

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
International cooperation on the way to the Moon and Mars (2)

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INTERNATIONAL TERRITORIAL ADMINISTRATION AND THE CONCEPT OF
INTERNATIONAL SOVEREIGNTY IN OUTER SPACE**Abstract**

Disclaimer: The research leading up to this paper has no nexus with the authors' role and work at the European Space Policy Institute (ESPI) and in no way reflects positions or opinions held by ESPI.

International organizations undertake various roles within the remit of their competences among which is the often-overlooked role of international territorial administration, historically raising question on sovereignty of the administered territories on Earth.

One of the earliest examples implying international territorial sovereignty is related to the Saar territory, administered by the League of Nations following World War I, and later transferred to Germany following a referendum. However, the Peace treaty establishing the territory predicted a possibility for the territory to remain internationalized forever if so decided by the referendum. The UN-adopted (however unimplemented) Permanent Statute of the Free Territory of Trieste, even went a step further and envisaged permanent internationalization by default. Today the legal framework relating to the high seas, the deep seabed, Antarctica and outer space are examples of functioning regimes with varying degrees of international mandates.

Interestingly, outer space took a different course than most regulatory spheres, as the relevant framework first emerged on the international scene through the establishment of the ad hoc COPUOS and was only then translated into (comprehensive) national legislation. This suggests space was immediately accepted as an international domain, consensually regulated through the prism of an international regime. Recent years however raise questions as to whether all actors (both state and commercial) fully understand the underlying reasons of historically opting for an international regime and the traps posed by unilateral interpretations and disregarding established negotiating processes.

The concept of internationalization made ways outside mere territorial applications. It has been proposed throughout modern history whenever circumstances surrounding a sphere suggested redundancy or inefficiency of national oversight. One such sphere is related to the birth of the internet and the underlying cyberspace for which a sui generis self-governed international sovereignty was proposed by several authors (Wu, 1996).

This paper proposes to analyse the origins and ratio of international territorial administration, by setting and analysing potential scenarios for further developments of an internationalized regimes in outer space, while respecting established principles, namely the freedom of exploration as set out in Article I and freedom of using any equipment or facility for peaceful exploration of the Moon and other celestial bodies as set out in Article IV of the OST.