

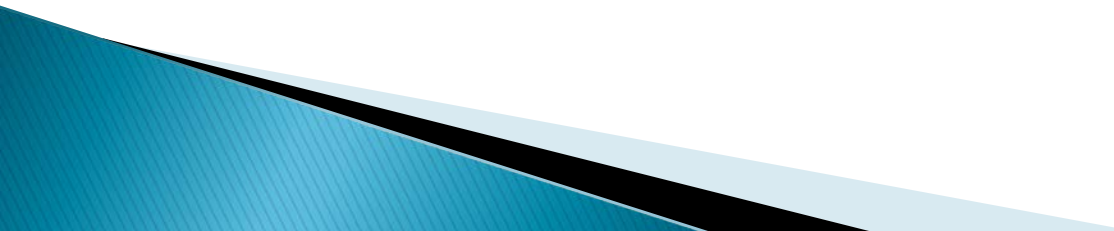
Treaty and Contract in the Settlement of Disputes from Space Remediation Activities

Tare Brisibe

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Treaties and Contracts

- ▶ 1967 Outer Space Treaty
 - Articles III, IX, XIII
- ▶ 1972 Liability Convention
 - Articles, XI, XII, XIX (2)
- ▶ Contractual obligations allocating risks and opportunities between private entities and States

Dispute settlement mechanisms

- ▶ **Negotiation (Consultation)**

- ▶ Inquiry

- ▶ Mediation

- ▶ Conciliation

- ▶ **Arbitration**

- (Permanent Court of Arbitration – Draft Optional Rules for Arbitration of Disputes Relating to Outer Space Activities)

- ▶ **Judicial settlement (Adjudication)**

- ▶ Resort to regional arrangements of agencies

- ▶ Other peaceful means of the parties' own choice

- Article 33 (1) Charter of the United Nations; UNGA Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States, 1970; UNGA Declaration on the Peaceful Settlement of International Disputes (Manila Declaration), 1982

Applicable Procedures and Laws

- ▶ **International Law** (Treaties, Custom, General Principles of International Law, Resolutions, Judicial Decisions of International Courts and Tribunals, Doctrines of Legal Specialists)
 - *Stockholm Declaration 1972; Rio Declaration 1992; ICJ Opinion on Legality of the Threat or Use of Nuclear Weapons*
- ▶ **Municipal Laws** (Intellectual property, Contracts, Foreign Investment, Insurance, Export Controls, etc)
- ▶ International law on its own, or used in conjunction with a national system of law may be specified as “**substantive law**” of a contract, particularly where that contract is with a State or State agency
 - *Orion Compania Espanola de Seguros v Belfort Maatschappij Voor Algemene Verzekeringen* [1962] 2 Lloyd’s Rep 257, at 264
- ▶ ***Lex Arbitri*** (UNCITRAL, ICC, AAA, etc)
- ▶ **Non-Binding Space Debris Mitigation Guidelines** (IADC 2002; UNCOPUOS, 2007)
- ▶ **Other Practices** (e.g. Liability Cross Waivers; Hold Harmless clauses)

Parties

- ▶ States; inter-governmental organizations; non-governmental organizations; corporations and; private parties
- ▶ *Republic of Serbia v Imagesat International NV* [2010] 1 Lloyd's Rep 324
 -“It would be wrong to allow a State to escape liability under a commercial contract merely by pronouncing that it was not an original party to the contract, and then sheltering behind a cloak of non-justiciability in order to prevent an arbitration or adjudication based on the true legal position.”

Recommendations

- ▶ Utilise existing dispute settlement mechanisms
 - ▶ International Co-operation
 - ▶ Adherence to the United Nations Treaties
 - ▶ Contribute to State Practice
 - ▶ Implement Municipal (National) Policies, Laws, and Regulations
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