The Right of Angary in Low Earth Orbit – Requisitioning Commercial Space Assets in Contemporary Armed Conflict

October 19, 2026

Capital is relentlessly pragmatic. It flows toward predictable legal frameworks and flees unquantifiable risk. For the past decade, the consensus narrative surrounding the commercialization of Low Earth Orbit (LEO) was remarkably straightforward: driven by plummeting launch costs and rapid advancements in commercial off-the-shelf technology, private enterprise would seamlessly expand the global economy into space. With institutions projecting the orbital economy to approach $1.8 trillion over the next decade, institutional capital poured billions into commercial satellite constellations. The fundamental premise was that these assets would operate much like terrestrial fiber-optic networks; as neutral, sovereign-agnostic infrastructure, safely insulated from geopolitical friction.

That premise has violently collided with reality. As active international conflicts vividly demonstrate, modern military operations are now irrevocably dependent on private space infrastructure. From high-resolution synthetic aperture radar (SAR) to decentralized broadband communications, commercial LEO assets are actively functioning as the nervous system for tactical battlefield logistics. This dual-use reality introduces a profound, largely unpriced risk for space-focused capital: the threat of sovereign requisitioning, wartime expropriation, and direct orbital interference. For the legal counsel and capital allocators underwriting this new frontier, the governing legal frameworks will not be found in utopian space treaties. They will be dictated by ancient maritime doctrines of warfare, modern orbital tracking data, and the fierce arenas of international commercial arbitration.

The Erasure of Orbital Neutrality

The theoretical risk of dual-use infrastructure has definitively transitioned into observable reality. In October 2026, an unprecedented event fundamentally altered the risk profile of commercial space operators. Independent orbital trackers suggest that *Cosmos 2612*, a Russian military satellite, executed a highly deliberate series of fuel-intensive maneuvers to rendezvous within a few hundred meters of *ICEYE-X36*, a U.S.-registered commercial SAR satellite operated by the Finnish firm ICEYE.

This maneuver was not a random convergence. It was the culmination of weeks of precise orbital repositioning. According to independent aerospace analyses, the Russian spacecraft altered its orbit by nearly 47 kilometers to match the commercial satellite's orbital plane, utilizing approximately 57 meters per second of velocity change to sustain unapproved close proximity with the 90-kilogram commercial payload. According to veteran orbital trackers, this incident represents the first known rendezvous between two active satellites in low Earth orbit without mutual owner approval.

The strategic context of this encounter is critical. Under an agreement formalized in 2022 and expanded in 2026, ICEYE provides dedicated SAR imagery and constellation access directly to Ukraine for military reconnaissance, leveraging the technology's unique ability to pierce cloud cover and operate at night. While it remains publicly unconfirmed whether the *ICEYE-X36* payload specifically services those operations, the geopolitical message was absolute. Sovereign adversaries are aggressively targeting Western commercial space assets utilized for military support.

This fulfills the stark warnings previously issued by the Russian defense apparatus: commercial satellites utilized to assist military operations in armed conflicts constitute "indirect participation" and are therefore "legitimate targets for retaliation." Whether the *Cosmos 2612* approach was an act of electronic espionage, a kinetic threat simulation, or a hostile inspection, the financial implications are immediate.

When a sovereign military physically intercepts a commercial asset and paints it as a legitimate target, traditional “war exclusion” clauses in property insurance predictably void coverage. This leaves private operators and their financial backers exposed to total systemic loss, confirming that the neutrality of commercial space hardware has functionally evaporated.

The Ghost of *The Zamora* and Orbital Angary

If adversaries are willing to actively target commercial infrastructure, host nations will be equally willing to forcibly commandeer it. In the brutal calculus of geopolitics, when national survival is threatened, the sanctity of private commerce is routinely subordinated to military necessity.

To understand how states will legally justify this requisitioning, international litigators must look backward. Customary international law has long recognized the “Right of Angary” (*ius angariae*); a sovereign prerogative allowing a belligerent state, in times of urgent public necessity, to lawfully requisition, commandeer, or destroy neutral foreign commercial property located within its jurisdiction, provided adequate compensation is ultimately paid.

This principle was definitively stress-tested during World War I in the landmark Privy Council Prize Court case, *The Zamora* (1916). The English court affirmed that the Crown possessed the prerogative right to requisition neutral cargo, in that instance, a shipment of copper, provided the seizure was absolutely necessary for the defense of the realm. Today, that copper is encrypted SAR data, and the cargo ship is a commercial LEO constellation. Under Article VIII of the 1967 Outer Space Treaty, a state retains jurisdiction and control over any space object on its registry. If a geopolitical flashpoint escalates and a host state urgently requires exclusive bandwidth, immediate geospatial intelligence, or the denial of that intelligence to an adversary, the Right of Angary provides a viable legal mechanism to simply commandeer

a private commercial network.

