A Brief Survey of Remote Sensing Law Around the World

Advisory Committee on Commercial Remote Sensing

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Legal Regimes Considered

- Argentina
- Australia
- Bangladesh
- Canada
- Chile
- China
- Europe (ESA)
- France
- Germany
- India
- Israel
- Japan
- Malaysia
- Russian Federation (CIS)
- South Africa
- Sweden
- Ukraine
- United Kingdom
Overview

• Preliminary findings
  – Research needed

• General, global observations

• Major remote sensing nations
  – Canada, Europe, France, India, Japan, Russian Federation

• Non-remote sensing nation
  – Ground segment focused law: UK

• Emerging space law with no remote sensing specifics

• Emerging remote sensing specifics
General Observations

• Most
  – General space laws
  – Launch, safety, sovereignty and liability

• Few
  – Address remote sensing/EO and data issues
  – More often through policy directives or something similar
  – Not legislation

• All
  – Express agreement and compliance with UN treaties and affect on domestic space activities, laws and policies
General Observations

• Those with no or pending legislation
  – Driving force of legislation initiatives are compliance with treaties and international obligations

• U.S. law is apparent standard
  – Not to the "letter" but with due consideration

• Hybrid public - private environment
  – Law will not change this

• Space segment vs. ground segment
  – Satellite vs. data focus

U.S. vs. Europe, for example
• Operations and data
  – Access Control Policy
    • Government intends to give legal effect to new regulatory regime for commercial systems operations

• Radarsat private sector partner contractually obligated to comply with policy pending legislative enactment

• Very similar to U.S. regulations
  – Case-by-case review; "shutter control"; tasking records; notify re: substantial foreign agreements and change in operational characteristics; need permission to transfer ownership, etc.
Europe

- Operations and data inextricably intertwined
  - No private systems or licensing, per se
  - "commercial" means *what* is done, not *who* does it
  - Hybrid public - commercial systems
    - Government systems operate commercially

- Data driven, not space segment
  - E.g.: satellite image = "data base"
  - Database Protection Directive
  - Stresses user payment for operations

- Multilateral agreements on satellite-by-satellite basis
France

• Contractual and administrative legal regime
  – No legislation
  – National common law, both public and private
  – Legal terms and conditions in a departmental report

• "Commercial" systems could be addressed by legal framework when "relevant"
  – SPOT is "privatized" not "commercial"

• Data driven
  – Focus: return on investment of public funds
  – Open civil regime

• May be temporarily or permanently classified for national security
  – Case-by-case review
India

• **Remote sensing data policy, no law**
  – Comprehensive
  – Acquisition and distribution from Indian and foreign satellites for civilian users in India
  – Data is a public good
  – No provisions for operating licenses

• **Allows sale of commercial 1-m imagery**
  – Controls distribution
  – Military sites removed from Ikonos images before domestic distribution

• **Same requirement for 5.8-meter imagery from India’s own satellites**
Japan

- **U.N. Principles**
  - Only legal instrument directly related to Earth observations

- **Applicable relevant national laws**
  - All space activities limited to exclusively peaceful purposes

- **Commercial operators**
  - No legal restrictions
  - No licenses required
  - No reporting requirements

- **Data rights**
  - NASDA retains all IP rights to government data
    - Dissemination not to interfere with commercial activities
Russian Federation (CIS)

- Operations
  - Broad federal legislation
  - Licensing, certification, liability, safety, insurance and government control
  - License is required, few specifics: insurance
  - Protects IP and commercial secrets of foreign entities operating under Federation's jurisdiction
  - Remote sensing includes environmental monitoring and meteorology

- Sale of high resolution satellite imagery
  - Conflicts between intelligence and commerce
  - Requests for lists of available images and image orders have been denied, delayed and canceled due to national secrecy
    - Particularly pre - 1992

- Different rules over time
United Kingdom

- **Ground-segment focus**
  - Space segment focus follows later

- **House of Lords**
  - “Main effort should be ground and user segment”
  - Specialize in radar
  - National data distribution network
  - Support postgraduate education in remote sensing and digital cartography

- **National legislation**
  - No mention of remote sensing
  - Authorizes government to require licenses
• Recent move to establish licensing for launching and operating "space objects"
  – Goal: no cost to government

• Licensee must
  – Allow inspection and testing of facilities and equipment
  – Provide requested info on nature, conduct, location, and results of activities
  – Get approval to change orbital parameters
  – Notify regarding unintended deviations
Emerging Space Law
No Remote Sensing Specifics

- Argentina
  - Existing legislation

- Chile
  - Executive orders

- Germany
  - Internal discussion paper; regulations most likely will not include remote sensing

- South Africa
  Authority exists to promulgate regulations
Emerging Remote Sensing

Specifics

- **Australia**: primarily launch activities, new remote sensing regulations being formulated
- **Bangladesh**: remote sensing is "peaceful use"
  - Requires prior government "sanction"
  - Allows distribution of data
  - Seeks international cooperation with and policy models of other nations
- **South Africa**: authority exists to promulgate regulations
- **Sweden**: operating licenses required
Bi and Multilateral Agreements

- Important source of customary law
- Evolving on satellite by satellite basis
  - Initial Joint Polar System/Joint Polar System
  - Radarsat
  - Envisat
  - ERS 1
  - ERS 2
  - Eumetsat series
- Government satellites but impacts commercial data laws due to hybrid environment
Questions?