

55th IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

The Interaction between International Private Law and Space Law and its Impact on Commercial Space
Activities (2)

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HOW THE RESCUE AND RETURN AGREEMENT CAN PROTECT (AND HARM) THE
INTERESTS OF A CREDITOR UNDER THE CAPE TOWN CONVENTION**Abstract**

This paper examines how the operation of the *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Space* (Rescue and Return Agreement) could benefit a creditor that holds an international interest in a space object under the *Convention on International Interests in Mobile Equipment* (Cape Town Convention). Such benefits could arise in several situations and would enhance the Cape Town Convention's facilitation of commercial transactions. For example, the duty of a state party to the Rescue and Return Agreement to retrieve an errant space object and return it to the launching authority could assist the creditor in the repossession of the object upon the debtor's default. Although satellites that reenter the atmosphere and return to Earth will not survive the landing, a reusable space capsule (or a space plane) may very well make the landing without suffering damage. In such a situation, the Rescue and Return Agreement could be of benefit to a creditor seeking to enforce its remedies against the space capsule or space plane under the Cape Town Convention. In another scenario, the duty to return a vehicle to the launching authority under the Rescue and Return Agreement may also benefit a creditor if a vehicle is forced to land in a state that is not a party to the Cape Town Convention. If the Rescue and Return Agreement requires that the vehicle be returned to another state that is a party to the Cape Town Convention, it would greatly benefit the creditor by enabling the creditor to avail itself of the remedies contained in the Convention. The paper will also explore those scenarios in which the operation of the Rescue and Return Agreement could harm the interests of a creditor. For example, a state may be required to return an errant space plane to a state that is not a party to the Cape Town Convention, thus depriving the creditor of the ability to exercise its remedies under the Convention. The final part of the paper will examine strategies a creditor (and debtor) could pursue to take advantage of the benefits of the Rescue and Return Agreement.