

Space and international trade law

Committee on the Peaceful Uses of Outer Space

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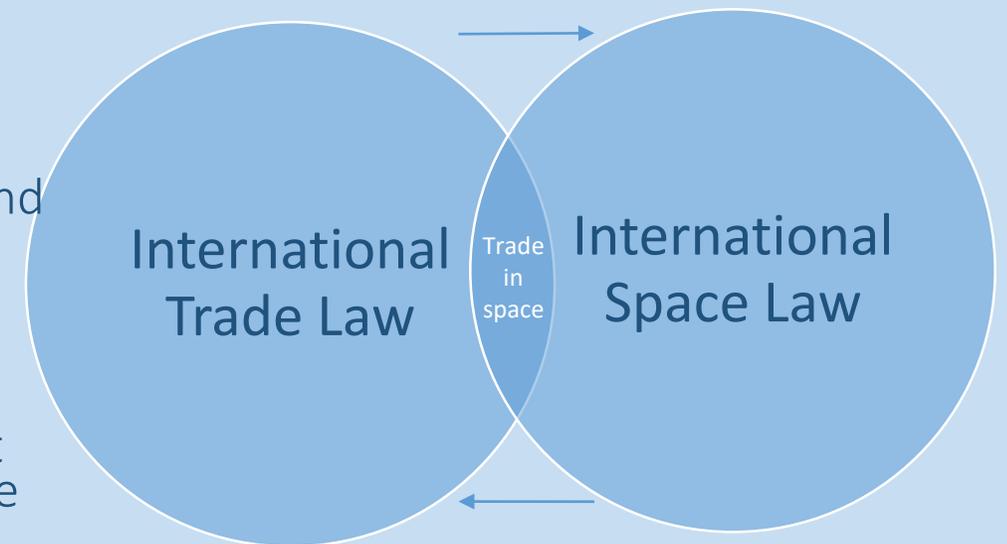
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Exposé

- I. Prospective vision –two fields of international law evolving in parallel
- II. Transition in trade and access to space markets – constraints and compliance
- III. Liberalisation of trade, dependency on space-based services, and markets in space-based data (post telecoms)
- IV. Remedies in international trade and space law
- V. Conclusions

Prospective vision – two fields of international law evolving in parallel

- International Trade Law today is predominantly WTO law
- Core focus on import and export rules
 - ➔ Plurilateral, multilateral, regional or bilateral trade agreements
- Narrowing gap between these fields of law
- Increasing interface:
 - ➔ Foreign launch markets or export of other industrial and space technological capabilities
 - ➔ Availability, quality and provisioning of space data
 - ➔ NB: Exceptions and exemptions from trade and export for security reasons figure in all space and related trade rules (WTO, GPA)



Transition in trade and access to space markets – constraints and compliance



- ➡ Need for agreement on standardisation and interoperability barriers to space trade to be lifted
- ➡ Adherence to technical standardisation (ISO/ ECASS/ etc), to facilitate the interoperability of space systems; Global and regional standards can develop in parallel
- ➡ Space markets require robust export regimes for liberalised trade, given security requirements and exceptions to free trade

Liberalisation of trade, dependency on space-based services, and markets in space-based data

- Downstream space-based markets driven by:
 1. Increasing dependency of society on space-based services and derived information
 2. Quality of the information adaptable to needs
- Potential new interfaces between space law and trade through increased participation of private actors
 - Applicability of principles of competition law to activities of private sector on the multilateral, regional and national space markets
 - Experiences with markets for internet-based information giants – potential for equivalent if space services market becomes over-centralised

Remedies in international trade and space law

- International trade law is remedy-oriented
 - Satellite technology has been subject of dispute settlement at WTO level
 - States representing national trade interests
- Disputes falling under WTO rules could also be settled at the ICJ
 - Where state parties agree
- Optional Dispute settlement Panel(s) at the Permanent Court of Arbitration
 - Interaction with domestic law, through applicable law clauses in commercial terms and conditions not yet mapped out by the community nor courts of law

Conclusions

- State parties have duties of compliance, cooperation, authorisation and continuous monitoring of space activities of their national non-governmental entities (Arts. II,VI, IX, XI OST)
- Developments in downsizing, reduction in costs, the impact of industry 4.0 (quantum technology, artificial intelligence) enable greater scope for space-based services, and with this, increasing exposure to **trade related aspects of WTO law**
- Ongoing need for robust export control (Export Compliance) remains
- Classic fields of cartel law, unfair competition and more remain as yet unexplored within this domain
- Domestic courts to apply national and international law, but not cede to calls for legal vacuums