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Author: Mr. Erik Pellander
BHO Legal, Germany

PUBLIC INVESTMENT LAW – A TOOL TO SECURE NEWSPACE FINANCING?

Abstract

Currently, the space industry is witnessing a commercialisation wave which, at least in parts, can be considered as disruptive. New technology and market trends associated to this commercialisation wave are circumscribed by the term NewSpace. Along with the NewSpace trend, there is a wave of investment in commercial space activities. Favourable framework conditions supporting commercialisation are key factors for investment decisions and the commercial success of companies along the entire value chain.

Laws and regulations concerning commercial space activities are established in many countries, but they are currently reviewed and amended in the light of technology and market trends. Certain new services and applications are not yet addressed under national laws, or there is no consensus on their treatment at international level. Overall, there are significant uncertainties and/or evolutions regarding the legal framework in which space companies are operating. Companies along the value chain require different types of governmental approvals, including licenses under national space legislation, licenses under national telecommunications or media law, frequency assignments, market access authorizations, or export/import licenses. Delays in authorisation procedures and/or the denial/revocation of governmental approvals may have serious impacts on investments in space ventures.

So far, investment treaties have not been extensively employed by the space industry for ensuring favourable political and legal conditions supporting their activities. However, the wave of commercial space companies and activities around the globe raises questions on the potential future role of public investment law.