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Author: Ms. Caroline Devaux
France, caroline.devaux@sciences-po.org

HOW TO FINANCE THE SPACE INDUSTRY? SOME INSIGHTS ON THE CAPE TOWN
CONVENTION, ITS SPACE PROTOCOL, THE AVIATION SECTOR EXPERIENCE & E TUTTO IL
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Abstract

The paper seeks to expose what benefits the Convention on International Interests in Mobile Equipment could bring to the space industry and what space financiers can expect from the newly adopted Space Protocol.

To achieve this purpose, the paper follows a threefold reasoning. First, a review of the existing body of space law will show that a legal vacuum exists in the field of security over space property. National laws give different solutions as to the validity, recognition and enforceability of such security interests, rendering asset-based financing uncertain and consequently much more expensive. This review will reveal the need for a uniform legal framework governing the space-financing sector.

Second, it is proposed to analyse what the Cape Town Convention has to offer. An outline of the general dispositions of the Convention applicable to all the categories of mobile equipment will be provided, as well as a presentation of the system of registration. The Aircraft Protocol having been in force for almost six years, it is time to explore the practical outcomes of the Convention and its Aircraft Protocol for the aviation sector.

Finally, the paper depicts the unique elaboration process of the Space Protocol, involving a bench of highly specialised actors such as the United Nations Office for Outer Space Affairs, the European Space Agency and various representatives of international commercial aerospace and financial communities. This unusual participation of the concerned private sector has guaranteed that the special characteristics of the space financing technics have been considered and integrated into the Protocol. Adopting a functional approach, the Space Working Group has elaborated a technical definition of space property in order to enhance the predictability of security interests based on space assets. It has also included the sales of space property into the coverage of the Convention and has examined which remedies are the most appropriate.

To conclude, the paper predicts a bright future for the space industry with enhanced and facilitated possibilities of asset-based financing. The Space Protocol offers a high degree of protection to the financier, which will in turn render the credit more affordable and promote private financing. This will consequently open up the commercialisation of space while increasing the competitiveness between future space projects financed by private funds.