

Regulatory Options for Dealing with the Transfer of Ownership

A satellite with two large blue solar panel arrays is shown in orbit above the Earth's blue and white horizon. The satellite's central body is complex, with various instruments and antennas visible. The background is the blackness of space with a few distant stars.

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Olavo de O. Bittencourt Neto

University of São Paulo - Brazil

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Current Scenario

- **LSC's working groups** identified that the transfer of ownership of space objects in orbit was not specifically addressed by relevant Space Law treaties:
 - The Space Treaty (1967), the Rescue Agreement (1968), the Liability Convention (1972) and the Registration Convention (1975).
- Current practices, particularly in relation to geostationary communication satellites, **require attention from the international community** in order to deal with questions involving responsibility, liability and registration;
- Solution could be provided either by *extensive interpretation* of Space Law treaties in effect or the *drafting of new rules*;

Proposal

- To envisage a *clear provision*:
 - ***Any State (or International Organization) that acquires a space object in orbit shall be regarded as a Launching State, as far as international responsibility, liability and registration is concerned;***
 - Irrespective of the level of participation of the new owner during the original launching;
- **Regulatory Framework:** evaluation of the most appropriate source of international law for implementation of this rule;
 - Possibilities:
 - 1. Unilateral Act
 - 2. Treaty
 - 3. UN GA Resolution

1. Unilateral Act

- *“In certain circumstances, the unilateral acts of states, including statements made by relevant state officials, may give rise to international obligations.”* (Malcolm N. SHAW, International Law, 5th ed., p. 114).
 - Therefore, *the new owner of the space object* should provide **an official public declaration** to UNOOSA accepting liability as a Launching State and requiring proper registration;
- **Pros:**
 - Could be implemented immediately;
- **Cons:**
 - Lack of standard procedure for declaration may give rise to different interpretations, eventually leading to international disputes.

2. Treaty

- *“Law-making treaties create general norms for the future conduct of the parties in terms of legal propositions, and the obligations are basically the same for all parties.”* (Ian BROWNLIE, Principles of Public International Law, 6th ed., p. 12).
 - Therefore, a *window of opportunity* would be opened to consider *other relevant pending problems*;
- **Pros:**
 - Through a clear and binding text, greater legal security could be achieved; opportunity for drafting a comprehensive regulation;
- **Cons:**
 - May eventually affect important rules provided by prior treaties; any new convention demands political will.

3. UN GA Resolution

- *“Rules of international law are binding because States considered themselves bound by them. The fact that they have been identified and enunciated by a General Assembly resolution cannot undermine their binding force.”* (Bin CHENG, Studies in International Space Law, p. 197).
 - Therefore, it would represent *an intermediate alternative*, contemplating clear rules in relation to transfer of ownership, respective registration procedure and applicable legal consequences;
- **Pros:**
 - The LSC, considering the unique characteristics of space activities, could lead the way for further development of custom or treaty;
- **Cons:**
 - As “soft law”, may afterwards prove not to be effective.

Conclusions

- A comprehensive solution rests in the **best interests of all nations**, spacefaring or not.
- The proposed **UN GA Resolution**, if approved, should encompass detailed and clear registration procedure and clarify legal consequences regarding transfer of ownership;
 - Thus opening space for consolidation of international customary rules and even constituting the cornerstone for a future treaty in that regard.
- Solution should be examined **multilaterally**, and envisioned through guidance of the LSC.

Olavo de O. Bittencourt Neto

olavo.bittencourt@usp.br

olavo.bittencourt@gmail.com

Thank you