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**General Assembly resolution
68/74 on recommendations on national
legislation relevant to the peaceful
exploration and use of outer space**

**United Nations/China /APSCO
Workshop on Space Law**

Beijing, China, 17 to 20 November 2014

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Outline

- I) Agenda Item 2008 – 2013 of UNCOPUOS
Legal Subcommittee
- II) Work of the Working Group on NSL
- III) Contents of GA resolution 68/74 on
recommendations on national legislation relevant to
the peaceful exploration and use of outer space



I) Agenda Item 2008 – 2013 of UNCOPUOS Legal Subcommittee

- “General Exchange of information on national legislation relevant to the peaceful exploration and use of outer space” proposed by the US and adopted as a new agenda item “under a workplan” in 2007
- Multi-year programme of work (2008-2012)
- Establishment of a Working Group in 2008
- Adoption of Working Group Report in 2012
- Submission of report and recommendations to UNCOPUOS in 2012
- Establishment of a “regular item” from 2013 onward

Multi-year programme of work (2008-2012)

- 2008: Request to Member States for national legislation relating to governmental and non-governmental space activities. Presentations by Member States of reports on their national legislation
- 2009: Examination, in a working group, of the responses received in order to develop an understanding of the manner in which Member States have regulated governmental and non-governmental space activities

Multi-year programme of work (2008-2012) (cont'd)

2010: Working Group continues to examine responses received and begins drafting its report, including conclusions

2011: Working Group finalizes its report to the Legal Subcommittee

2012: Extended mandate for the Working Group to finalize its report

Final Report of the Working Group on NSL (A/AC.105/C.2/101)

- I) Summary of the work conducted by the Working Group under its multi-year workplan
- II) Findings of the Working Group
- III) Conclusions

Annex: National space legislation: regulative categories – set of elements for consideration by States in enacting national space legislation



Annex: National space legislation: regulative categories – set of elements for consideration by States in enacting national space legislation

Regulative Category	Corresponding International Obligation/Norm	Elements
Scope of application	n/a, (partly Art. VI OST international responsibility for “national activities”)	<ul style="list-style-type: none">– activities (<i>ratione materiae</i>)– jurisdiction (<i>ratione loci/personae</i>)
Authorization of activities of non-governmental entities	Art. VI OST GA resolution A/RES/59/115	<ul style="list-style-type: none">– licensing procedure– change of status: modification/suspension/revocation of license– conditions for granting licenses connect to other relative categories: registration, liability, safety
Continuing supervision of activities of non-governmental entities	Art. VI OST	<ul style="list-style-type: none">– mechanisms of supervision– role and competencies of supervising authorities (during normal operation and in case of incidents)
Registration	Art. VIII OST; Art. II, IV REG; GA resolution 1721 (XVI) B; GA resolution A/RES/62/101	<ul style="list-style-type: none">– establishment of national registry– obligation to submit information to competent authority– submission of data to the UN
Liability and insurance	Art. VI, VII OST; Art. II, III, LIAB	<ul style="list-style-type: none">– obligation of insurance and financial responsibility– amount of insurance coverage (minimum requirements/caps)– state indemnification
Safety	Art IX OST; NPS Principles; COPUOS Space Debris Mitigation Guidelines	<ul style="list-style-type: none">– avoidance of harmful contamination of outer space and adverse change to the environment of the Earth– implementation of space debris mitigation
Transfer of ownership	Art. VI, VII, VIII OST, REG, LIAB, GA resolution A/RES/62/101	<ul style="list-style-type: none">– requirement of permit for selling of satellites to (foreign persons)

In addition: Schematic overview over NSL

- I. Summary of the schematic overview over national space legislation
(= Introduction, brief description of the legal documents contained in the schematic overview)
- II. Table

To be updated regularly: “Living instrument”

As of March 2014: http://www.unoosa.org/pdf/spacelaw/schem/schematic-overview_2014-03.pdf



State and Legislation	Scope of application	Authorization	Supervision	Registration	Liability	Safety	Transfer of ownership
<p><u>Argentina</u></p> <p>- National Decree No. 995/91, Creation of the National Commission on Space Activities (28 May 1991)</p> <p>- National Decree No. 125/95, Establishment of the National Registry of Space Objects Launched into Outer Space (25 July 1995)</p>			<p>Space activities are monitored, managed and administered by the National Commission on Space Activity (CONAE) (Art. 2 Decree No. 995/91), including competencies of legal enforcement (Art. 4 Decree No. 995/91).</p>	<p>A national registry is established under the direct authority of CONAE (Art. 1 Decree No. 125/95).</p> <p>Operators and owners shall effect registration of their space objects in the national registry (Art. 2 National Decree No. 125/95).</p> <p>The following data must be provided, <i>inter alia</i>, for inclusion in the national registry:</p> <p>information on possible joint launches with one or more other launching states, on the identification of the launch service provider, on date and location of the launch, on the insurance arrangement and on precautions for non-pollution of outer space and end-of-life (Art. 5 Decree No. 125/95).</p>	<p>Information on the insurance arrangement shall be provided for inclusion in the national registry (Art. 5 Decree No. 125/95).</p>	<p>Information on precautions taken with regard to non-pollution of outer space, including celestial bodies (in particular pertaining to mechanisms for placement in a transfer orbit at the end of the useful life of the space object) and the anticipated date of disintegration, recovery or loss of contact with the space object shall be provided for inclusion in the national registry (Art. 5 Decree No. 125/95).</p>	

