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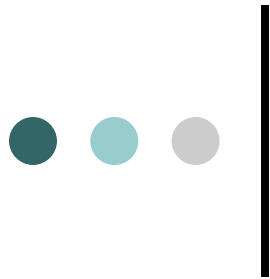
Satellite Ownership Transfers and the Liability of the Launching States

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1 What is the issue from the perspective of the UN treaties on outer space?

Transfer of ownership of a satellite does not affect the liability regime.

Responsibility national activities

Liability launching State(s)

“jointly and severely liable”

Ownership irrelevant

Transfer of Ownership of a Satellite

3 cases

Launching States

A: territory

B: facility

C: procuring State

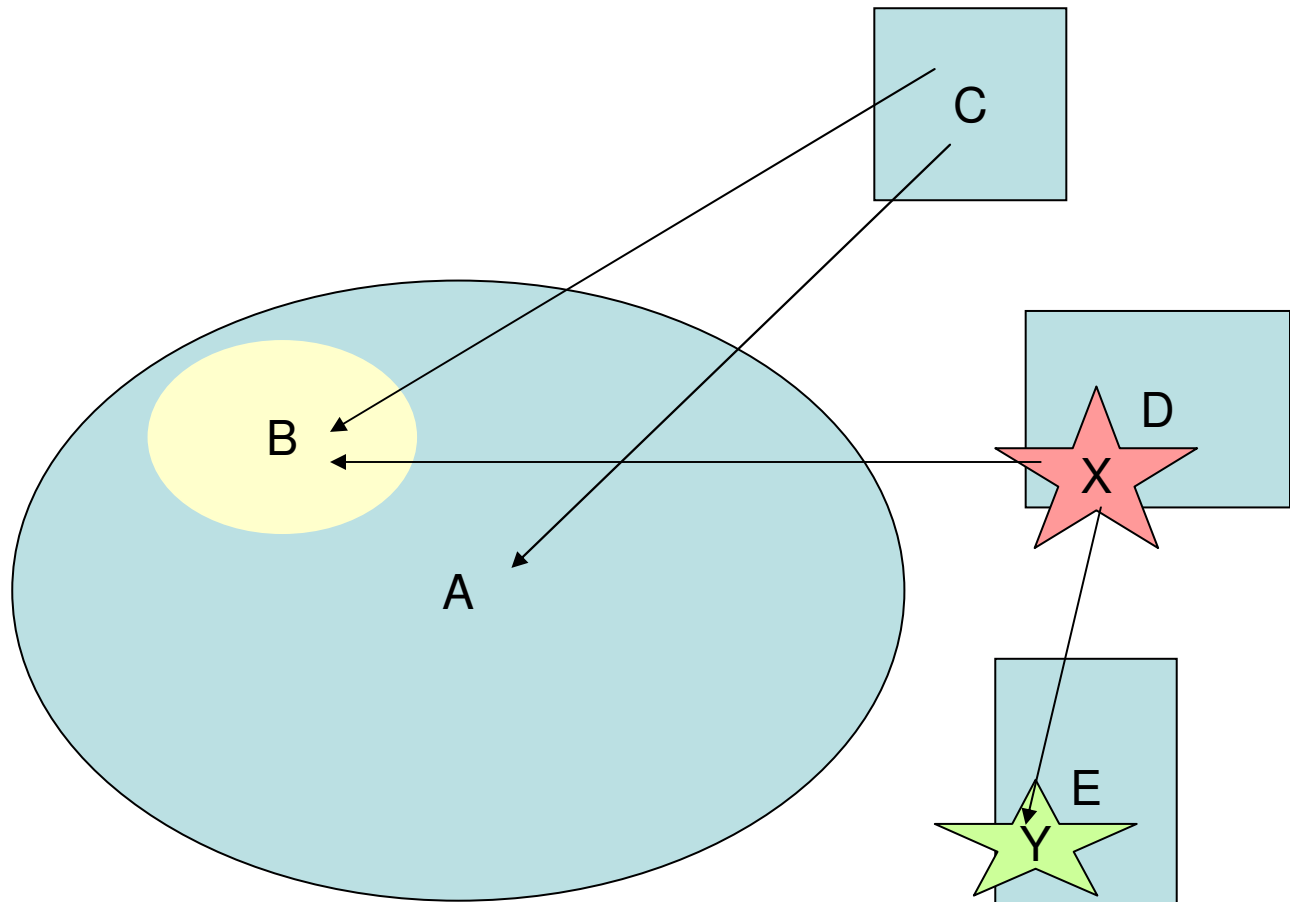
Case 1 C to A

C to B, etc.