The military establishment is actively pricing in this reality. The U.S. Space Force has formally detailed the Commercial Augmentation Space Reserve (CASR), a framework designed to seamlessly scale military access to private space bandwidth and imagery during wartime. While CASR is currently framed as a voluntary peacetime contractual arrangement, voluntary frameworks are a luxury of peace. If a commercial operator attempts to geofence its network to preserve its civilian neutrality during a hot war, host states will inevitably bypass commercial contract law and invoke emergency national security statutes to seize operational control.

The Arbitration Battlefield: *CC/Devas* and the National Security Exception

When a sovereign state commandeers, nullifies, or inadvertently triggers the destruction of a commercial space asset, the ensuing financial fallout bypasses domestic courts and flows directly into Investor-State Dispute Settlement (ISDS). In these arbitral tribunals, aggrieved foreign investors collide with the most formidable defense in international law: the National Security Exception.

The arbitration saga of *CC/Devas (Mauritius) Ltd. v. Republic of India* (PCA Case No. 2013-09) serves as the definitive structural precedent for space-bound capital. In 2011, the Government of India abruptly annulled a highly lucrative S-band satellite spectrum lease held by private firm Devas Multimedia. India's justification was rooted entirely in sovereign prerogative: the state declared the orbital spectrum was urgently required for "strategic national security use."

The Mauritian investors brought claims under the Mauritius-India Bilateral Investment Treaty (BIT), arguing unlawful expropriation. An international arbitral tribunal ultimately ruled against India, concluding that while a state possesses the sovereign right to protect its essential security interests, it cannot utilize the cloak of national security to

arbitrarily expropriate commercial rights without executing full reparations. The resulting awards, ordering India to pay in excess of $1.1 billion in damages, established a vital precedent: international tribunals will aggressively scrutinize a blanket “national security” defense in space-related expropriations to ensure capital is adequately compensated.

Pragmatic Imperatives for Capital Allocators

Hope is not a viable legal strategy, and proceeding into the modern space economy with commercial contracts drafted for a benign, purely civilian operational environment is a severe dereliction of fiduciary duty. As the ongoing shadowing of the *ICEYE-X36* satellite unequivocally demonstrates, the commercialization of space has functionally privatized military logistics, dissolving the traditional boundaries between commercial hardware and sovereign weaponry. Adversarial nations possess both the capacity and the intent to contest this infrastructure physically. For legal counsel and executives structuring orbital investments, managing this unprecedented sovereign risk requires ruthless contractual mechanics executed long before launch.

The immediate priority for capital allocators is pricing the requisition risk directly into the foundational legal framework. When commercial payload and service contracts are signed with sovereign or quasi-sovereign entities, the agreements must mathematically quantify the state’s absolute financial liability. If a host state triggers an emergency seizure, commandeers satellite bandwidth under the Right of Angary, or invites hostile orbital harassment by utilizing the commercial asset for active military operations, there must be no ambiguity regarding who assumes the financial loss. This operational reality simultaneously demands a structural evolution in corporate design. Operators can no longer comfortably commingle neutral commercial logistics data with wartime intelligence on the same physical satellite bus.

Blending these services severely compromises the asset’s neutral status under the laws of armed conflict, effectively turning the entire platform into a legitimate military target and guaranteeing the voiding of commercial insurance policies. The technical and legal bifurcation of civilian and military services is a necessary market response to ring-fence civilian liability.

Ultimately, the deployment of capital for space infrastructure must be subjected to intense geopolitical scrutiny regarding treaty routing. Capital must be rigidly channeled through jurisdictions with robust Bilateral Investment Treaties that provide actual mechanisms for international arbitration. Investors must analyze the specific language of a treaty’s essential security interests clause. Treaties featuring self-judging national security exceptions offer commercial operators virtually zero legal protection against arbitrary state expropriation. In an orbital economy where military payloads actively stalk commercial satellites, the strength of the underlying investment treaty is the only viable firewall between commercial survival and total, uncompensated loss.

Author: Abdulla Abuwasel
Title: Partner – Transactions
Email: awasel@waselandwasel.com
Profile:
https://waselandwasel.com/about/abdulla-abuwasel/

Lawyers and consultants.
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com