

**Rocketlab – Ministry of Transport comments to Ministry of Foreign Affairs and Trade 5  
June 2015**

**Is a rocket an aircraft?**

s 9(2)(h)

**Brazil TSA**

Below are initial comments from a member of the Ministry of Transport legal team.

Given current legislation, agreeing to the following might mean s 9(2)(h)

S 6(b)(i)

s 9(2)(h)

**Other matters**

- As an aside, the 2010 book *National Regulation of Space Activities* notes the Brazil TSA received opposition in the Brazilian National Congress on the ground that it would be harmful to Brazilian sovereignty. The book states “a new text is now being negotiated by the Brazilian and U.S. Governments”. It would be interesting to verify this claim, and whether there is an amended version of the 2000 agreement on which to base our agreement that might be less contentious.
- We might be able to use other situations as a basis for these parts of the agreement. For example, how does Operation Deep Freeze treat New Zealand access to US operations? There may be an arrangement in the US-NZ Antarctic operations we could use to improve on the Brazil agreement.

## Australia

We have researched the Australian regulatory framework for space activities. Australia has its own [Space Activities Act 1998](#) (the Act), supported by the Space Activities Regulations 2001. This appears to fall under the purview of Department of Industry & Science, and the Minister for Industry & Science.

The Act includes approvals for space activities, liability rules, establishes a register of space objects, a framework for implementing space cooperation agreements, civil penalties, and investigating accidents and incidents.

Some relevant terms from the Act:

Space licence – the Minister may grant a space licence to ‘a person’ (each operator requires a licence, but this does not constitute permission for a launch).

Launch permit – the Minister may grant a launch permit to ‘a person’ (each launch requires its own permit).

Civil penalties – if these and other requirements are contravened, Minister may take proceedings in Federal Court

Register of Space Objects – to be maintained by the Minister.

Investigator – appointed by Minister who must be satisfied the person has suitable qualifications and experience.

### Accident investigation

We requested TAIC reach out to its international equivalents. The UK is only beginning to look at this question. Australia has, however, had at least one occasion where there was a rocket-occurrence investigated and can elaborate on how an investigation under the Act worked. The following is from the Australian Transport Safety Bureau (ATSB).

“Like TAIC, the ATSB does not investigate rocket-related accidents and incidents under its *Transport Safety Investigation Act 2003*. Under this legislation, rockets are not defined as ‘aircraft’.

**Australian Transport Safety Bureau (ATSB) investigation BO/200105636.** This was an investigation into a rocket anomaly involving a HyShot rocket at Woomera, South Australia on 30 October 2001. The investigation report is available on the ATSB website at [http://www.atsb.gov.au/media/36170/sir200206\\_001.pdf](http://www.atsb.gov.au/media/36170/sir200206_001.pdf). In a nutshell, the ATSB was asked if it would carry out the investigation by the then Minister for Industry, Science and Resources. That request was made under the *Space Activities Act 1998* (the Act) and the Space Activities Regulations 2001. The nature of the ATSB involvement and the legislative cover is covered off quite clearly in the investigation report on our website.”

To summarise the introduction to the report, the Minister for Industry, Science and Resources appointed an ATSB investigator to investigate the occurrence under the Act. The Investigator was provided with technical and general assistance by:

- i. Space Licensing and Safety Office; [within the Dpt of Industry & Science]
- ii. University of Queensland;
- iii. Department of Defence;
- iv. Astrotech Space Operations Inc (USA);
- v. Federal Aviation Administration (USA);
- vi. Bureau of Meteorology;
- vii. QinetiQ (UK);
- viii. Aerosafe Risk Management;
- ix. National Transportation Safety Board (USA); and
- x. Australian Transport Safety Bureau.

**MoT comment** – we would expect to see a range of parties/expertise potentially involved in an accident investigation involving rockets in New Zealand.