

# **Status of and way forward for the UNIDROIT Space Protocol**

**An examination of the Space Protocol of the Cape Town Convention – its current status, recent developments, and future outlook.**

International Institute of Space Law (IISL) and European Centre for Space Law (ECSL) Space Law Symposium 2021  
“Space Law for the Global Space Economy”, as part of the 60<sup>th</sup> Session of the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space  
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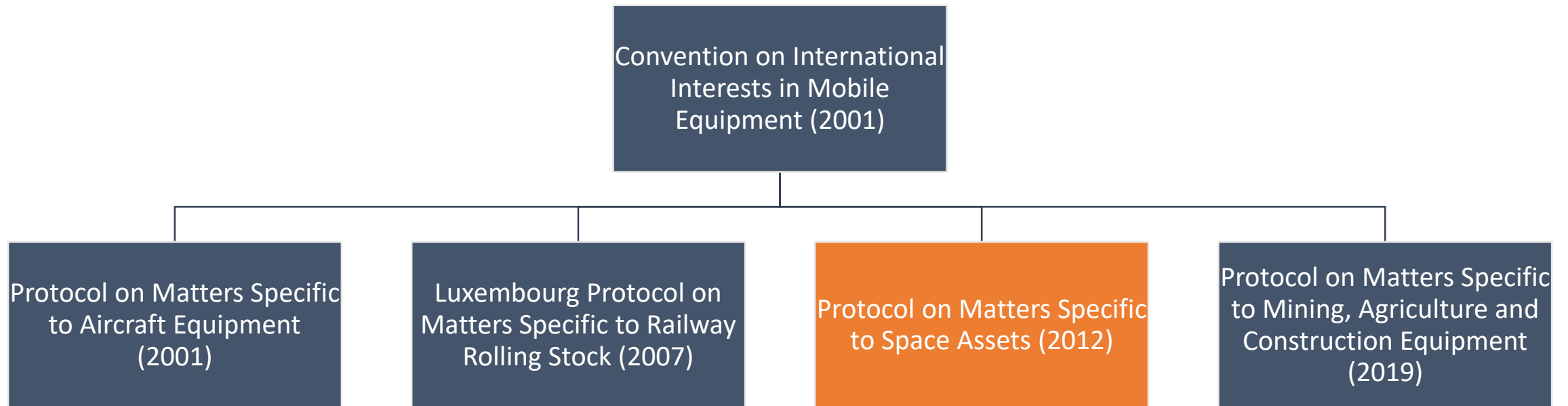
**Professor Ignacio Tirado (UNIDROIT)  
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# The Cape Town Convention

The Space Protocol to the Cape Town Convention is an international treaty adopted in 2012 under the auspices of the International Institute for the Unification of Private Law (UNIDROIT)