Case 2 D to A, B

or C, etc.

Case 3 D to E



Case 1: between launching States

Former owner	Present owner	Launching States
C	C (no transfer)	A B C
C	A	A B C
C	B	A B C
C → A	B	A B C
C → B	A	A B C
A	B	A B
B	A	A B

Active and substantial participation in the launching

Jointly and severely liable

Forever a LS

Case 2: between launching States or not unclear

Former owner	Present owner	Launching States
Co. X of State D	X (no transfer)	A B D?
X	State A	A B D?
X	State B	A B D?
X → A	B	A B D?
X → B	A	A B D?

State whose national procured the foreign launch shall be regarded as a LS?

Case 3: pure commercial transaction (between companies)

Former owner	Present owner	LS	State of Registry
Co. X of D	X (no transfer)	A B D?	D
Co. X of D	Co. Y of E	A B D?	D
Co. X of D	Co. Y of E	A B D? E?	D to E

State of registry shall be regarded as a LS?

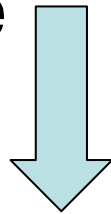
Critical factor on the determination of the liability of launching States in case of the ownership transfers of satellites

* Scholars' doctrines



An internationally established rule has not been recognized that a state whose national owns a satellite launched from outside its territory be regarded as a LS.

* State practice



a State of registry not concerned with the physical launching shall be regarded as a LS? (case 3)

Registration may be a test for finding a LS by procuring?

2 Some cases (case 3)

(1) On-orbit purchase of a satellite followed by the transfer of registration

UK
ST/SG/SER.E/219
(24 Apr.1990)
BSB-1 (Marcopolo-1) 
Launched in 1989
(USA)
Owner/operator British
Satellite Broadcasting
Ltd.

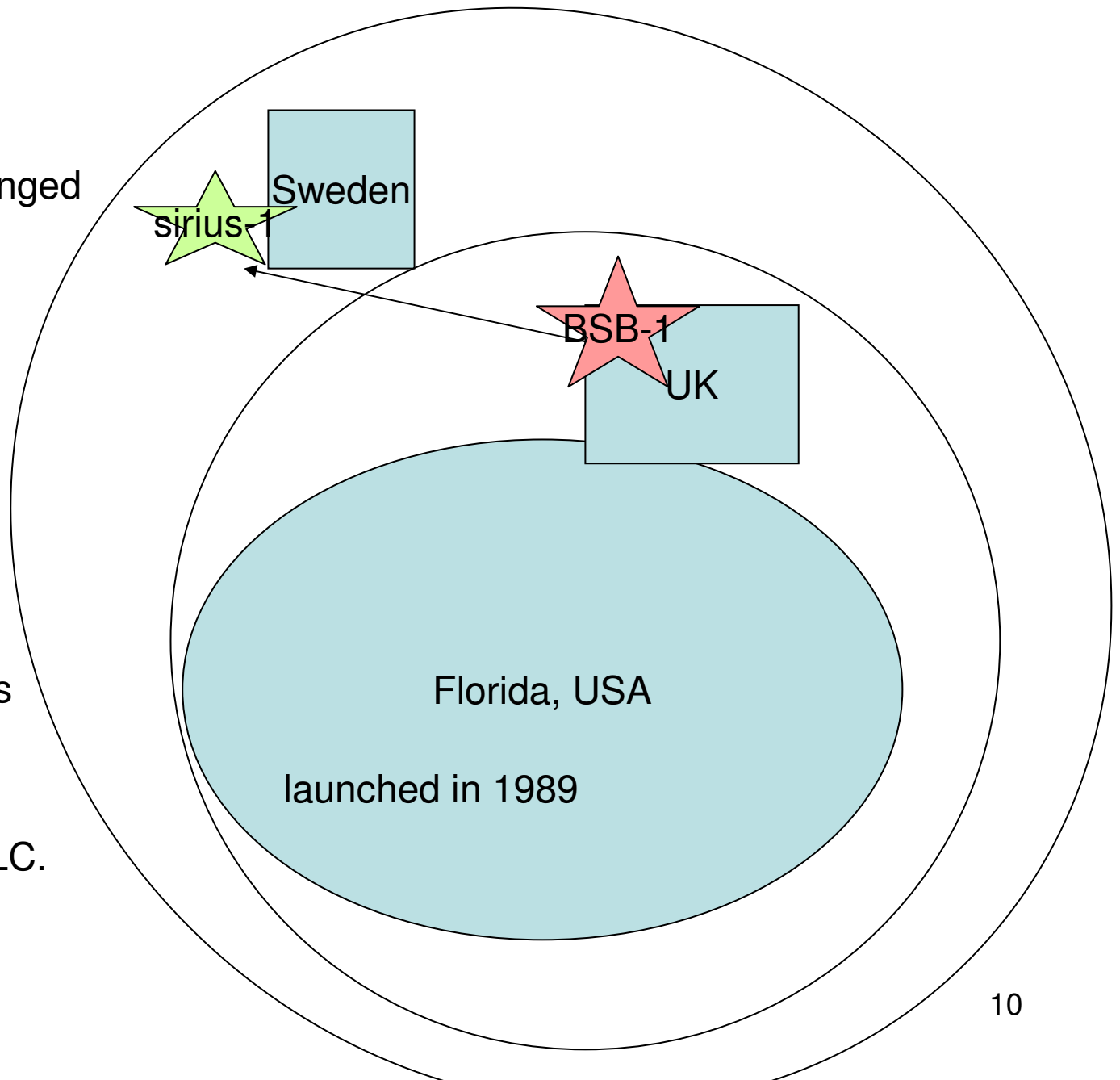
Sweden
ST/SG/SER.E/352
(19 Feb. 1999)
Sirius-1 (1989-67A)

