



AN ANALYSIS OF THE CONVENTION ON THE REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE 1975

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Abstract

The paper analysed the Convention on Registration of Objects Launched into Outer Space 1975 (Registration Convention). The Registration Convention was drafted to as to make elaborate provisions for the registration of space objects in the earth orbit and beyond. In order to achieve this, the Convention established a National Register and an International Register where data as regards space objects launched into outer space can be entered. The paper adopted a mixed method of normative and critical analysis. The normative analysis arises from an examination of doctrinal data which consist of the principles of law, the provisions of the Registration Convention, Outer Space Treaty, Rescue and Return Agreement and Liability Convention. Critical analysis on the other hand, is applied to Outer Space principles in literatures in order to justify the need for an amendment of the Convention. The paper found that there are growing technological advancement in the area of space which the Registration Convention did not at that time envisage. The paper therefore recommended that the Convention be amended to embrace recent and evergrowing technological advance in the field of space science and technology.

Key words: Registration, Convention, Objects, Outer Space

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Introduction

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1967 (Outer Space Treaty) which is the mother of all space treaties, made provisions for various principles of space law that needed to be expanded on to enhance its efficiency. It is in the bid to expand the aspect of the Outer Space Treaty that deals with the Registration of Space objects that lead to the drafting, negotiation, adoption and the entry into force of the Convention on Registration of Objects Launched into Outer Space 1975 (Registration Convention).

The Registration Convention is important to space activities as it made practical provisions for how space objects launched into the earth orbit and beyond can be registered. The Convention established two registers for the purpose of registering space objects launched into the earth orbit and beyond. This paper analysed the provisions of this Convention with a view to making recommendations.

Outer Space Treaty

The Convention on Registration of Objects Launched into Outer Space 1975 (Registration Convention 1975) has its roots in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1967 (Outer Space Treaty). The Outer Space Treaty is the ground norm of Space law that provides various principles of space law which are expanded by other Conventions and Agreements. The Registration Convention is one of these Treaties that expanded one of the principles as provided for in the

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Outer Space Treaty. The Registration Convention expands the scope and practical effects of Article VIII of the Outer Space Treaty.

Article VIII of that of the Outer Space Treaty, provides: A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed

or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return.¹

This article provides to the effect that states retain jurisdiction and control over the space objects they have ‘registered’ and it is not affected by their presence in the outer space of the moon and other celestial bodies. Therefore, such objects or components found beyond the limits of the state, should be returned to that state where they are registered.

Similarly, article VI of the Outer Space Treaty 1967, established the principle of the international responsibility of states for all national activities in space and made reference to the State on whose registry an object launched into outer space is carried. The article provides: States Parties to the Treaty shall bear international responsibility for national activities in outer space, including the Moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty. The activities of nongovernmental entities in outer space, including the Moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty. When activities are carried on in outer space, including the Moon and other celestial bodies, by an international organization, responsibility for compliance with this Treaty shall be borne both by the international organization and by the

States Parties to the Treaty participating in such organization.²

¹ Article VIII of the Outer Space Treaty 1967

² Article VI of the Outer Space Treaty 1967

The implication of this provision is that, states are responsible and liable for all types of space activities carried out in the state, irrespective of whether those activities are conducted by governmental agencies or by nongovernmental organizations.

Additionally, Article V of the Outer Space Treaty, made reference to obligations to return stranded astronauts to the 'State of registry of their space vehicle'. Article V of the Outer Space Treaty, 1967, provides: States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the

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territory of another State Party or on the high seas. When astronauts make such a landing, they shall be safely and promptly returned to the State of registry of their space vehicle.

In carrying on activities in outer space and on celestial bodies, the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties. States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in outer space, including the Moon and other celestial bodies, which could constitute a danger to the life or health of astronauts.³

It is pursuant to this provision, that there was a need to negotiate yet again, another Convention that will aptly capture the procedure and requirement for such registration. This was what brought about the need for the Registration Convention.

Background To The Registration Convention

Before the drafting of the Registration Convention, there were two (2) other Treaties that were in place after the entry into force of the Outer Space Treaty. The Treaties are:

³ Article V of the Outer Space Treaty 1967

1. Agreement on the Rescue of Astronauts, the Return of Astronauts and Return of Objects Launched into Outer Space 1968 (Rescue and Return Agreement) and
2. Convention on International Liability for Damage Caused by Space Objects 1972 (Liability Convention).

