

LEGAL FRAMEWORK IN SUPPORT OF COMMERCIALIZATION OF OUTER SPACE: THE CASE OF THE ISLE OF MAN

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Abstract

This paper looks at the continued growth of the Isle of Man as the financial hub for the international space community. Particularly in light of the proposed UNIDROIT Convention on International Interests in Mobile Equipment as Applied to Space Assets, the effect of the Isle of Man's intentions to adopt elements of UNIDROIT to establish the world's first commercial space register on the Island will be discussed. With the increasing surge towards increased commercialization of outer space, "New Space" entities are emerging. The profile of space actors is moving from strictly governmental, intergovernmental and multi national companies to include smaller entrepreneurial companies with ambitious ideas. For many new actors, access to capital and lack of certainty of the law are proving major challenges to the progression of the commercial space industry. As such, the choice of regulatory environment is crucial to the success and profitability of business. A little Island at the heart of the British Isles, the Isle of Man is adopting measures to tackle these challenges and attracting established satellite communications as well as New Space business through the establishment of a tight regulatory environment specifically tailored to the needs of the industry. The latest strategy, the creation of an Isle of Man financial register of space assets, will mark a symbolic maturing of the space sector in the Isle of Man. The proposed registry will seek to provide a platform for commerce as no other space registry has. Already a renowned jurisdiction for shipping and aircraft registration, this initiative may be the next logical step for the Island to facilitate strong regulatory environment for the financing of space assets while providing a platform for the Island in its continuing work to establish itself as a leading international finance centre dedicated to space.

1. INTRODUCTION

Under the auspices of the United Nations Committee for the Peaceful Uses of Outer Space (COPUOS), the international legal framework governing space activity is set out in the following conventions: The Outer Space Treaty 1967¹ (OST); The Rescue Agreement 1968²; The Liability Convention 1972³; The Registration Convention 1975⁴; The Moon Agreement 1979.⁵ Whilst the Moon Agreement has not received wide international support, the Outer Space Treaty (OST) can be described as the Magna Carta of space law, which sets out the general framework the other treaties elaborate upon. Many of the principles

therein have customary status and are binding on all Nations. Under Art. VI and Art. VII OST, States must authorize and supervise national space activities, including the activities of nongovernmental entities such as commercial and non-profit organizations and are liable and responsible for any damage that occurs as a result of space activity. The advent of commercial space activities has led more countries to consider how to regulate private space activities in a manner that does not hinder or preclude investment, while still ensuring that commercial activities comply with international law. Following the space

initiative in the Isle of Man, it is necessary to determine the legal framework applicable to space activity on the Isle, bearing in mind its unique status, not as a sovereign State but as an internally self governing British Crown dependency. This paper introduces the Isle of Man and its space strategy. The special arrangement between the UK and Isle of Man with respect to space activity will be discussed as well as the Isles latest strategy to create a space register; bearing in mind the proposed UNIDROIT Convention on International Interests in Mobile Equipment as Applicable to Space Assets. The paper concludes with recommendations for the Isle of Man space register.

2. THE ISLE OF MAN

The Isle of Man is located at the centre of the British Isles in the middle of the Irish Sea. Made up of 4 designated towns with Douglas as the capital and numerous village and parish districts, The Isle is roughly 52km by 22km with a population of approximately 81,000 people. The Isle of Man is a British crown dependency, but is not part of the UK or the EU. According to Schedule 1 to the Interpretation Act 1978 (c.30), the Isle is a “British Possession” but not a colony.

As an internally self governing nation, the Isle of Man has its own legal system, which is based on principles of English common law, with political and legislative independence through Tynwald - the oldest legislature in the world. There is no enshrined constitutional document defining the relationship with the UK and whilst proud of its internally self governing status, it is accepted by the Isle of Man Government that in certain specific limited circumstances the UK has the power to legislate on its behalf in matters of mutual concern, as the crown claims ultimate responsibility for the good government of the Island. This is mostly with respect to foreign affairs and matters of defence, for which the Island pays an annual contribution.