*bought in orbit in 1996

State of registry is changed

USA, UK and Sweden
Are LSs? Or
only USA and UK
remain LSs?

Agreements
Between UK and
Sweden would address
Liability issues on a
Future state-to-state
negotiation under the LC.



(2) On-orbit purchase of a satellite not followed by the change of control ①

Koreasat-2 of KT Corporation, Korea

Manufactured by Lockheed Martin and launched in Jan.1996 from Florida, USA.

Registered by Korea
ST/SG/SER.E/304

(19 Mar. 1996)

KT Corporation provides TT&C to ABS-1A.

ABS-1A

2 July 2009 Asia Broadcast Satellite (ABS) (China) announced the sale of Koreasat and to be renamed as **ABS-1A** pending the approval of the USA.

Ownership: a company of China jurisdiction and control by Korea

(2) On-orbit purchase of a satellite not followed by the change of control ②

Koreasat-3 of KT Corporation, Korea
Manufactured by Lockheed Martin and launched in Sept. 1999 from Guiana Space Center, **France**.

No UN registration.

KT Corporation provides TT& C to ABS-7.

ABS-7

24 May 2010 **ABS (China)** announced the sale of Koreasat-3 and to be renamed as **ABS-7** pending the approval of the USA.

Ownership: a company of China
Control by Korea

Launching States

Koreasat-2 → ABS-1A

Territory: **USA**

Its national's procurement
and registration: **Korea**

Koreasat-3 → ABS-7

Territory: **France**

Its national's procurement,
but not registered:
Korea??

China is not a LS.