The Rescue and Return Agreement and the Liability Convention also had provisions that necessitated the drafting of this elaborate Registration Convention notwithstanding the general principles already established by the Outer Space Treaty.

Article 5 of the Rescue and Return Agreement 1968 provides that a launching authority shall, upon request, furnish identifying data prior to the return of an object it has launched into outer space found beyond the territorial limits of the launching authority. The article reads:

1. Each Contracting Party which receives information or discovers that a space object or its component parts has returned to Earth in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State, shall notify the launching authority and the Secretary-General of the United Nations.
2. Each Contracting Party having jurisdiction over the territory on which a space object or its component parts has been discovered shall, upon the request of the launching authority and with assistance from that authority if requested, take such steps as it finds practicable to recover the object or component parts.
3. Upon request of the launching authority, objects launched into outer space or their component parts found beyond the territorial limits of the launching authority shall be returned to or held at the disposal of representatives of the launching authority, which shall, upon request, furnish identifying data prior to their return.

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4. Notwithstanding paragraphs 2 and 3 of this article, a Contracting Party which has reason to believe that a space

object or its component parts discovered in territory under its jurisdiction, or recovered by it elsewhere, is of a hazardous or deleterious nature may so notify the launching authority, which shall immediately take effective steps, under the direction and control of the said Contracting Party, to eliminate possible danger of harm. 5. Expenses incurred in fulfilling obligations to recover and return a space object or its component parts under paragraphs 2 and 3 of this article shall be borne by the launching authority.⁴

Similarly, the Liability Convention, established international rules and procedures concerning the liability of launching States for damage caused by their space objects. Article II of the Liability Convention, provides: A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft in flight⁵.

All of these were the build up to the drafting of the Registration Convention. The Registration Convention, was approved by the UN General Assembly on November 12, 1974, pursuant to Resolution 3235 (XXIX). On January 14, 1975, it was opened for signature at UN headquarters in New York and on September 15, 1976, the Convention entered into force. By January 1, 1979, about 23 states had become parties to the Convention, among them the USA, Great Britain, France, Canada, and the then USSR⁶.

The Registration Convention established a system for the recording of data concerning every object launched into the Earth orbit or beyond in an

⁴ Article 5 of the Rescue and Return Agreement 1968

⁵ Article II of the Liability Convention 1972

⁶ Gennady Zhukov, Yuri Kolosov, *International Space Law* (2nd edn Statute Publishing House 2014) p.81

appropriate registry by the launching state and the state is also under an obligation to notify the UN Secretary-General⁷.

The essence of the Convention is aptly captured in the preamble of the Convention thus:

The State Parties to this Convention,
Recognizing the common interest of all mankind in
furthering the exploration and use of outer space for
peaceful purposes,
Recalling that the Treaty on Principles Governing the
Activities of States in the Exploration and Use of Outer
Space, including the Moon and Other Celestial Bodies, of
27 January 1967 affirms that States shall bear international
responsibility for their national activities in outer space and
refers to the State on whose registry an object launched into
outer space is carried,
Recalling also that the Agreement on the Rescue of
Astronauts, the Return of Astronauts and the Return of
Objects Launched into Outer Space² of 22 April 1968
provides that a launching authority shall, upon request,
furnish identifying data prior to the return of an object it has
launched into outer space found

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beyond the territorial limits of the launching authority,
Recalling further that the Convention on
International Liability for Damage Caused by Space
Objects of 29 March 1972 establishes international rules
and procedures concerning the liability of launching States
for damage caused by their space objects, Desiring, in the
light of the Treaty on Principles Governing the Activities of
States in the Exploration and Use of Outer Space, including
the Moon and Other Celestial Bodies, to make provision for
the national registration by launching States of space
objects launched into outer space, Desiring further that a

⁷ Gennady Zhukov, Yuri Kolosov, *International Space Law* (2nd edn Statute Publishing House 2014) p.82

central register of objects launched into outer space be established and maintained, on a mandatory basis, by the Secretary-