UK law is not directly applicable to the Isle of Man, but Acts of the British parliament may be applicable to the Isle of Man, after consultation and prior agreement, through extension by Order-in-Council. An Order-in-Council is a statutory instrument made formally in the name of the Queen through the Privy Council. Over the years, the Isle of Man has obtained significantly greater self determination as evidenced by the latest 2006 declaration signed by the UK and Isle of Man Government, which set out a framework of principles for the development of the International identity of the Isle of Man.⁶

Despite such agreements to clarify the relationship between the two countries, the Isles strategy is to align itself with the UK, but differentiate itself where it can be more effective as a service provider. The Isle of Man recognizes that the relationship with the UK is one of its economic strengths and it is clear that the Isle will not deviate from what is acceptable or is not objectionable to the UK Government. In that light, from a pragmatic perspective it is unlikely that the Isle would look to full independence from the UK. Instead the Isle works hard to ensure that all business and dealings with respect to or from the Isle of Man add value to the UK, maintaining a hub and spoke relationship. The Isle is considered part of the UK for VAT collection purposes imposing, save in certain circumstances, an identical VAT rate to that of the UK. Economically, there is free trade and increasing value has flowed from the Isle of Man to the UK, particularly with respect to capital flow and access to the international community.

Why the Isle of Man

The principal benefit for managing or locating business on the Isle of Man is based on the tax structure system of the Isle, which provides a competitive regime for companies and individuals. Keen to distance itself from the negative connotation of being

tagged as an unscrupulous tax haven, the Isle of Man established a tax strategy that fully complies with the EU Code of Conduct on Business Taxation⁷ and is in line with the OECD standards on transparency, exchange of information and the removal of perceived harmful tax practices.⁸ This effort, as well as its strict enforcement of Anti Money Laundering controls and wholehearted abidance to best international standards has made the Isle a 'participating partner' of the OECD and contributed to its impressive credit rating as a jurisdiction of class and choice.

To take advantage of the tax and many other benefits of incorporation on the Isle of Man, the Isle completely overhauled its companies legislation and introduced the "New Manx Vehicle" ("NMV") company structure by way of The Companies Act 2006 (c.13). Before 2006, the principal Act was the Companies Act 1931. Amending Acts were enacted in 1960, 1961, 1968, 1974, 1982, 1986, 1992 and 1993 and are construed as one with the principal Act. The 2006 Act (a stand alone Act) was drafted by Isle of Man lawyers with a brief to create a new corporate vehicle which was: flexible, simple and inexpensive to administer. Since its inception, the NMV has proved very attractive to international businesses.

The principal benefits of company incorporation under the new Manx Vehicle are with respects to:⁹

- Capital arrangements
- Proceedings of the company
- Accounting and Annual Returns

The types of company structures that the Isle of Man offers are both simple and creative. It is the strength and adequate regulation of the structures that make incorporation on the Isle beneficial for many businesses. Confidentiality is guaranteed through greater regulation and responsibility on corporate service providers through the Corporate

Service Providers Act 2000 (c.13), rather than on bureaucratic and stringent company requirements. Creative structuring includes establishment of structures such as the Protected Cell Company (PCC) known in some jurisdictions as a segregated accounts company. A PCC is a corporate body that can be segregated into legally distinct portions, known as the "core" and underlying "cells". Each cell has its own separate segment of the PCC's overall share capital, allowing shareholders to maintain sole ownership of an entire cell whilst owning only a small proportion of the PCC as a whole. Though a cell is not a separate legal entity in its own right; its revenue streams, assets and liabilities are kept separate from all other cells and from the core.

Other benefits to setting up business on the Island include:

- Neutral jurisdiction
- International reputation - no red flag and no black list
- Proactive & collaborative regulatory regime with minimal bureaucracy
- Access to decision makers
- Business development initiatives
- Regime based on English law
- Stability and Independence – longest continuous parliament in the world
- Capacity and space for sustaining growth
- Low operating cost environment
- No restrictions on new residents and open property market
- Good skill set with top rated professional services sector

3. OFFSHORE CENTERS AND SPACE

In several articles by American tax attorney William Andrews, tax relief on space commerce is promoted as well as the establishment of a new type of company structure, referred to as the International