State and Legislation	Scope of application	Authorization	Supervision	Registration	Liability	Safety	Transfer of ownership
<p>Australia</p> <p>- <i>Space Activities Act 1998 (No. 123, 1998)</i></p> <p>- <i>Statutory Rules No. 186 Space Activities Regulations 2001</i></p>	<p>Material scope: launch (and attempted launch) of a space object into outer space, return (and attempted return) of a space object from outer space and operation of a launch facility</p> <p>Territorial jurisdiction: activities carried out from Australian territory including external territories (Sec. 3 Space Activities Act)</p> <p>Personal jurisdiction: activities carried out by Australian nationals (Sec. 3 Space Activities Act); an “Australian national” is defined as (a) an Australian citizen, (b) a body incorporated by or under the law of the Commonwealth of Australia, or (c) the Commonwealth, or a state or territory (Sec. 8 Space Activities Act)</p>	<p>A <i>space license</i> (Sec. 18 Space Activities Act; Div. 2.4 Space Activities Regulations) is required for the operation of a launch facility in Australia and to launch a particular type of launch vehicle from such facility. A <i>launch permit</i> (Sec. 26 Space Activities Act; Div. 3.2 Space Activities Regulations) is required for the launch of a particular space object or series of similar such launches from a specified launch facility using a specified launch vehicle as well as for the return of such space objects to a specified place in Australia. A <i>launch permit</i> can only be granted to the holder of a <i>space license</i>. An <i>overseas launch certificate</i> is required for the launch of a particular space object or series of similar such launches from a specified launch facility outside Australia using a specified kind of launch vehicle (Sec.35 Space Activities Act).</p>	<p>A Launch Safety Officer is appointed for each licensed launch facility, ensuring that all the conditions of space licenses and launch permits are fully complied (Sec. 50-58 Space Activities Act).</p> <p>In the case of an accident involving a space object, all relevant authorizations are stopped and an investigator is appointed in order to investigate the accident (Sec. 84-103 Space Activities Act).</p> <p>A body incorporate or an individual are guilty of an offence if they undertake unauthorized launch (and attempted launch) of a space object into outer space or return (and attempted return) of a space object from outer space (Sec. 11-14 Space Activities Act).</p> <p>A person who fails to comply with a direction that the Launch Safety Officer for a licensed launch facility gives, is guilty of an offence (Sec. 52 Space</p>	<p>The Minister must keep a register of space objects (Sec. 76 Space Activities Act).</p> <p>The holder of a launch permit is required to submit after the launch of a space object information referred to in subparagraph 1 (d) of Article IV of the Registration Convention (Div. 3.2 (1) Space Activities Regulations)</p> <p>In keeping the Register, the Minister must have regard to the Registration Convention and any other international agreement or arrangement relating to the registration of space objects and to which Australia is a party (Sec. 76 para. 3 Space Activities Act).</p>	<p>A <i>launch permit</i> requires to satisfy either insurance requirements or show direct financial responsibility for launch or return.</p> <p>The insurance requirements are met if the applicant is insured to the maximum probable loss against any liability incurred for third party damage. The maximum probable loss is determined in accordance with Sec. 7.02 Space Activities Regulations.</p> <p>Australia is not required to take out insurance, rather the holder of the authorization is required to take out insurance for the benefit of Australia (Sec. 48 Space Activities Act).</p>	<p>A <i>space license</i>, a <i>launch permit</i> and an <i>overseas launch certificate</i> can only be granted if the probability is low that the construction and operation of the launch facility causes substantial harm to public health or public safety or causes substantial damage to property (Sec. 18, 26 and 35 Space Activities Act).</p>	<p>A <i>space license</i>, a <i>launch permit</i> and an <i>overseas launch certificate</i> can be transferred (Sec. 22-25, 31-34 and 38-41 Space Activities Act).</p>

