

**SPACE SERVING HUMANITY:
CELEBRATING SIXTY YEARS IN SPACE & FIFTY YEARS OF LAWFUL AND PEACEFUL USE**

ISPL AND UCL SPACE DOMAIN JOINT SEMINAR
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THE CURRENT STATE OF THE OUTER SPACE TREATY

PROFESSOR SA'ID MOSTESHAR

The Treaty sets out principles that govern space activity, as implied by its title:

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

1. RATIFICATIONS

Of 195 UN recognised sovereign States, 105 have ratified the OST.

2. COMMERCIAL ACTIVITIES

Contrary to popular assertions, the OST creates no barriers to commercial activity or private ownership and operation of systems. Indeed, these are contemplated by OST, as it makes States responsible for activities carried on in space whether "...by government agencies or non-governmental entities..." The State is required to authorise and continually supervise the space activities of non-governmental entities. [Art VI].

Growing private investment and the increased number of countries engaging in space activities have resulted in States taking a closer look at the way they implement their international obligations under the OST.

Although the OST does not prevent what is currently called *commercialisation of space*, that is not to say the OST is perfect or that it does not present some difficulties.

3. DEFINITIONS

We have no definition of *Outer Space*, but delimitation has been discussed at the Legal Sub-committee of Committee on the Peaceful Uses of Outer Space (UN COPUOS) since the 1960s.

OST does not provide a clear definition of *space object*, but refers to *an object launched into outer space* [Art VII]. The Liability Convention provides that the term includes component parts of the object [Art I]. Therefore, debris is to be treated as a space object subject to all the provisions of space law.

4. RIGHTS AND OBLIGATIONS

- a. State obligations and rights do not consistently attach or arise:
 - i. States are Responsible for and must authorise and supervise their national activity;
 - ii. They have jurisdiction and control over objects they register; and
 - iii. They are liable for damage caused by objects of which they are the Launching State.

[Each] Launching State Party to the Treaty that launches or procures the launching of an object into outer space, ... and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State ... [OST Art VII].

Therefore, changes of ownership of space objects on orbit can necessitate inter-governmental agreements for indemnification or registration.

5. TENTH UN SPACE LAW WORKSHOP (5-8 SEPTEMBER 2016)

"The space arena is rapidly changing as more and more actors - both governmental and private - become active in space technology and exploration. Events like this workshop are an important and valuable opportunity for the international space community to consider the status of international space law and where more needs to be done."
Simonetta Di Pippo, Director, UNOOSA

The Workshop noted that the United Nations treaties on outer space set out the fundamental principles of international space law, with additional non-legally binding instruments developed by the Committee on the Peaceful Uses of Outer Space. Together these address crucial areas, such as in the fields of:

- Space debris mitigation;
- Cooperative arrangements for sharing remote sensing data;
- The safety of nuclear power sources in space activities;
- The benefits of international space cooperation;
- An enhanced registration practice; and
- Recommendations for national space legislation.

Participants discussed the safety, security and sustainability of outer space activities, how to build the capacity of developing countries in space law, and the intersection of space law and security with other emerging topics, such as cyber security.

Some recommendations from the workshop:

- i. The inclusion of a new General Assembly agenda item on space security and sustainability;
- ii. Further consideration of the connection between cyber security and the security of space systems;
- iii. Promotion of:
 - a. Adherence to the United Nations treaties on outer space;
 - b. Membership of the United Nations COPUOS; and
 - c. Transparency and confidence-building measures in space activities;
- iv. An enhanced role for UNOOSA in establishing models of:
 - a. National space law; and
 - b. Agreement on space cooperation;
- vi. Enhanced information exchange supporting space safety, security and sustainability.

6. NON-BINDING GUIDELINES AND RECOMMENDATIONS

The OST provides the framework for international laws binding States. The increasing number of States with an interest, and increasing private funding of space operations, combine with the rapid advances in technology to exert pressure on the observation of the principles and rules established by the OST.

As a result a growing number of practices and norms are advanced through non-binding instruments, relying on the self-interest of the space actors. It is not easy to reach consensus and many such attempts fail.

The International Code of Conduct relating to debris is yet to be accepted even among the major space-faring States. The EU has tabled the Principles of Responsible Behaviour in Outer Space (PORBOS). It was principally discussed in the Conference on Disarmament.

7. SUMMARY

Internationally, the current legal regime is sufficient to deal with our space activities. National laws may need to be adapted to address current and future activities.