Space Company (ISC). He proposes that an offshore entity could take the lead in forming, servicing and managing ISC's, particularly jurisdictions with "a well educated, stable, moral populace with nimble, effective leadership and an adequate communications system."¹⁰ He adds that the Offshore financial centers could aggressively target space related support functions offering corporate and fiscal incentives, human resources packages and specialized training and education initiatives and tailor made space company legislation. Under this structure, there would be no income tax liability for space ventures and if an ISC generates 51% of its business in space, its non space income would also be tax free. The Isle of Man is way ahead of other offshore jurisdictions through direct promotion of itself as the "spaceisle" – the international finance center dedicated to space. The spaceisle represents a flexible and nimble, yet highly regulated and open base for space and space related business.

Isle of Man Space Strategy

Seeking to diversify the economy further and on a mission to develop its international identity, the Isle of Man embarked on developing a Space strategy to attract the space industry to the Isle. Whilst focusing on the established satellite industry, the Isle also differentiates itself as a jurisdiction that will set the way for the efficient and successful growth of the emerging New Space industry.

The uniqueness of the Isle of Man space strategy is that it is essentially commercial in nature and enjoys whole hearted support at the highest levels within Government. The Isle of Man Space strategy is spearheaded in the Treasury Department by the E-business/Space Commerce Division. This is a unique and strong statement that ensures that involvement in the space arena in the Isle is seen as a commercial and financial endeavour. Also playing a role is the Communications Commission, which is a statutory board of the Government, with

responsibility for the licensing and regulation of telecommunications and broadcasting in the Isle of Man.

With a focus on encouraging commercialization, the Government works hand-in-hand with the private sector through a public/private Space Industry Group and took the novel step to fully outsource the commercialization of its space activity by contracting the services of ManSat Limited. The effect of this fusion between Government and the private sector, through both ManSat and the space industry group is that the law and policy framework for space activity on the Isle can be guided by the space industry and the relevant stakeholders, increasing the Isles potential as a global centre for private activities in Space. Set to attract established satellite companies as well as modern New Space companies, including the general benefits discussed in section 2 above, the Isle of Man space and satellite "package" comprises the following benefits¹¹:

- Access to Orbital Slots through ManSat Ltd
- 0% Corporate Tax
- No Insurance Premium Tax for satellite insurance
- Space aware/Supportive Government
- Friendly Commercial Legislation
- Ability to Source Funding through the Isle of Man
- Professional Services Expertise in Space Related Matters
- State-of-the-Art Telecommunications Infrastructure

4. LEGAL FRAMEWORK

Due to the status of Outer Space as the "province of mankind" (Art.1 OST), outer space activity is primarily regulated by international law as well as under national law. As a British Crown dependency, the UK is responsible for the international relations of the Isle of Man. To that end it is

necessary to assess the UK legal and regulatory framework for space activity to determine the framework that the Isle of Man operates under.

The UK Regime

The UK has two separate legal/regulatory frameworks for space activity, particularly:

- The granting of licenses for activities in outer space by virtue of the Outer Space Act 1986 (c.38)
- The management of orbital filings by the Office of Communications (Ofcom) with the International Telecommunications Union (ITU) and by virtue of The Communications Act 2003 (c.21)

Specifically, the UK Outer Space Act 1986, set out to:

1. Provide regulation / licensing of UK space activities through the UK Secretary of State and the British National Space Centre (BNSC)
2. Facilitate compliance with International Obligations, specifically that:
 - UK Secretary of State to maintain a register of space objects as set out under the Registration Convention
 - UK to bear international responsibility and liability for activities in outer space which it has licensed as set out in the Outer Space Treaty and Liability Convention.
3. Ensure that activities do not jeopardise public health or the safety of persons or property
4. Provide for indemnification of UK Government against any claims in respect of damage or loss arising out of the licensed activity.

The main provisions of the Outer Space Act apply to the launch, the procuring of the

launch, the operation of space objects and to “any activity in outer space”. The breadth of activity covered is extremely wide but space activity licenses are not required for leasing of space segment capacity (transponders) or space activities governed by separate international agreements securing compliance with the international obligations of the UK.

