwide, so the settlement of launching State by registering the space object is still challenging. The purpose of my thesis is to seek the possibility how we can clarify the concept of “State which procures the launching”, after 20 years from the adoption of the resolution A/RES/59/115. Evaluating the discussion of drafting OST, LC and RC, past theories, as well as the latest opinions of each States, the interpretation of “State which procures the launching” shall be categorized mainly into two types: (a) the position which interprets States’ involvement more widely by the link with Article VI of OST, and (b) the position which interprets States’ involvement more limitedly, for example, only in the case of the States “actively and substantially participate in the launching”. The position of (a) further divides into two positions: (a1) the position which interprets States’ involvement because it bears “international responsibility for national activities in outer space”, and (a2) the position which interprets it States’ involvement through “authorization by appropriate State Party”. Since States which retains national space law and the mechanism of authorization and/or licensing of space objects have been rapidly increasing in the past 20 years, my thesis concludes that the position of (a2) has more significance today. This position enables assumption that the States executing authorization and/or licensing space objects correspond to “State which procures the launching” even in the case of lack of registration. This interpretation is consistent with the tendency of discussion in COPUOS that States which has genuine connection with the operation of space objects shall be liable for these activities.