(3) Transfer of ownership by the acquisition of a company ①

LMI-1

Launched in 1996 from Baikonur by Proton rocket
Russia furnished information (ST/SG/SER.E/367) “the US tel sat LMI-1 was placed into orbit”

No State of Registry found

Owner/operator Lockheed Martin Space and Communications Venture (LMSCV)

* LMI exclusive right to market LMI-1

ABS-1

Announcement of the acquisition in Sept. 2006

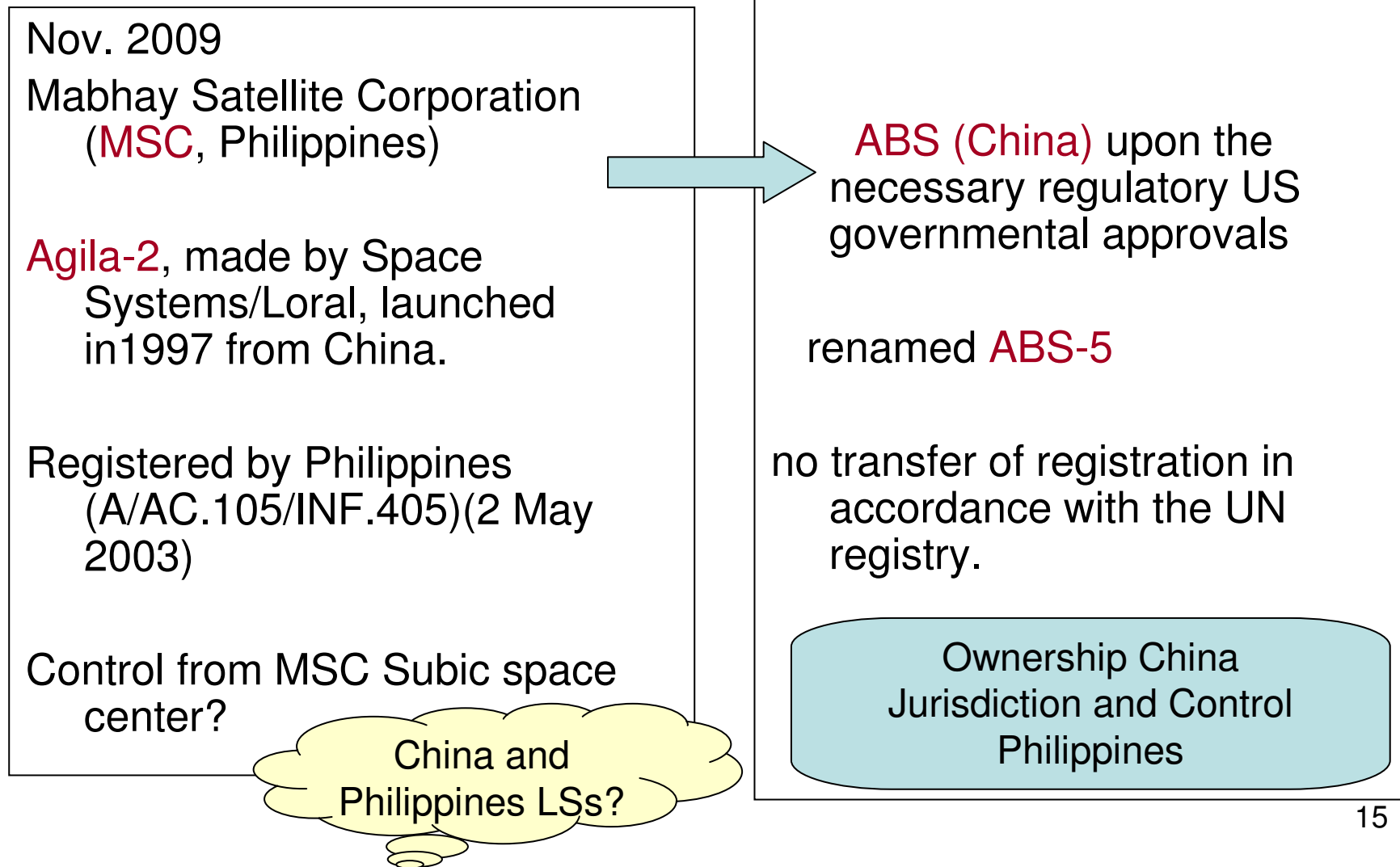
ABS (China) acquisition of LMSCV and LMI from Lockheed Martin Global Telecommunications (MLGT).

LMSCV → Asia Broadcast Satellite Holdings

LMI → Asia Broadcast Satellite Ltd.

Which are LSs?
Russia, Kazakhstan only,
or--?