With respect to satellite communications, the first step is gaining the right to orbital slots and frequencies. An orbital slot is a function of intended use, orbital location and frequency band. The ITU allocates all Geostationary orbital positions on a first come, first served basis, only to States. This is because the geostationary orbit is seen by States as a natural resource that is the province of all mankind. It is a highly regulated area with rules of notification, and coordination established under the ITU Radio Regulations. The purpose of such notice, coordination and registration is to eliminate harmful interference between earth and space-based stations of different countries, to improve the use of the radio frequency spectrum and the geosynchronous satellite orbit and to accommodate, to the extent possible, a country's needs. This is managed in the UK by Ofcom, the regulator and competition authority for the UK communications industries.

The Isle of Man Regime

Space activities can be carried out on and from the Isle of Man and are governed by the Outer Space Act 1986 (Isle of Man) Order 1990 (SI 1990/596), which extends to the Isle of Man all the provisions (as amended) of the UK's Outer Space Act 1986. The UK Communications Act 2003, extended to the Isle by Communications (Isle of Man) Order 2003 (SI 2003 No. 3198), provides the legal basis for activities in the satellite communications sector in the Isle. Due to the Isle of Man's status as a Crown dependency, Ofcom has the power to represent the Isle of Man at international bodies such as ITU. When Ofcom exercises

these functions, it acts on behalf of the Isle of Man Government. In January 2005, and at the request of the Isle of Man, the Secretary of State formally requested Ofcom to extend its ITU representation role to the Channel Islands, the Isle of Man and the British Overseas Territories.

Uniquely, the Isle of Man Government has granted, via commercial contract, sole and exclusive rights to ManSat Ltd for all its orbital applications and ManSat Ltd offers a bespoke filing and consultancy service for Isle of Man registered space companies undertaking or wishing to undertake any space activity. As such, ManSat became the first commercial company in the world to have filing rights at ITU.

As a Crown dependency, Isle of Man registered companies wishing to undertake in any type of space activity must apply to UK Secretary of State via the British National Space Centre for a launch and operations licence. Here, Isle of Man companies are treated exactly the same as UK companies. To minimize any additional administrative burden on satellite operators or launch service providers wishing to operate from the Isle of Man, the Isle of Man Government has appointed a commercial due diligence and risk management service provider to manage space activity licensing processes as they directly affect the Isle of Man.

Contingent Liability

Section 10 of the Outer Space Act requires all persons carrying on space activities to indemnify the UK Government against any claim for loss or damage, if such person is one to whom the Act applies. Currently, the BNSC requires the licensee to provide evidence of third party liability insurance of £100 million and for the UK Government to be an additional insured to the insurance policy. The insurance policy should cover both the launch and the in-orbit phase for the operational lifetime of the satellite. With

respect to this issue of liability, the Isle of Man and the UK have reached a sharing arrangement with respect to Isle of Man space activity and the UK's contingent liabilities. The process of this unique agreement is indicated in Figure 1 below.

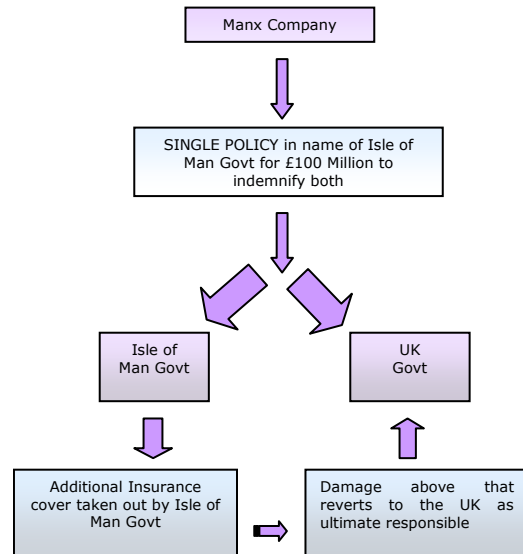


Figure 1: Isle of Man and UK Contingent Liability Arrangement

The effect of this arrangement is that ultimate responsibility and liability for damage caused by space activities of Isle of Man registered companies rest on the UK Government, but the Isle of Man has made adequate provision to ensure that the UK is adequately indemnified in the event of any damage.

