

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

IISL Young Scholars session and Dr. Jasentuliyana Keynote lecture by a leading space law expert (1)

Author: Mr. Vinicius Aloia
Luxembourg , aloia.vinicius@gmail.com

Mr. João Marques de Azevedo
Portugal, joao.azevedo@cedis.fd.unl.pt

(DO) WE HAVE A LIFT OFF!(?) A COMPARATIVE ANALYSIS OF THE NATIONAL SPACE
LEGISLATION FOR THE FEASIBILITY OF COMMERCIAL SPACEPORTS: MAKING THE CASE
FOR LAUNCH SITES IN BRAZIL AND PORTUGAL

Abstract

Small satellites have become particularly popular in the private space industry due to the increasing privatisation and commercialisation of outer space activities. The democratisation of space introduced new launch providers with competitive prices and flexibility. This new shift in paradigm has created a market for the launch of micro and small satellites in States that, until recently, did not have their own launching capabilities, resulting in the ongoing proliferation of new launch sites and commercial spaceports and the subsequent need for specific legal frameworks for national spaceports. Several new “Launching States” have enacted or are in the process of enacting national space laws to provide private operators with the conditions for authorisation, to regulate and control private space activities, and to enable commercial space launches from their territory, with a view of maintaining conformity with international space law. The national and regulatory framework for the feasibility of commercial spaceports, using the case of Brazil and Portugal is examined. First, the current legal framework for commercial space activities in Brazil, a proposal for an act on Space Activities currently being discussed in Congress and the US-Brazil Technology Safeguards Agreement associated with US participation in space launches from Brazil will be analysed, including a closer look at the conditions for authorisation, insurance, and limitation of liability for private operators. The Brazilian Government has established a plan to enable launch operations in the Alcântara Launch Centre and attract small commercial satellites operators and small rocket launches. Second, the Portuguese national space law and the conditions for licenses for satellite constellations, including a one-stop shop for all licenses required for the space operation from Portugal will be analysed. Portugal, with technical support from the ESA, is building a spaceport on the Azores for the launching of small, commercial satellites, that would affect Brazilian attempts to position itself in the launch market Alcântara. Due to the similarities between the Brazilian and Portuguese legal systems, the Portuguese national space law is considered a relevant and significant model for a Brazilian law and contains provisions endowed with a commercial feature also sought by the Brazilian authorities, to address legal and regulatory concerns from the private sector and the feasibility of a commercial spaceport. Finally, the authors look at the New Zealand model for commercial launches from the operational Mahia Launch Complex and apply, *mutatis mutandis*, the successful model as inspiration for a more optimal legal framework for commercial spaceports.