

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Financing space: Procurement, competition and regulatory approach (2)

Author: Prof. Anna Veneziano
Unidroit, Italy

Mr. Hamza Hameed
Unidroit, Italy

THE SPACE PROTOCOL OF THE CAPE TOWN CONVENTION: AN INTERNATIONAL SECURED
TRANSACTIONS REGIME FOR SPACE ASSETS

Abstract

Drafted under the auspices of the International Institute for the Unification of Private Law (hereinafter referred to as UNIDROIT), the ‘Space Assets Protocol’ of the ‘Convention on International Interests in Mobile Equipment’ (hereinafter the ‘Space Protocol’ to the ‘Cape Town Convention’) was adopted and opened for signature at the Diplomatic Conference concluded on 9th March 2012 in Berlin, Germany. It follows the highly successful 2001 Protocol related to Aircraft Equipment and the 2007 Protocol related to Railway Rolling Stock of the Cape Town Convention which were designed for the Aviation and Rail industries respectively. The Cape Town Convention creates an international secured transactions regime which can be applied to a particular industry by means of a Protocol specific to that industry. The Space Protocol’s main objective is to facilitate the financing of space assets and to create a stable and secure environment for transactions within the space industry to take place.

This paper will look at the different financing models available to operators in the space industry and contrast them with the asset-based financing system which the Space Protocol intends to foster. The space industry is highly capital-intensive which makes it difficult for entrepreneurs and small companies, from developed and developing countries alike, to progress and compete in the global market; the Space Protocol provides a predictable system in which companies of all sizes can gain access to finance for their operations at lower and affordable rates.

This paper will comprehensively look at the secured transactions regime which the Cape Town Convention and its Space Protocol put forth and the benefits such a regime has to offer for the space industry. It will examine the provisions of the Space Protocol in the light of recent developments within the space industry and will detail how the Space Protocol can be beneficial to all entities, including manufactures, operators and financiers, within the space industry. It will also look at the remedies provided by the Space Protocol to creditors in cases of default and how these remedies offer greater certainty to private and public financial institutions to invest capital into space activities.