State and Legislation	Scope of application	Authorization	Supervision	Registration	Liability	Safety	Transfer of ownership
		The <i>space license, launch permit</i> and <i>overseas launch certificate</i> are issued under the authority of the Minister for Industry, Finance and Resources upon the fulfillment of certain criteria (Sec. 18, 26, 29 and 35 Space Activities Act). The authorizations can be transferred and suspended (Sec. 22-25, 31-34 and 38-41 Space Activities Act).	Activities Act). A person operating without authorization a launch facility are liable to a civil penalty (Sec. 15 Space Activities Act). Further civil penalty provisions are set forth in Part 6 Space Activities Act.				
Belgium - <i>Law on the activities of launching, flight operations or guidance of space objects of 17 September 2005</i> - <i>Royal Decree implementing certain provisions of the Law of 17 September 2005 on the activities of launching, flight operations and guidance of space objects</i>	Material scope, Territorial and Personal jurisdiction: activities of launching, flight operations and guidance of space objects carried out by natural or legal persons in the zones placed under the jurisdiction or control of the Belgian State or using installations, personal or real property, owned by the Belgian State or which are under its jurisdiction or its control (Art. 1, § 1, Law on the activities of launching...) When provided for under an international	Authorization of the Minister is required (Art. 4, § 1, Law on the activities of launching...) “Minister” means the Minister with responsibility for space research and its applications in the framework of international cooperation (Art. 3, 6°, Law on the activities of launching...) The King may determine the conditions for granting authorizations (Art. 5, § 1, Law on the activities of launching...)	The King shall lay down the conditions applying to the control and supervision of the activities covered by this law (Art. 6, Law on the activities of launching...) The Minister may also designate experts charged with controlling the activities carried out by the operator. The latter must do everything possible to facilitate any inspections and checks, at all times, with regard to the activities that he carries out pursuant to this law (Art. 10, § 1, Law on	A National Register of Space Objects shall be created and all space objects for which Belgium is the launching State shall be entered, except when the registration is made by another State or an international organization, in accordance with the Convention on Registration of Space Objects. The conditions regarding the form and publication of the Register and the way it is kept shall be determined by the King (Art. 14, § 1, Law on the activities of	When the Belgian State is liable, pursuant to Article VII of the Outer Space Treaty, the provisions of the Convention on International Space Liability or the provisions of this law, for reparation, it shall have the right to institute a counterclaim against the operator(s) involved up to the amount of the compensation determined in accordance with §2 and §3 (Art. 15, § 1, Law on the activities of launching...) An operator who fails	The operator must inform immediately the crisis centre designated by the King of any manoeuvre, any malfunctioning or any anomaly of the space object, likely to result in a danger for persons on the ground, aircraft in flight or other space objects, or to cause any damage (Art. 16, § 1, Law on the activities of launching...) Without prejudice to measures concerning the safety and protection of goods and persons, any space object which is found on the Belgian territory	The transfer to a third party of authorized activities or real or personal rights, including guarantee rights, which transfers the effective control of the space object may not be carried out without the Minister’s prior authorization (Art. 13, § 1, Law on the activities of launching...) The Minister may attach to the transfer authorization conditions which are binding on either the transferee operator, or the transferor operator, or both (Art. 13, § 4,



II) Work of the Working Group on NSL

Questions discussed in the WG:

- 1) Reasons for enacting/not enacting NSL?
- 2) What is the scope of application of NSL?
- 3) What is the “nationality” criterion?
- 4) Which national authority is competent for authorization and/or registration?
- 5) What are the conditions for authorization and/or registration?
- 6) How is compliance monitored?
- 7) What about indemnification and insurance?
- 8) Regulations about transfer of ownership?

Findings of the Working Group

(1) Reasons to enact national space legislation:

- The need to fulfil obligations under treaties to which a State had become a party;
- The need to achieve consistency and predictability in the conduct of space activities under the jurisdiction of the State;
- The need to provide a practical regulatory system for private sector involvement;
- The need for improved national coordination and the integration of a wider range of national activities.

Findings of the Working Group (cont'd)

(2) Scope of activities targeted:

- Launching of objects into outer space;
- Operation of a launch or re-entry site;
- Operation and guidance of space objects;
- In some cases the design and manufacturing of spacecraft;
- Application of space science and technology such as that used for Earth observation and telecommunications;
- Exploration activities and research.

Findings of the Working Group (cont'd)

(3) National jurisdiction:

- Space activities carried out from the national territory;
- Certain launches outside the national territory in which nationals were involved, such as citizens and non-governmental entities established or incorporated under the laws of the State in question;
- In some cases a more complex jurisdictional system was applied to regulate private sector involvement with a view to balancing public and private interests.

Findings of the Working Group (cont'd)

(4) Competence of national authorities:

- Different national authorities involved, ranging from space agencies and other similar authorities up to ministerial-level authority;
- In some cases involving different governmental entities for different activities requiring a licence;
- In some cases separate procedures for the licensing of operators conducting space activities and for the authorization of specific projects and programmes;
- Broad variety of means of registering space objects with a national registry, including through a government ministry or through a space agency or similar authority.

