
THE CASE FOR A PERMANENT SPACE TRIBUNAL: SHOULD DISPUTE RESOLUTION SHIFT FROM AD HOC CLAIMS TO A DEDICATED JUDICIAL BODY

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ABSTRACT

The governance of outer space is currently anchored in the Outer Space Treaty of 1967 and related instruments, which emphasize peaceful use, non-appropriation, and state responsibility. However, the dispute resolution mechanisms contained in these treaties remain rudimentary and ineffective. Article IX of the Outer Space Treaty provides only for consultations, while the 1972 Liability Convention establishes an ad hoc Claims Commission whose decisions are non-binding. The limited invocation of this mechanism, most notably in the *Cosmos 954* case, highlights its practical shortcomings. In an era where outer space activities are no longer confined to two superpowers but involve over eighty states and numerous private actors, reliance on such diplomatic and temporary structures is increasingly inadequate.

This article argues for the establishment of a permanent international space tribunal to replace or supplement the ad hoc model of dispute resolution. The growing commercialization of outer space, the proliferation of private ventures, and mounting challenges such as space debris, militarization, and resource exploitation underscore the need for authoritative adjudication. By drawing parallels with other international regimes particularly the International Tribunal for the Law of the Sea (ITLOS), the World Trade Organization (WTO) dispute settlement system, and the International Centre for Settlement of Investment Disputes (ICSID) the article demonstrates that permanent judicial institutions can successfully balance state sovereignty with the demands of transnational governance.

The proposed space tribunal would have jurisdiction over disputes arising under existing space law instruments and future agreements, with standing extended not only to states but also to private actors and international organizations. Its design could incorporate specialized chambers for liability, environmental disputes, and resource-related conflicts, ensuring efficiency

and expertise. While challenges relating to sovereignty, enforcement, and great power politics are significant, they are not insurmountable. The success of ITLOS illustrates that even major powers can accept compulsory dispute resolution where interests align.

Ultimately, this article contends that a permanent space tribunal is a necessary evolution to ensure legal certainty, accountability, and peaceful coexistence in outer space. By moving beyond ad hoc diplomacy toward a binding judicial forum, the international community can better safeguard the sustainable and equitable use of the global commons beyond Earth.

Introduction

Outer space has moved from a Cold War frontier of prestige to a congested, competitive, and commercially significant domain. The proliferation of satellites, private space ventures, and resource extraction plans have stretched the interpretative limits of the **Outer Space Treaty (OST)** of 1967 and its supplementary instruments. The existing dispute settlement framework under international space law primarily diplomatic negotiations and ad hoc claims commissions remains underutilized and ineffective. This raises a pressing question: should outer space law evolve toward a permanent judicial body, akin to the **International Tribunal for the Law of the Sea (ITLOS)**, to provide consistent and authoritative adjudication.

This paper argues that the time is ripe for reconsidering the dispute resolution architecture of outer space. By analyzing the limitations of the current system, comparing alternative institutional models, and weighing the political and practical obstacles, it makes the case for a permanent international space tribunal as an essential evolution for sustainable governance beyond Earth.

I. The Current Framework of Dispute Resolution in Space Law

The OST remains the constitutional charter of outer space governance. It emphasizes peaceful use, non-appropriation, and international cooperation. However, its dispute resolution provisions are minimal. Article IX envisions “consultations” where activities might cause “potentially harmful interference,” but offers no binding enforcement mechanism¹.

¹ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies art. IX, Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205 [hereinafter OST].

The **Liability Convention of 1972** created a framework for claims in cases of damage caused by space objects. Its dispute mechanism, the **Claims Commission**, is ad hoc, temporary, and non-binding². The sole invocation was in the *Cosmos 954* incident (1978), when Canada sought compensation from the Soviet Union after radioactive debris from a Soviet satellite fell on Canadian territory³. Although compensation was eventually settled diplomatically, the case revealed the weaknesses of the mechanism: absence of compulsory jurisdiction, lack of precedent, and reliance on political goodwill.

Other instruments, such as the **Registration Convention (1975)** and the **Moon Agreement (1979)**, add little in terms of binding dispute resolution. The net result is a system that is state-centric, diplomatic, and often ill-suited to address disputes involving private actors or transboundary environmental harm.

II. Why Ad Hoc Mechanisms Are No Longer Sufficient

Ad hoc dispute resolution was adequate in the early decades of space exploration, when only two superpowers engaged in space activities. Today, the situation is different. Three major trends highlight the inadequacy of existing arrangements:

1. **Proliferation of Actors:** Over eighty countries operate satellites, and private corporations such as SpaceX, Blue Origin, and OneWeb play decisive roles in space⁴. Ad hoc, state-centric frameworks fail to capture their involvement.
2. **Commercialization and Resource Exploitation:** National laws in the United States, Luxembourg, and the United Arab Emirates now recognize private rights over extracted space resources, raising disputes over property and sovereignty that cannot be solved by voluntary consultations alone⁵.
3. **Environmental and Security Challenges:** The accumulation of space debris and growing

² Convention on International Liability for Damage Caused by Space Objects arts. XIV–XX, Mar. 29, 1972, 24 U.S.T. 2389, 961 U.N.T.S. 187 [hereinafter *Liability Convention*].