(3) Transfer of ownership by the acquisition of a company ②



(4) Transfer of ownership by the change of the legal status of an entity

2002 UK furnished the information to the UNSG
(ST/SG/SER.E/Rev.1, 3 Dec. 2002)

in accordance with Art. XI of the OST and Art. IV of
the RC on the change of the status of 8 of the
Inmarsat satellites

(I2-F2, I2-F3, I2-F4, I3-F1, I3-F2, I3-F3, I3-F4, and I3-
F5)

“The UK is not the “launching State”, “State of
registry” or “launching authority” for the purposes of
the Liability Convention, the Registration
Convention, the Rescue and Return Agreement. ”

(5) On-orbit ownership transfer or procuring a launch? The Netherlands

Apr. 2002 NSS-7 , Dec. 2002 NSS-6

Both NSS-6 and NSS-7 were made by the Lockheed Martin and launched in France.

Information to the UNSG (A/AC.105/806, 22 Aug, 2003)

The Netherlands not a “launching State” or “State of registry” because those satellites were “delivered in orbit to New Skies Satellites after they were launched and positioned in orbit by persons not subject to the jurisdiction or control of the Netherlands. Following the transfer in orbit of ownership of the space objects to New Skies Satellites, the Kingdom of the Netherlands is of the opinion that it bears international responsibility for their operation in accordance with article VI and has jurisdiction and control over them in accordance with article VIII of the Outer Space Treaty.

(6) Owned and operated by its national, but not a launching State (a variation)

GE SATCOM-1A

Launched in 2000 from Baikonur

- 1 Registered by the UK
ST/SG/SER.E/378 (6 Nov. 2000).
- 2 UK withdrew the registration by
ST/SG/SER.E/389 (28 Mar.
2001) as “GE Capital Satellite
(Gibrartar) Ltd. did not procure
the launch of the space object
and thus the UK is not the
‘State of registry’.” UK only
furnished information to the
UNSG.

Sirius 4

Launched in 2007 from Baikonur

- 1 Owner: SES Isle of Man
- 2 supplementary registry of
the UK wrote: UK
authorized launch only.
Sweden has registered
in-orbit operation.
- 3 ST/SG/SER.E/532 (29
Feb. 2008) Sweden
registered Sirius 4.

(7) Not a transfer of ownership, but a State succession

UK registration

- 1 **Asiasat-1** (ST/SG/SER.E/222, 29 Aug. 1990)
- 2 **APSTR-1** (ST/SG/SER.E/300 and Corr.1, 23 Jan.1996)
- 3 **APSTAR-1A**
(ST/SG/SER.E/316, 21 Oct. 1996)

owned and operated by a
Hong Kong Company
launched from **China**

“ceased to be carried on the
Register of Space Objects of
the **UK**” (ST/SG/SER.E/333,
3 Apr. 1998)

“from that date **China** has been
the State of registry of these
space objects
(ST/SG/SER.E/334, 3 Apr.
1998)

3 Possible Solutions (1): prerequisite

The identification of the launching States is the key to solve the questions of liability in respect of the on-orbit transfer of ownership of a satellite. However, scope of the launching States is not clear.

Reasons: no internationally established rule :

- (1) If a state whose national owns a satellite launched from outside its territory shall be regarded as a launching State;
- (2) If a state of registry not concerned with the actual launching shall be regarded as a launching State.

(2)

- (1) While registration is irrelevant to the liability, it is useful to find a launching State especially when the procuring State specifies its name as that of a launching State.
- (2) However, considering State practice, making a formula of finding a launching State based on the registration would not be a solution.

Then, it has to be noted that it is the assured protection of potential victims, not the identification of a launching State itself that counts. Taking note of that prerequisite, it has to be underlined that furnishing information to the UNSG is as useful as registration as far as the identifying the situation concerning a satellite is concerned **as shown by the Supplementary Registry or National Subregistry of Space Objects of the UK and the Netherlands.**



practice of both States can be one type of model

(3)

Helped by the various kinds of information provided, Governments can ensure that its national will assume third party liability **through national legislation** in line with the UN Treaties on Outer Space as well as the 2004 Application of the concept of the “launching State” and the 2007 Recommendation on enhancing registering space objects. **Information provision concerning the multilateral transaction and national legislation will be the solution with respect to the on-orbit transfer of a satellite.**

present task how better to gather information on private space activity.