General of the United Nations,

Desiring also to provide for States Parties additional means and procedures to assist in the identification of space objects,

Believing that a mandatory system of registering objects launched into outer space would, in particular, assist in their identification and would contribute to the application and development of international law governing the exploration and use of outer space,

Have agreed on the following⁸:

The Registration Convention

The crux of this Convention is to the effect that states shall furnish relevant information concerning the objects they have launched into outer space. In order to achieve this, the Registration Convention, established a double system of registration: a National Register and an International Register held by the U. N. Secretary General. The major difference between the two is that, while the national register is only accessible upon permission of the state of registry, the international register is publicly available to all states. This therefore makes the international registry held by the U. N. Secretary General, a crucial source of information about manmade objects orbiting Earth⁹.

It is important for space objects to be registered because it helps in maintaining order in the outer space and preserve its peaceful nature.

⁸ Preamble to the Registration Convention 1975

⁹ Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer New York Heidelberg Dordrecht London 2013) p.12

Additionally, registering space objects is important because it is almost impossible to identify a spacecraft that has caused damage without a system of registration. A balanced and informative system of registration also helps to minimize the likelihood and suspicion of weapons being placed in orbit¹⁰. Article I of the Registration Convention, provides for the definition of some key words as used in the Convention. It is important that these definitions are taken seriously as they provide the meaning and extent to which a word is used in the Convention. The article provides:

For the purposes of this Convention:

(a) The term “launching State” means:

(i) A State which launches or procures the launching of a space object;

(ii) A State from whose territory or facility a space object is launched;

(b) The term “space object” includes component parts of a space object as well as its launch vehicle and parts thereof;

(c) The term “State of registry” means a launching State on whose registry a space object is carried in accordance with article II¹¹.

National Register Article II provides:

1. When a space object is launched into Earth orbit or beyond, the launching State shall register the space object by means of an entry in an appropriate registry which it shall maintain. Each launching State shall inform the Secretary General of the United Nations of the establishment of such a registry.

¹⁰ Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer New York Heidelberg Dordrecht London 2013) p.12

¹¹ Article I of the Registration Convention 1975

2. Where there are two or more launching States in respect of any such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this article, bearing in mind the provisions of article VIII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and without prejudice to appropriate agreements concluded or to be concluded among the launching States on jurisdiction and control over the space object and over any personnel thereof. 3. The contents of each registry and the conditions under which it is maintained shall be determined by the State of registry concerned¹².

The provision requires states to establish a national register so as to register any space objects for which they qualified as the launching state. The launching state is to inform the UN SecretaryGeneral of the establishment of such a national register. The content of the register and the registration procedure are determined by the registering state.

Paragraph 2 provides for instances where two or more states qualify as a launching state. In this case, the states shall jointly determine which one of them shall register the object. However, in doing this, the launching states shall put in view the provisions of article VIII of the Outer Space Treaty that deals with jurisdiction and control over the space object and over any personnel. Article VIII of that of the Outer Space Treaty provides: A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that

¹² Article II of the Registration Convention 1975

State Party, which shall, upon request, furnish identifying data prior to their return.¹³

However, the launching states can enter into an agreement among themselves on jurisdiction and control over the space object and over any personnel. The implication of the national registration of space objects is as to jurisdiction and control, return, international liability for damage, and others.

International Register

The Registration Convention also provides for the establishment of an international register under the auspices of the UN Secretary General¹⁴. The register shall be full and there shall be open access to the information in the register. The register also happens to encompass information provided to the United Nations under the formally non-binding UN Resolution 1721(XVI)B calling upon states to register and provide information on registered space objects¹⁵.

Article III provides:

1. The Secretary-General of the United Nations shall maintain a Register in which the information furnished in accordance with article IV shall be recorded.
2. There shall be full and open access to the information in this Register¹⁶.