³ Canadian Claim Against the Union of Soviet Socialist Republics for Damage Caused by “Cosmos 954,” 18 I.L.M. 899 (1979).

⁴ U.N. Comm. on the Peaceful Uses of Outer Space, Report of the Committee on the Peaceful Uses of Outer Space, U.N. Doc. A/78/20 (2023).

⁵ U.S. Commercial Space Launch Competitiveness Act, Pub. L. No. 114-90, 129 Stat. 704 (2015); Loi du 20 juillet 2017 sur l’exploration et l’utilisation des ressources de l’espace, Mémorial A, No. 674, July 28, 2017 (Lux.); Law No. 12 of 2019 on the Regulation of the Space Sector (U.A.E.).

militarization of orbit increase the risk of collisions, environmental harm, and conflict escalation. Existing frameworks provide no reliable means of adjudication.

The absence of binding adjudicatory authority weakens compliance, creates uncertainty, and may undermine the peaceful use of outer space.

III. Comparative Models of International Dispute Resolution

To assess the feasibility of a permanent space tribunal, it is useful to examine institutional models in other domains:

A. International Tribunal for the Law of the Sea (ITLOS)

Established under the **United Nations Convention on the Law of the Sea (UNCLOS)**, ITLOS provides compulsory jurisdiction over maritime disputes, with specialized chambers such as the Seabed Disputes Chamber⁶. The parallel with space is strong: both oceans and outer space are global commons governed by non-appropriation principles.

B. World Trade Organization (WTO) Dispute Settlement

The WTO offers a structured dispute system with panels, appellate review, and enforcement through trade sanctions⁷. While WTO's crisis today shows limits, its model demonstrates how compulsory jurisdiction with state consent can coexist with effective enforcement.

C. International Investment Arbitration

The **ICSID system** under the World Bank illustrates how private actors can be directly integrated into international adjudication⁸. This model could inform mechanisms allowing corporations in the space sector to have standing in disputes.

These comparisons show that international law has successfully developed permanent tribunals for complex, transnational regimes. Outer space, as a domain of shared interest, is arguably

⁶ United Nations Convention on the Law of the Sea arts. 287–90, opened for signature Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994) [hereinafter UNCLOS].

⁷ Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 U.N.T.S. 401 [hereinafter WTO DSU].

⁸ Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, opened for signature Mar. 18, 1965, 17 U.S.T. 1270, 575 U.N.T.S. 159 (entered into force Oct. 14, 1966) [hereinafter ICSID Convention].

overdue for such an institution.

IV. Designing a Permanent Space Tribunal

A permanent space tribunal could be established under UN auspices, either as a specialized body within the **Committee on the Peaceful Uses of Outer Space (COPUOS)** framework, or as an independent treaty-based institution. Key design issues would include:

1. **Jurisdiction:** Covering disputes under the OST, Liability Convention, Registration Convention, and future agreements, including space resources and traffic management.
2. **Standing:** Extending access not only to states but also to private actors and international organizations.
3. **Composition:** Judges with expertise in international law, space science, and technical fields.
4. **Enforcement:** Decisions binding on parties, with reporting to the UN Security Council or General Assembly for compliance oversight.
5. **Special Chambers:** Separate chambers for liability, environmental disputes, and commercial/resource issues could provide efficiency and specialization.

V. Challenges and Counterarguments

Despite its normative appeal, a permanent space tribunal faces significant obstacles:

- **State Sovereignty Concerns:** States may resist compulsory jurisdiction that could constrain their strategic or commercial interests.
- **Great Power Politics:** The United States, China, and Russia may oppose any tribunal that threatens their dominance in space.
- **Enforcement Deficit:** Without strong compliance mechanisms, tribunal rulings risk being ignored, as seen with some International Court of Justice (ICJ) cases.
- **Duplication of Efforts:** Critics argue that new institutions may fragment international law

further, instead of strengthening existing forums.

Nonetheless, these challenges are not insurmountable. The success of ITLOS shows that even major powers can accept compulsory dispute resolution where interests align. Moreover, as space activity becomes more crowded, the cost of legal uncertainty may outweigh sovereignty concerns.

VI. The Case for Moving Beyond Ad Hocism

A permanent space tribunal would serve multiple systemic functions:

- **Enhancing Legal Certainty:** Clarifying ambiguous treaty provisions and developing jurisprudence.
- **Ensuring Accountability:** Holding both states and private actors responsible for violations.
- **Encouraging Compliance:** Providing binding, authoritative rulings rather than unenforceable consultations.
- **Promoting Peaceful Use:** Reducing the risk of escalation by offering a neutral forum for settlement.

In this sense, a permanent tribunal would not only resolve disputes but also strengthen the legitimacy and authority of outer space law as a whole.

Conclusion

Outer space governance stands at a crossroads. Reliance on ad hoc and diplomatic settlement mechanisms has left disputes vulnerable to political bargaining, undermining the rule of law in the cosmos. The challenges of commercialization, militarization, and environmental degradation make the case for a permanent space tribunal stronger than ever. While political hurdles remain, the creation of such an institution would provide legal certainty, foster accountability, and ensure that humanity's exploration of the final frontier remains peaceful and sustainable.

The experience of ITLOS, the WTO, and ICSID demonstrates that international law can create

effective adjudicatory bodies even in politically sensitive fields. Outer space, as a domain of shared interest for all humankind, deserves nothing less.