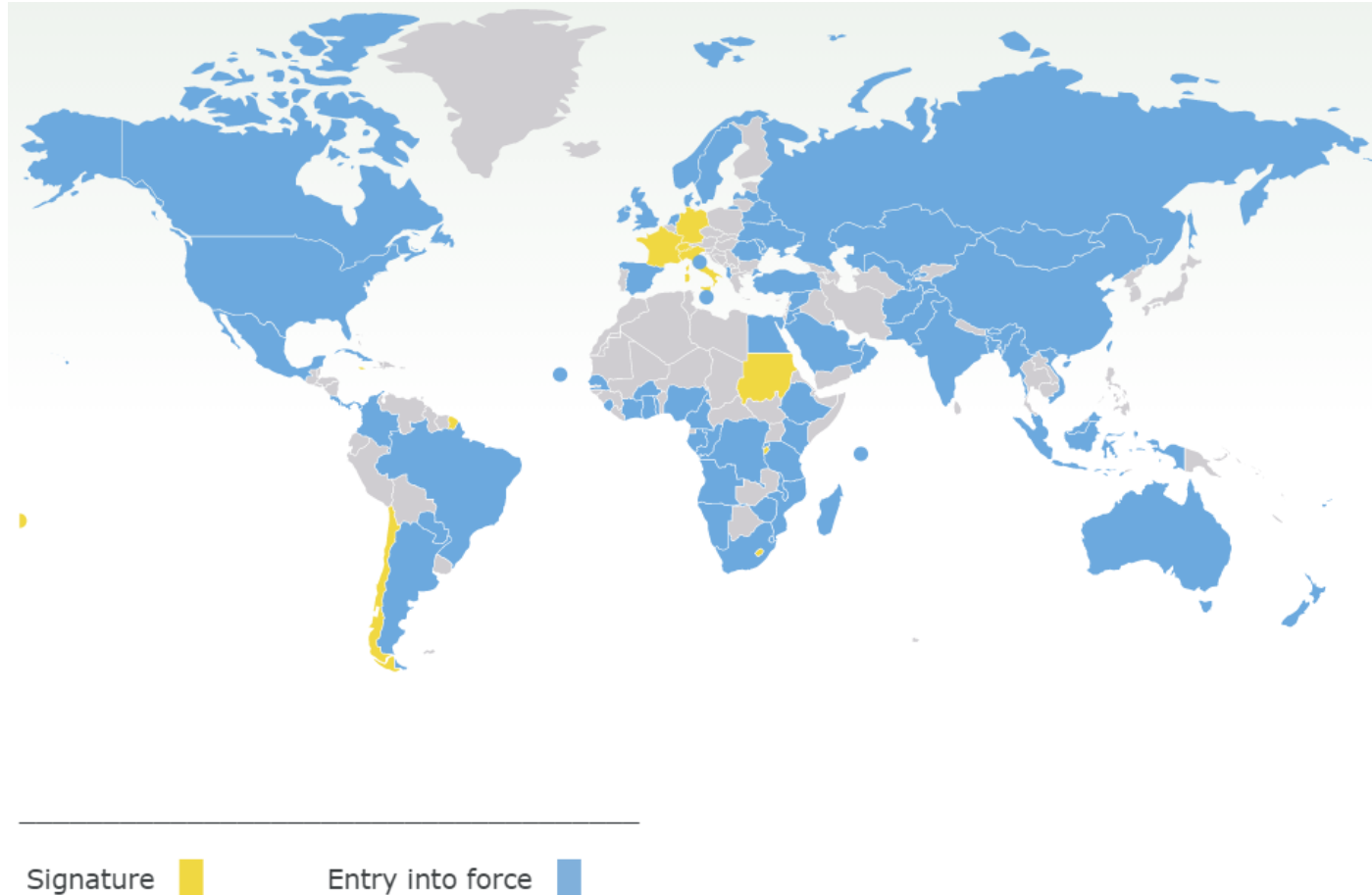
It is part of the Cape Town Convention treaty system, the aim of which is to facilitate asset-based financing and leasing for the manufacture, acquisition and use of specific high value equipment.

The Space Protocol's aim is to adapt the CTC model to the specific characteristics of space assets and space activities



# The Cape Town Convention

- The Convention currently has 83 contracting states and has been approved by the European Union.
- The Aircraft Protocol, which was negotiated alongside the Convention and entered into force in 2006, is the first and most widely adopted of the existing Protocols with 80 contracting states.



# Main Objectives of the Space Protocol

1. To facilitate **the acquisition and financing of space assets** by providing for the **creation of international interests which will be recognised in all Contracting States**;
2. To provide creditors with a **range of basic default and insolvency-related remedies** and, where there is evidence of default, a **means of obtaining speedy relief pending final determination** of its claim on the merits;
3. To establish an **electronic international registry for the registration of international interests in space assets** which will give **notice of their existence to third parties** and **enable the creditor to preserve its priority** against subsequently registered interests and against unregistered interests and creditors in the debtor's insolvency;
4. To ensure that the **particular needs of the space industry are met** with specific provisions on scope, application, and insolvency related;
5. To grant Contracting States a **degree of flexibility** in adhering to the international regime, by allowing, to a well-defined and limited extent, **policy choices through declarations**, while preserving the basic uniformity of the legal regime;
6. By these means to give intending **creditors greater confidence** in the decision to grant credit, **enhance the credit rating of equipment receivables** and **reduce borrowing costs and credit insurance premiums** to the advantage of all interested parties.

