



INTERNATIONAL INSTITUTE OF
AIR AND SPACE LAW

Space law in the age of the ISS

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12-10-2007

Humans in Outer Space, Vienna

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The ISS

- International Space Station
 - Evolution 1988 → 1998
 - ◆ US, Russia, Japan, Canada, 11 ESA m/s
 - ◆ Brazil as special partner
 - Legal construction
 - ◆ Intergovernmental Agreement (IGA)
 - ◆ Memoranda of Understanding (MoU's)
 - ◆ Implementing arrangements & (sub)contracts
 - N.B.: transportation to & from the ISS
 - ◆ Space Shuttle & Soyuz

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The Novelty of the ISS

- Permanency (\approx)
 - Variation human activities on board
 - ➔ Variation of legal regimes applicable
- International character
 - Many jurisdictions (potentially) involved
 - Special case of Partner ESA (= IGO)
- Commercial utilisation
 - ‘Space laboratory’; branding & advertising
 - Space tourism – Dennis Tito, 2001, *et al.*

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Space law & the ISS (1)

■ Jurisdiction

- Registration separate elements
 - ◆ Art. VIII, Outer Space Treaty
 - ◆ Registration Convention
- Criminal jurisdiction: nationality-based
 - ◆ Art. 22, IGA
- IPR jurisdiction: quasi-territorial
 - ◆ Art. 21, IGA
 - ◆ Special case of ESA – Germany & Italy

■ Astronauts vs. participants

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Space law & the ISS (2)

■ Liability

- Third-parties
 - ◆ Art. VII, OST & Liability Convention
- Amongst parties: cross-waiver
 - ◆ Art. 16, IGA
 - ◆ Protected Space Operations
 - ◆ Flow-down obligations
 - ◆ Few exceptions
 - Broad scope under public, quasi-idealistic approach

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The next steps...?

- ‘Space colonies’ celestial bodies
 - Issues even more prominent
 - ◆ Jurisdiction not possible on territorial basis!
 - ◆ Nationality – for space-born humans...?
 - ◆ Safety- / security-zones...?
 - ◆ Exploitation of mineral resources *in situ*...
 - Fate of the Moon Agreement
 - ◆ ...and other commercial issues: licensing!

Thank you!