New Enabling Law

Despite adequate agreement with the BNSC, the Isle of Man seeks increased parity with other jurisdictions with respect to the ability to grant licenses, which currently is decided by the UK Secretary of State. To that end, the Isle of Man has requested a new Order-in-Council from the UK Government to effect the Isle of Man Space and Telecommunications Bill 2007. The Bill aims to vest regulatory powers for space activities for the Isle of Man on the Communications Commission.

Under the Bill, the Communications Commission may, subject to the provisions of the Act, and after consultation with the Secretary of State, regulate the following activities which are carried on in the Isle of Man or elsewhere:

- (a) The launching or procuring of the launching of a space object;
- (b) The operation of a space object;
- (c) Any activity in outer space

Under Section 1, the Commission shall undertake the functions vested in it from time to time by the Outer Space Act 1986 as it has effect in the Island. The Commission shall also in exercising its functions under the Act, take such action as it considers appropriate to comply with the international obligations of the United Kingdom in the field of the exploration and use of outer space.

The effect of the Space and Telecommunications Bill is that the Isle of Man will be able to enact licensing procedures for its space activities and maintain its own space register, in any format as long as it complies with UK international obligations. Bearing in mind that the new order and enabling law simply seeks parity with other jurisdictions, the Isle of Man is essentially satisfied with its connection to the UK Outer space licensing system. Where it seeks to differentiate itself is through the registration system, whereby under the Manx process, a one stop approach is taken to all business aspects of space projects in a similar fashion to its corporate jet and super yacht registration.

5. REGISTRATION

There are two principal obligations under Art. 2 Registration Convention 1975:

- As a “Launching State” with respect to a specific space object, a party should register that space object in its own national registry; and

- As “State of Registry” it should provide the Secretary-General with specific information on the space object, for inclusion in United Nations Register

Loosely defined in Art. 1 of the Liability Convention, a space object “includes component parts of a space object as well as its launch vehicle and parts thereof”. The main purposes of Registration of space objects are:

- To know what is in space and record national activity
- To give notice to other States to aid in avoidance of collision
- To aid in identifying the launching state for liability purposes under the Liability Convention 1972

The UK currently has 2 registers managed by the BNSC. As of August 2008;

1. The UK Registry of Space Objects - currently contains 37 objects and 7 decayed objects not in the register
2. A supplementary Register - where the UK was not a launching state or was a joint launching state. Currently contains 27 objects

The registers contain the following information about space objects as set out in Table 1 below.

Table 1: Contents of UK Space Objects Register

Name of Space Object:	Perigee:
Owner/Operator:	Orbital position:
Date of launch:	General function:
Location of launch:	Date notified to United Nations:
Designation:	Disposed or decayed:
Catalogue Number:	Disposal Notification to UN:
Nodal period:	Date of acceptance onto UK Register of Space Objects:
Inclination:	Date of Licence issued under the Outer Space Act 1986:
Apogee:	Additional information:

There is no commercial application of this register as that is not its purpose. Under the new enabling law, the Isle of Man intends to establish the World's first commercial space registry. It is proposed therefore that the register would include not only the requirements as specified under the Registration Convention but would include a financial register of security in space assets registered in the Isle of Man. With the enactment of this financial register, it is believed that more business will flow to the Isle of Man and though it is an idea that will benefit the satellite communications industry - looking to the future - it will greatly benefit the New Space industry.

UNIDROIT Cape Town Convention

The idea of a space assets register is not a new one. Under the auspices of the International Institute for the Unification of Private Law (UNIDROIT), a space assets register has been proposed. The Cape Town Convention¹², read alongside the proposed Space Assets Protocol to the Convention,¹³ aims to facilitate asset-based financing and leasing of space assets through the creation of an "international interest" recognized in all contracting States, and an electronic international register for the registration of these international interests.