# Space Protocol – Development and Status

The Space Protocol was adopted at a Diplomatic Conference in Berlin in 2012 attended by 40 States.  
**4 States signed the Space Protocol at the Diplomatic Conference: Burkina Faso, Germany, Saudi Arabia, Zimbabwe.**

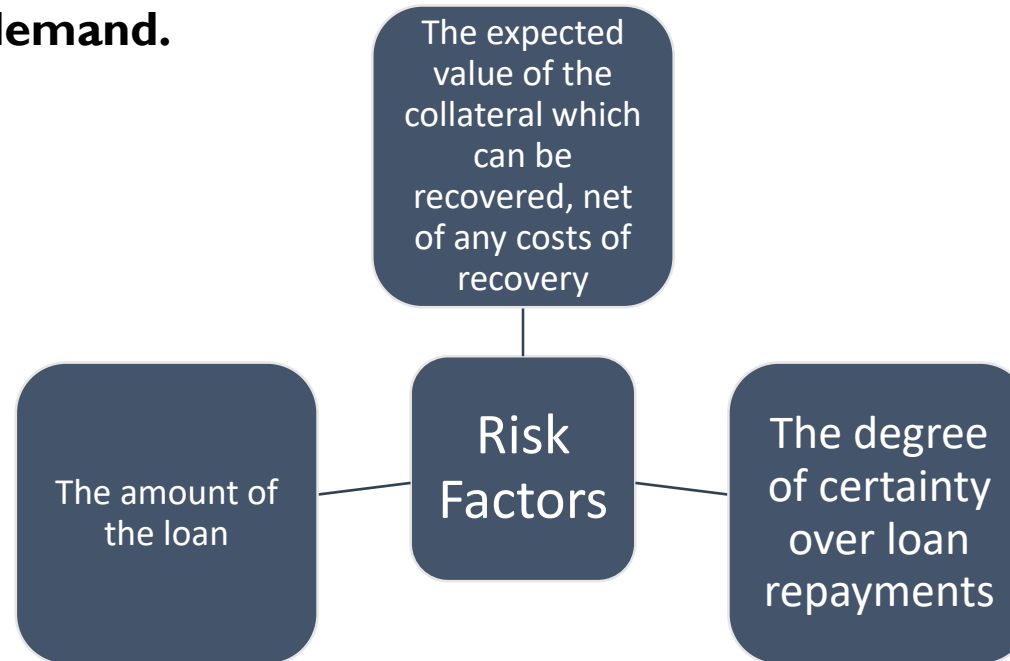
Through Resolution 1, the Diplomatic Conference established a **Preparatory Commission** to act with full authority as Provisional Supervisory Authority for **the establishment of the International Registry for Space Assets**, under the guidance of the General Assembly of UNIDROIT. The Preparatory Commission has the following key goals:

- Prepare the first version of the **Regulations** of the International Registry for Space Assets:
  - Status: Prepared and Approved at the Fourth Session of the Preparatory Commission in 2015.
- Work towards the **appointment of a Supervisory Authority** for the International Registry for Space Assets
  - Status: The matter was considered at the 2014 and 2018 Plenipotentiary Conferences of the ITU. It was decided that the decision should be postponed to 2022, should the Preparatory Commission invite the ITU to consider it again.
- Appoint an entity to establish and run the **International Registry for Space Assets**:
  - Status: The tender document was prepared by the Preparatory Commission. However, publication of this document is subject to progress on the appointment of a Supervisory Authority and support by additional States for the Protocol.
- Further promote the Space Protocol to States and the industry:
  - Status: This is a continuous activity which is presently being led by a Sub-Group of the Preparatory Commission.