While the national register is only accessible upon permission of the state of registry, the international register is publicly available to all states. This fact makes the international registry held by the U. N. Secretary General, a

¹³ Article VIII of the Outer Space Treaty 1967

¹⁴ The UN Secretary General has delegated these responsibilities to the Vienna-based Office for Outer Space Affairs (OOSA), where it is electronically accessible at www.unoosa.org/oosa/en/

¹⁵ Frans von der Dunk and Fabio Tronchetti, *Handbook of Space Law* (Edward Elgar Publishing Limited UK, 2015) p.97

¹⁶ Article III of the Registration Convention 1975

crucial source of information about space objects orbiting Earth¹⁷. Similarly, while article II(3) allows launching states in the case of the national register to determine the contents of the register and the conditions under which it is maintained, article IV makes provision for the minimum content of information to be sent to the UN General Secretary on each space object launched. Article IV provides:

1. Each State of registry shall furnish to the SecretaryGeneral of the United Nations, as soon as practicable, the following information concerning each space object carried on its registry:
 - (a) Name of launching State or States;
 - (b) An appropriate designator of the space object or its registration number;
 - (c) Date and territory or location of launch; (d) Basic orbital parameters, including:
 - (i) Nodal period;
 - (ii) Inclination;
 - (iii) Apogee;
 - (iv) Perigee;
- (e) General function of the space object.
2. Each State of registry may, from time to time, provide the Secretary-General of the United Nations with additional information concerning a space object carried on its registry.
3. Each State of registry shall notify the SecretaryGeneral of the United Nations, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in Earth orbit¹⁸.

Even though this provision is a binding obligation, the use of the terminology “as soon as possible” is vague and gives States a discretionary

¹⁷ Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer New York Heidelberg Dordrecht London 2013) p.12

¹⁸ Article IV of the Registration Convention 1975

choice as to when to provide such information. Similarly, as to the nature of information to be provided, States are often reluctant to disclose the real purpose of the space object, particular if it is of a military nature¹⁹.

Furthermore, paragraph (2) mandates States to, from time to time, provide additional information concerning a space object carried on the national register. Paragraph (3), provides that each State of registry shall notify the Secretary-General of the United Nations, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in Earth orbit.

By the provisions of article V, the state of registry is expected to notify the UN General Secretary where a space object launched into Earth orbit or beyond is marked with the designator or registration number referred to in article IV. Article V provides: Whenever a space object launched into Earth orbit or beyond is marked with the designator or registration number referred to in article IV, paragraph 1 (*b*), or both, the State of registry shall notify the Secretary-General of this fact when submitting the information regarding the space object in accordance with article IV. In such case, the Secretary-General of the United Nations shall record this notification in the Register. This article provides for voluntary marking, but mandatory notification of it to the Secretary-General²⁰.

Support for Identification of Space Objects of Potentially Hazardous or Deleterious Character Article VI provides:

Where the application of the provisions of this Convention has not enabled a State Party to identify a space object which has caused damage to it or to any of its natural or juridical persons, or which may be of a hazardous or deleterious nature, other States Parties, including in particular States possessing space monitoring and tracking facilities, shall respond to the greatest extent feasible to a request by that State Party, or transmitted through the

¹⁹ Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer Heidelberg Dordrecht 2013) p.12

²⁰ Article V of the Registration Convention 1975

Secretary General on its behalf, for assistance under equitable and reasonable conditions in the identification of the object. A State Party making such a request shall, to the greatest extent feasible, submit information as to the time, nature and circumstances of the events giving rise to the request. Arrangements under which such assistance shall be rendered shall be the subject of agreement between the parties concerned²¹.

This article provides for support for identification of space objects of potentially hazardous or deleterious character, by using existing

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tracking and monitoring facilities. This is because majority of states do not have the technological and/or financial capabilities to undertake such tracking and monitoring themselves. This provision also reflects the general intention of the Registration Convention and the Liability Convention to maximize identification of launching states for liability purposes²².

Application of the Convention to International Intergovernmental Organizations

The Registration Convention has an identical clause as that of the Liability Convention that allows international intergovernmental organizations to make declarations of acceptance of the rights and obligations as provided for in the Convention. Article VII provides thus:

1. In this Convention, with the exception of articles VIII to XII inclusive, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States Parties to this Convention and to the Treaty on

²¹ Article VI of the Registration Convention 1975

²² Frans von der Dunk and Fabio Tronchetti, *Handbook of Space Law* (Edward Elgar Publishing Limited UK, 2015) p.98

Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are States Parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with paragraph 1 of this article²³.