The Space Assets Protocol is currently at drafting stage by the UNIDROIT Committee of governmental experts, in co-operation with the Space Working Group and a Steering Committee. At the last meeting of the group held in May 2008, the following outstanding issues were and continue to be deliberated¹⁴:

- Sphere of Application
- Default Remedies
- Identification of space assets for the purposes of registration
- Public service Issues
- How to increase the value of the future Space Protocol
- Issue of Insolvency

- Salvage interests

Following the May 2008 meeting, Space assets are currently defined as:

"any man-made uniquely identifiable satellite, satellite transponder, payload, space station, space vehicle, launch vehicle, reusable space capsule or other object capable of independent control, in or intended to be launched in or into space or used or intended to be used as a launch vehicle, including any such asset in course of manufacture or assembly, together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto".¹⁵

Acknowledging that assets in space go beyond simply hardware and materials; included are also *related rights* and *debtors rights*. Related rights means any permit, licence, authorisation, concession or equivalent instrument that is granted or issued by, or pursuant to the authority of, a national or intergovernmental or other international body or authority, when acting in a regulatory capacity, to manufacture, launch, control, use or operate a space asset, *or* relating to the use of orbits positions *or* the transmission, emission or reception of electromagnetic signals to and from a space asset. Debtor's rights refers to all rights to payment or other performance due to a debtor by any person with respect to a space asset.¹⁶

The Convention also incorporates "proceeds" from the asset as part of the assets. These proceeds are limited to money or non money proceeds arising from the total or partial loss or physical destruction of the object or its total or partial confiscation, condemnation or requisition.¹⁷

The notion that lies at the heart of the Convention is the concept of an international interest. An international interest is a proprietary interest in mobile equipment and associated / related right, which is either:

1. granted under a security agreement;
2. vested in a conditional seller under a title reservation agreement;
3. or vested in a lessor under a leasing agreement.¹⁸

These transaction types are in line with the legal systems that distinguish between security and title type interest's e.g. as in the US for the former and Europe for the latter. Though these categories of international interests are dealt with slightly differently in the text, particularly with respect to default remedies, the importance of establishing a written agreement is that the focus is on the effect of the transaction and not on the form – that is to say that any type of non possessory interest in specific equipment is protected through the transaction document established specifically for the purpose of securing the performance of an obligation.¹⁹

Once created, the International interest must be preserved. To preserve the interest, creditors must have the ability to centrally register their security interest and search for competing interests. This notion of registration goes to the core of the Convention because publication regimes not only ensure protection of third parties and give creditors the opportunity to determine whether assets are charged by security, but also provides an objective means of resolving dispute. In essence, increased access to credit market can be achieved through easier evaluation of risk.

To that effect the Convention/Protocol provides for the establishment of an international registry for the registration, amendment, extension or discharge of:²⁰

- International interests
- Prospective international interests – interest intended to be made in the future or dependent upon the occurrence of a certain event
- Sales and Prospective sales

- Registrable non consensual rights and interests – priority interests as determined by the State
- Assignment and prospective assignments of international interests
- Acquisition of international interests
- Notices of national interest
- Subordinations of above mentioned interests

To protect an interest in an asset from other creditors, the registry is a notice based electronic registration system that gives priority to the interest/creditor first to register. Clear rules establishing priority must be established to ensure that subsequent creditors and potential purchasers are aware of to their status in relation to others. As such, under the Convention,²¹ a registered interest has priority over any interest subsequently registered and over an unregistered interest. This rule is applicable despite knowledge of competing interests. This clearly brings certainty to the regime, but the provisions may also cause a problem for commerce as they do not adequately provide for priority rules governing competition between unregistered interests.

The Convention provides for administrative and regulatory functions of a supervisory authority and registrar²² as well as for registration requirements.²³ The registration is complete on entry of the required information into the database and following receipt by the Registry of the debtor's and creditor's consent to the registration.

Any person may request or make a search of the register upon which a registry search certificate will be issued stating: all registered information related to the asset with a statement indicating the date and time of registration, or that there is no information on the registry.²⁴ The certificate is prima facie proof of the fact included in it and the time and date of the registration.²⁵

To build confidence in the registration system, the registrar shall be liable for compensatory damages for loss suffered directly resulting from any error, or omission or from a malfunction of the system.

Such a register would prove significant to space asset insurers, financiers and lenders, and the space industry, particularly “New Space”. Though the Isle of Man could have been a suitable jurisdiction to house such an international register, it is focused on creating its *own* register for Isle of Man registered entities using positive aspects of the UNIDROIT Convention Framework.