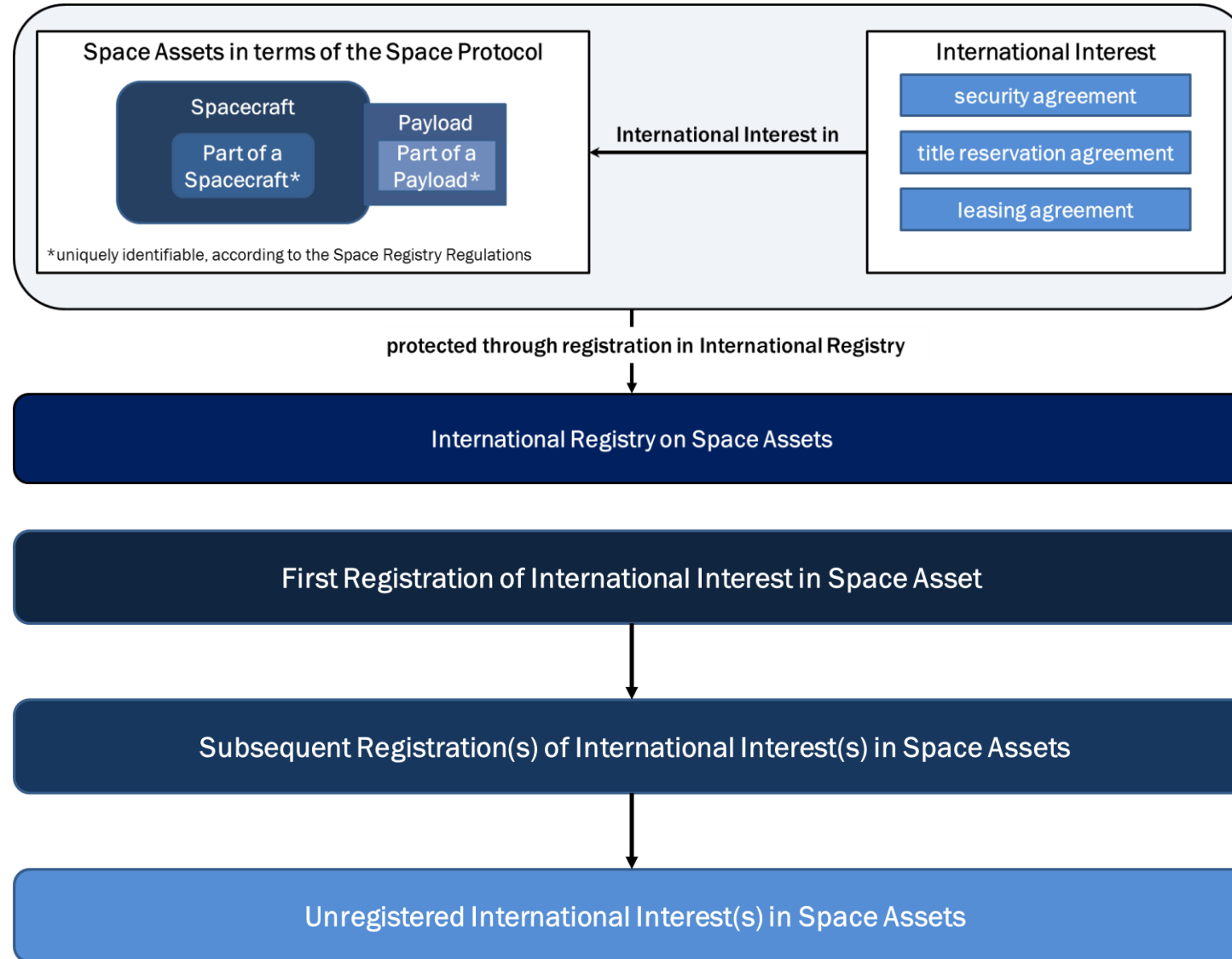
# What is the Space Protocol

The Space Protocol's aim is to adapt the Cape Town Convention model to the specific characteristics of space assets and space activities. It opens up an additional option based on asset-based lending for the space industry, **without impacting existing financing mechanisms in any way or form.**

When a loan is granted, secured on a piece of equipment, the risk to the lender depends on a number of factors. The Space Protocol impacts on the 'collateral value' factor by seeking to increase the expected value of the recovered asset, firstly by **making recovery more certain and quicker** and secondly **by allowing the creditor to realise that asset value by redeploying it wherever there is demand.**



# Legal Operation



# Future Outlook and Benefits to NewSpace Financing

Asset-based financing allows for actors within the space industry to create a **new, much lower level of risk for financiers** and the Space Protocol greatly facilitates this. It creates a **uniform regulatory regime for the recognition and protection of security interests in space assets**.

Asset financing allows companies to **leverage their assets** and **attain finance by giving creditors' rights in those assets**. The benefit of asset backed financing is that, in the case where the debtor cannot repay its debt to the creditor, **the asset itself, or interests in the asset, may come under the ownership and/or control of the creditor**.

The Space Protocol facilitates these types of transactions such that it **reduces the riskiness of the extension of credit**, by making it more likely that the amount loaned will be repaid if the debtor becomes insolvent.