Findings of the Working Group (cont'd)

(5) Conditions for registration and authorization:

- Ensuring the safety of space activities, in particular laws governing the launch of objects into outer space;
- Ensuring that the launch does not create a significant risk of personal injury, environmental damage or damage to property;
- Conditions concerning safety and technological standards closely linked to States' concern about meeting space debris mitigation requirements;
- Other conditions related to the professional and financial qualifications of the applicant;
- National security and foreign policy interests.

Findings of the Working Group (cont'd)

(6) Liability:

- Several States established ways of seeking recourse from operators, which was achieved in most cases by introducing a national liability regime for space operations, if necessary, in addition to general tort law or environmental liability;
- Broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements.

Findings of the Working Group (cont'd)

(7) Compliance and monitoring:

- Most States apply procedures for the supervision and monitoring of licensed space activities, whether a system of in situ inspections or a more general reporting requirement for the fulfillment of obligations under a license.
- Set of administrative measures for minor violations and a sanctions regime, including penal sanctions in some cases, for more serious offences.

Findings of the Working Group (cont'd)

(8) Transfer of ownership:

- The effect of changes in the operation of space objects on international law were of concern to the WG, not the private or commercial law aspects of such change.
- The issue of change in status of ownership or control of a space object is closely linked to the jurisdiction of the States concerned, in particular where non-governmental actors were involved.

From “Conclusions” of the WG to “Recommendations”

April 2012: “Recommendations” as Appendix to the Report of the Chair of the WG on NSL, April 2012, A/AC.105/1003, Annex III

April 2012: Adoption of Report by LSC, but “form” of the recommendations (stand-alone GA Res **or** Annex to Omnibus Resolution) deferred to UNCOPUOS

June 2012: Adoption of Report, but no decision on form; some new discussions on issues of text/formulations

Until March 2013: inter-sessional consultations, including at margins of STSC

March 2013: Agreement on text **and** form of recommendations in LSC

From UNCOPUOS to UN General Assembly

June 2013:

Agreement in UNCOPUOS to propose a draft
GA Resolution

October 2013:

4th Committee of GA adopts the draft GA Res

11 December 2013:

UN GA adopts the Resolution on Recommendations on
NSL 68/74

III) Contents of GA resolution 68/74 on recommendations on national legislation relevant to the peaceful exploration and use of outer space

– **Preamble:**

“... the need for a practical regulatory system for **private sector involvement** ...some States also include national space activities of a **governmental character** ...”

– **One operative paragraph:**

“*Recommends* the following **elements for consideration** by States when enacting regulatory frameworks for national space activities, in accordance with their domestic law, as appropriate, taking into account the specific needs of the State concerned: (...)”

– **Eight “elements”**

Recommendations

- 1) **Scope of application:** launching, return, operation of a launch or re-entry side, operation and control of space objects in orbit, as well as other issues (design and manufacture, application of space science and technology, exploration and research)

- 2) **National jurisdiction:** “launching State” and/or “responsible State” → national territory, national citizens; however, forebear “duplicative requirements”

Recommendations (cont'd)

- 3) **Authorization:** the competent national authority/ies and conditions for granting, modifying, suspending and revoking authorization should be set out clearly

- 4) **Conditions for authorization:** consistent with int'l obligations (UN treaties and other instruments) and paying due regard to national security and foreign policy interests; ensuring safety and minimizing risks to persons, environment or property; complying with technical standards and space debris mitigation guidelines, in particular with UNCOPUOS Guidelines

Recommendations (cont'd)

- 5) **Supervision and monitoring:** for example, on site inspections, reporting requirement; enforcement mechanisms may include administrative measures, sanctions (penalties)
- 6) **Registration:** national register should be maintained by an appropriate national authority; operators be requested to submit information to enable the State to submit it to the SG of UN, in accordance with Registration Convention (1972) and with UN GA Res on Registration Practice (2007); also change in main characteristics

Recommendations (cont'd)

- 7) **Recourse and insurance:** consider ways of seeking recourse from operators if the States international liability has become engaged; to ensure appropriate coverage, insurance requirements could be introduced
- 8) **Transfer of ownership or control:** continuing supervision of non-governmental entities should be ensured; authorization requirements or submission of information on the change in status



Conclusions

- NSL is required to authorize and supervise private operators
- Inclusion of governmental space activities also possible
- Identify competent authorities for authorization, supervision and registration
- Conditions of authorization are the most important tool to control the space activities and to implement international obligations and national interests
- Provide for a recourse system and insurance requirements
- Consider possible changes of ownership or control



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Thank you for your attention!

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