International Intergovernmental Organizations such as the European Space Agency (ESA) and EUMETSAT, have made such declarations of acceptance of the rights and obligations provided for in the Convention. In the case of international launchings, their information is supplied by one of the states participating in such joint space launching. For instance, the launchings of European Space Agency satellites are registered by France²⁴.

Miscellaneous Provisions

Article VIII, makes provision for signature, ratification and deposit of instrument of ratification. It provides:

1. This Convention shall be open for signature by all States at United Nations Headquarters in New York. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.
2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.
3. This Convention shall enter into force among the States which have deposited instruments of ratification on the deposit of the fifth such instrument with the SecretaryGeneral of the United Nations.

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²³ Article VII of the Registration Convention 1975

²⁴ Gennady Zhukov, Yuri Kolosov, *International Space Law* (2nd edn Statute Publishing House 2014) p.82

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.
5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices²⁵.

Article IX, makes provision for amendment of the Convention, thus: Any State Party to this Convention may propose amendments to the Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it²⁶.

Worthy of note is the provision for a review of the Convention in article X. This provision provides an opportunity at any time after the Convention has been in force for five years, for a conference of the state parties to be convened at the request of one-third of them and with the concurrence of the majority. If no such request is forthcoming within ten years, the UN General Assembly shall consider whether there is any need to amend the Convention in the light of the record of its application, with particular reference to technical advances in identifying space objects. Article X provides:

Ten years after the entry into force of this Convention, the question of the review of the Convention shall be included in the provisional agenda of the United Nations General Assembly in order to consider, in the light of past application of the Convention, whether it requires revision. However, at any time after the Convention has

²⁵ Article VIII of the Registration Convention 1975

²⁶ Article IX of the Registration Convention 1975

been in force for five years, at the request of one third of the States Parties to the Convention and with the concurrence of the majority of the States Parties, a conference of the States Parties shall be convened to review this Convention. Such review shall take into account in particular any relevant technological developments, including those relating to the identification of space objects²⁷.

This provision is laudable. But there seem to be no major review of the Convention after it came into force on September 15, 1976. However, due to some difficulties mainly connected with the current practices of on-orbit transfer of ownership of space objects and the growing involvement of international organizations in space activities, discussions were had on the issues of the ‘launching state’ and ‘registration of space objects’ in the Legal Sub-Committee of UNCOPUOS and resulted in the adoption by the U. N. General Assembly of Resolution 59/115 on December 2004 and Resolution 62/101 on December 17, 2007²⁸.

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Article XI provides for notice of withdrawal from the Convention. It states:

Any State Party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification²⁹.

Article XII provides for language and transmission of the Convention. It provides:

²⁷ Article X of the Registration Convention 1975

²⁸ Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer New York Heidelberg Dordrecht London 2013) p.12

²⁹ Article XI of the Registration Convention 1975

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the SecretaryGeneral of the United Nations, who shall send certified copies thereof to all signatory and acceding States³⁰.

Conclusion/Recommendation

The Registration Convention, 1975, expands the scope and practical effect of the Outer Space Treaty. It makes provision for the establishment of a national register and an international register for the registration of space objects in the earth's orbit and beyond. While this Convention is laudable as it expands on the other treaties, it is recommended that there is need for a review of the Convention to cater for technological advancements that have to do with on-orbit transfer of ownership, private commercial space flight and sub orbital flight. The term "as soon as practicable", should also be removed from article IV.

It should also be noted that in addition to the U. N. registration process, there is also a parallel process that requires the registration of radio frequency and orbital locations with the International Telecommunication Union (ITU). This is to avoid physical and radio frequency interference and to optimize the effective use of particular orbits such as the geosynchronous orbit. Only national administrations of the ITU undertake the registration process therefore, international entities such as Intelsat, Inmarsat, and Eutelsat provide their information to a national administration to complete this process³¹. The ITU has a coordination process if there are indications of interference between satellite networks³².

³⁰ Article XII of the Registration Convention 1975

³¹ The United States registers Intelsat information, the United Kingdom registers Inmarsat information and France registers Eutelsat information

³² Fabio Tronchetti *Fundamentals of Space Law and Policy* (Springer New York Heidelberg Dordrecht London 2013) p.12