According to a recent survey done by the Space Preparatory Commission subgroup for space financing in a post-COVID-19 space economy, it was found that:

- A majority of financiers were concerned about the cross-border enforceability of their security interests in space assets;
- Some financiers were keen to explore mechanisms for an asset-based financing model for space financing;
- A majority of financiers believed that this would reduce the risk of financing in the space industry; and
- Financiers believed that bridge financing could benefit most from an asset-based financing regime



# Future Outlook and Benefits to NewSpace Financing

In November 2020, the Council of the European Union released its conclusions on “Orientations on the European contribution in establishing key principles for the global space economy”. In this, Conclusion 7:

*“HIGHLIGHTS the benefits of reducing financing costs for satellite operators and of providing creditors with valuable and accessible securities for their loans; and of promoting awareness on international financial instruments;”*

The space industry has seen tremendous growth which is expected to multiply in the near future, Morgan Stanley estimates that the revenue generated by the global space industry will increase to **\$1.1 trillion or more in 2040, up from \$350 billion in 2016.**

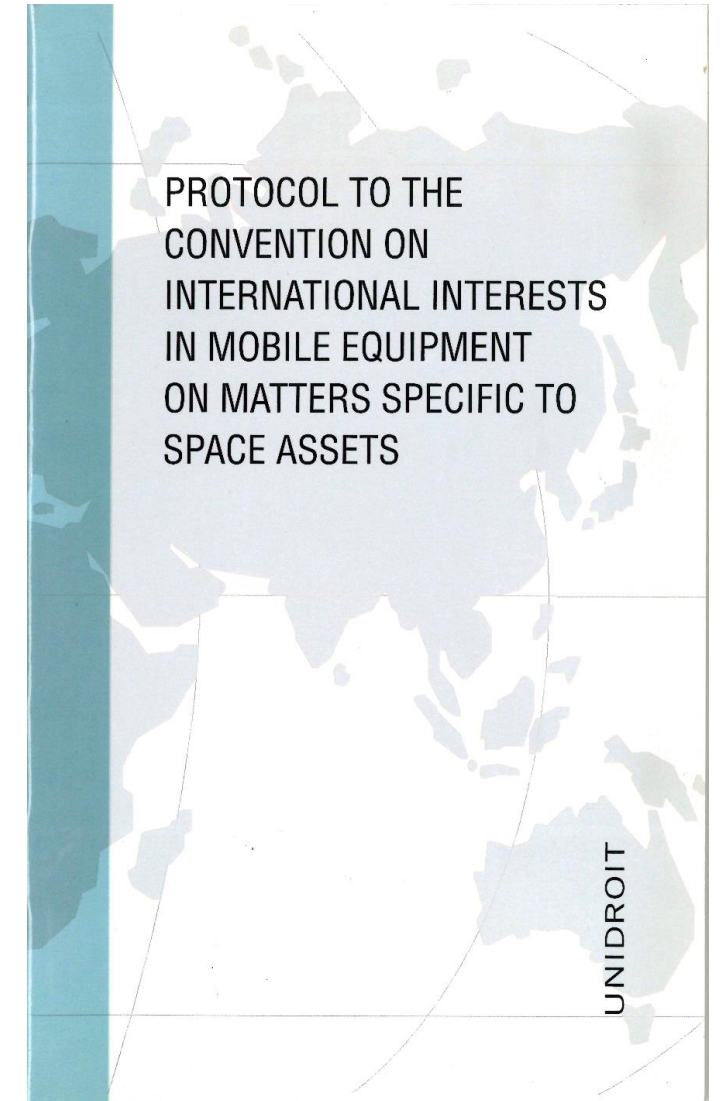
Prior to the Space Protocol, there existed no international legal framework providing for asset-based financing within the space industry. To assist in the development of the space industry, **an efficient international regime needed to be developed and this is exactly what the Space Protocol provides.** The Space Protocol provides a **stable and secure legal environment** for transactions in space assets based on the **tried and tested mechanism** of asset-based financing.

# Conclusion

At present, UNIDROIT and the Preparatory Commission are working towards finalisation of the framework for the operation of the International Registry for Space Assets.

We are closely working with Governments, International Organisations, Experts, and Industry to increase the understanding, and use of asset-based financing in the space industry.

Ratification by States will allow the Space Protocol to start benefitting the space industry as it was originally drafted to do so.



**Thank you for your attention  
Any Questions?**

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