

IAF SYMPOSIUM ON COMMERCIAL SPACEFLIGHT SAFETY ISSUES (D6)

Enabling safe commercial spaceflight: vehicles and spaceports (3)

Author: Ms. Helena Correia Mendonça
Vieira de Almeida & Associados, Portugal

Mrs. Magda Cocco
Vieira de Almeida & Associados, Portugal

IMPLEMENTING AND OPERATING SPACEPORTS: LEGAL AND REGULATORY ISSUES

Abstract

Spaceports are increasingly relevant as they are a central tool for enabling the growing number of space activities undertaken by countries (as many, including emerging ones, are investing in space) and by the private sector (given the privatisation of space operations). The recent trends in space activities, from constellations of small satellites to suborbital flights, need spaceports. This paper analyses legal and regulatory approaches that can be adopted to implement and operate a spaceport with private involvement. This analysis is made at three levels: the construction of a spaceport, the operation of the spaceport and the provision of commercial services. Two main aspects impacting the legal approach are examined. First, the level of intervention of the private sector, which is echoed in the business models that can be adopted and in the ownership of the spaceport. Business models can include, e.g., PPPs by means of incorporating a company with private and public equity, concession agreements or authorisation regimes, and different models can be adopted for each of the levels above indicated. The paper analyses the advantages and disadvantages of each model and how they are mirrored in the legal framework. Second, the provision of services by the spaceport operator is examined in the light of the authorisation, supervision, liability/launching State and other relevant provisions and concepts under the Space Treaties, especially to assess their role, obligations and liability before (other) licensed space operators. This paper compares the UK and Portuguese approaches, noting that the ambitions of both are centered around small satellites. The UK adopted an open system where any site meeting certain requirements can be a spaceport, different proposals from the private sector exist and a Spaceflight Bill covering licenses for spaceports (and specific regimes e.g. for liability) is in its final stages. Portugal is studying the feasibility of a spaceport in Azores (given its valuable position in the Atlantic), its recent Space Activities Bill covers spaceport operators but for limited purposes only (no licensing regime is applicable to them as such thereunder) and a dedicated framework for the spaceport may be expected in the future. The policy approaches of both countries will also be referred to, with a brief analysis of the corresponding space strategies (noting that the Portuguese one is as recent as 2018). The paper will conclude with a set of regulatory recommendations aimed at promoting spaceport implementation and its use by the private sector.