

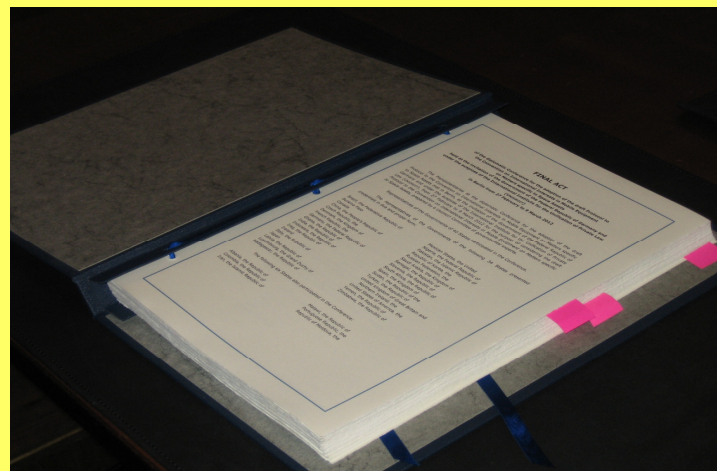
*Transfer of possession and control under the Protocol to the
Convention on International Interests in Mobile Equipment on
Matters specific to Space Assets*

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Opening to signature

- Protocol to the Cape Town Convention on Matters specific to Space Assets (*Space Protocol*) opened to signature in Berlin on 9 March 2012 at a diplomatic Conference for the adoption of the draft Protocol prepared by a Unidroit committee of governmental experts, attended by 40 States
- *Signed by three States: Burkina Faso, Saudi Arabia and Zimbabwe*



Transfer of possession and control



- Space Protocol does not give effect to transfer of ownership, which must be done in accordance with applicable law of relevant States
- Space Protocol facilitates transfer of possession or control of a space asset, pending the transfer of ownership

The Cape Town regimen

- Cape Town Convention provides general rules governing taking of security in high-value mobile assets
- Protocols adapt Convention to special patterns of financing for different classes of such asset (e.g. space assets)
- Establishes priority of security and analogous interests in such assets through electronic registries set up pursuant to each Protocol



Debtor's rights

- Defined as “all rights to performance or payment due to a debtor by any person with respect to a space asset”
- Recognition of the crucial economic importance for the creditor of the revenue stream generated by the space asset
- Space Protocol extends the sphere of application of the Convention to these rights *without interfering with State Authority over such rights*



Related rights

- Concept defined as “any permit, licence, authorisation, concession or equivalent instrument that enables a party to manufacture, launch, control and use or operate a space asset”, albeit only to the extent that such rights were capable of being transferred or assigned **under the applicable law**
- Not seen as an appropriate issue to be dealt with by the Space Protocol because of the potential for interference with State policies and domestic laws
- Concept ultimately left out of the Space Protocol

Placement of data and materials

- Permits the placing of command codes and other materials with a third party in order to give a creditor the opportunity to take possession of, or control over the space asset in question
- ***This provision is subject to applicable law***, notably in respect of rules regarding the placing of sensitive information in escrow



Preservation of powers of contracting States

- Space Protocol does not affect a Contracting State's ability to exercise its authority over space assets in accordance with its domestic laws and policies
- “Nothing in this Protocol shall be construed so as to require a Contracting State to recognise or enforce an international interest in a space asset when ... such interest would conflict with its laws or regulations concerning:
 - the export of controlled goods, technology, data and services; or
 - national security.”

Conclusions

- Space Protocol was always delimited by reference to the applicable law
- This is a limitation that affects all forms of commercial space financing
- Space Protocol assures States that ratification will in no way limit their control over those commercial space activities





Thank you