6. CONCLUSIONS AND RECOMMENDATIONS

The choice of regulatory environment is crucial for the profitability and success of business. The Isle of Man has realized just in time that the commercial space industry is an industry in need of a home. A home where enterprise and innovation are encouraged; finance can flow and best practices are maintained! The Isle is well on its way to meeting its goal – to “create a legal environment that will encourage, nurture, and secure the growth of commercial space industries that choose to operate in the jurisdiction.”²⁶ The Isle is doing so by continuously providing incentives to attract space companies, such as 0% tax rate for companies engaging in space and space related activity, easy access to orbital slots and a space aware and supportive Government .

Currently the UK Outer Space Act 1986 governs licensing and registration of space objects in the UK and for all dependencies that the law extends to. In that light all space activity for the Isle of Man is currently licensed by the UK. The UK maintains an active register of space objects, which contains Manx satellites but as part of the drive to diversify its economy, the latest strategy on the Isle is the establishment of a licensing and registry scheme to give the

Isle of Man increased autonomy with respect to space activities. Whilst keeping in line with the international obligations of the UK, as an offshore jurisdiction, it can easily create an environment that takes into account the specific needs of the industry.

Under the UN Registration Convention, Registers of Space Objects, whether national or International, are primarily for record keeping purposes. With this objective in mind, existing registers in their current form play a limited role in the drive towards increased commercialization of Outer Space. The UNIDROIT Convention on International Interests in Mobile Equipment and the Space Assets Protocol on the other hand, aim to facilitate asset based finance for the space industry through the creation of international security interests in space assets and the establishment of an International registry for recording those security interests. Creditors can record their interests and establish priority vis-à-vis competing creditors within and outside the insolvency of the debtor. It is proposed that when in force, access to finance in the space industry will improve as creditors can greater ascertain their risk; will be better protected and hence will lead to increased flow of investment.

The Isle of Man Space Register would seek to emulate the positive aspects of the UNIDROIT Space Assets Register. Worthy of mention is that the establishment of an assets registry itself would not and can not establish any rights. It also can not guarantee that investors will suddenly start financing projects. Such is still conditional on ordinary investment principles such as proof of concept, evidence of viable market and excellent return on investment potential. The New Space industry particularly, will have to continue working on strengthening the many business plans that exist. But, what the register can guarantee is that it will help ease the minds of potential investors in that if a contest arose to have priority in an interest, they will be in good standing to claim on the asset if he is first to be file. The domestic

law must therefore be prepared to accept the register as evidence of standing.

Ospina states that a lacuna in all current space registration processes is that “no one single national or international entity seems to have a centralized registry of space objects or activity. Nor is any entity involved in planning the use of or allocation of non geostationary orbits, where the vast majority of the privately owned and operated G Mobile Personal Communication services satellite systems are/will be located.”²⁷ Alongside the establishment of a financial register for space assets, there is great scope for the Isle of Man registration system to be the most comprehensive registration system.

Suggestions for Isle of Man Register:

- The registry should contain not only space assets but also interests in assets
- A suitable definition of assets should be given to include component parts if they can be independently controlled
- Related rights must be accounted for
- internet notice based registry - recorded data should give notice to third parties that an interest has been vested in a specific space asset
- Register should accept notification of interests in objects still in manufacture or in transit
- 24 hour accessibility
- Data Input should be possible from private and public bodies and registered individuals
- Decisions should be made on technical capacity to identify, file and search, and whether the search results meet credit industry needs
- The checking of the registration applications, the registrations themselves and the responses to searches should be processed automatically

- Clear publication rules must be developed, especially priority rules governing competition between unregistered interests
 - As much as possible must be registered prior to launch
 - Parameters that are not yet known must be followed up to ensure timely inclusion as soon as available
 - The registry should be all encompassing including information about all data and information applicable to the space asset (subject to privacy and intellectual property rights)
- It has been proposed²⁸ that a comprehensive register can be separated into 4 general categories:

1. Technical data
2. Intended use/services to be provided
3. Financial/economic data
4. Contact information

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