



**Committee on the Peaceful
Uses of Outer Space****Legal Subcommittee****Forty-ninth session**

Vienna, 22 March-1 April 2010

Agenda item 12

**General exchange of information on national legislation
relevant to the peaceful exploration and use of outer space****Draft report of the Chair of the Working Group on National
Legislation Relevant to the Peaceful Exploration and Use of
Outer Space**

1. At its 805th meeting, on 23 March 2010, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space under the chairmanship of Irmgard Marboe (Austria).
2. The Working Group held six meetings, from [...] March to [...] April 2010. At the opening meeting, the Chair recalled that, in accordance with the workplan adopted by the Committee at its fiftieth session, in 2007, the Working Group, at its current session, would continue to examine responses received and begin drafting its report, including conclusions.
3. The Working Group had before it the following:
 - (a) Note by the Secretariat entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing replies received from Austria, Estonia, Germany, Iraq, Japan, Serbia, Thailand and the United Kingdom of Great Britain and Northern Ireland (A/AC.105/957);
 - (b) Conference room paper entitled “Information on national legislation relevant to the peaceful exploration and use of outer space” containing a reply received from the Netherlands (A/AC.105/C.2/2010/CRP.11);
 - (c) Conference room paper entitled “Information on national legislation relevant to the peaceful exploration and use of outer space” containing a reply received from Tunisia (A/AC.105/C.2/2010/CRP.14).



4. The Working Group also had before it a conference room paper containing a schematic overview of national regulatory frameworks for space activities (A/AC.105/C.2/2010/CRP.12) and a conference room paper containing a proposal by the Chair of the Working Group on a tentative structure for the final report of the Working Group (A/AC.105/C.2/2010/CRP.16).
5. The Working Group noted with satisfaction the holding, in conjunction with the forty-ninth session of the Subcommittee, of a symposium entitled “National space legislation: crafting legal engines for the growth of space activities”. The symposium, organized by the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL), had provided information of great relevance to the deliberations of the Working Group.
6. The Working Group recalled that national regulatory frameworks represented different legal systems with either unified acts or a combination of national legal instruments and that States had adapted their national legal frameworks according to their specific needs and practical considerations.
7. The Working Group continued its review of the following main issues for discussion (see A/AC.105/935, annex III, paras. 7 and 18):
 - (a) Reasons for States to enact national space legislation or the reasons for the absence of such legislation;
 - (b) Scope of space activities targeted by national regulatory frameworks;
 - (c) Scope of national jurisdiction over space activities;
 - (d) Competence of national authorities in the authorization, registration and supervision of space activities;
 - (e) Conditions to be fulfilled for registration and authorization;
 - (f) Regulations concerning liability;
 - (g) Compliance and monitoring.
8. The Working Group addressed additional issues such as the regulation by States of transfers of ownership of space objects and of transfers of authorized space activities to third parties, the participation of private individuals in space flights and the treatment in service-provider contracts of issues of liability and responsibility for collisions of satellites in outer space (see A/AC.105/935, annex III, para. 17).
9. In considering the reasons for States to enact national space legislation and the reasons for the absence of such legislation, the Working Group noted, in addition to its review conducted in 2009, that in some cases it was difficult to draw a precise line to distinguish governmental activities from non-governmental activities and that that could be a reason for States not to enact national space legislation despite their involvement in space activities that could entail international responsibility and international liability. The Working Group also noted, however, that some States saw a need to regulate space activities of a governmental or public character in order to establish a reliable and organized legal framework for national space activities.
10. The Working Group noted that several States did not regard themselves as space-faring nations and for that reason they had thus far not considered enacting

national space legislation. It was observed, however, that the increasing number of private actors carrying out space activities could lead to involvement by such States as well. Furthermore, States taking part in space activities of international organizations needed to take into account the international legal framework of space activities. The Working Group noted that, even if it was up to each State to determine how to assume its international responsibility for national space activities, certain regulations at the national level could be in the interest of the State itself.

11. With regard to the issue of the scope of space activities targeted by national regulatory frameworks, the Working Group noted the differences in how States regulated national space activities to reflect the differences between performing launch operations or mainly operating space objects in outer space. The Working Group also noted the difficulty in defining the term “operation” of a space object. In view of the complex nature of space activities, the Working Group observed the existence of multiple licences, whereby the operator of a space object often needed authorization and a licence from more than one State.

12. As regards the determination of national jurisdiction over space activities, the Working Group noted that most national regulatory regimes required authorization to be obtained for space activities carried out from the national territory. Most regimes also required authorization for space activities in which nationals, both natural and juridical persons, were involved. The respective States considered that to be an important means of ensuring that space activities were in compliance with the respective standards and rules, wherever those activities took place, including on the high seas. Coordination between the States or actors involved would avoid duplication.

13. In considering the competence of national authorities in the authorization, registration and supervision of space activities, the Working Group noted that in most cases different national authorities were involved in those procedures. The Working Group discussed the different roles that national space agencies could have in that regard. With respect to the establishment of a national register, the Working Group noted that some States had more than one register and some States were currently reorganizing their national registries. The Working Group noted that in many cases an authority different from the one responsible for keeping the national registry was in charge of transmitting the relevant information to the United Nations Register of Objects Launched into Outer Space.

14. With regard to the exchange of information on registration practice by States, the Working Group discussed the extent to which non-functional space objects were registered by States. The Working Group noted with appreciation that the Office for Outer Space Affairs would include on its website an explanatory note to accompany the online index of objects launched into outer space in order to facilitate the research function. In that regard, it was noted that the index was not part of the United Nations Register of Objects Launched into Outer Space, but rather represented a reference tool on functional and formerly functional space objects.

15. In considering the conditions to be fulfilled for registration and authorization, the Working Group noted that ensuring the safety of space activities was an important policy underpinning most national space laws and that most launch-licensing regimes included measures to ensure that the launch did not create a

significant risk of personal injury, environmental damage or damage to property. In many States, independent external experts were involved in the process of evaluating the safety of space activities. Space debris mitigation measures developed at the national or international level also played an important role in national authorization procedures.

16. In respect of regulations concerning liability, the Working Group noted the existence of a broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements. Often, the general liability and insurance requirements were laid down in laws complemented by a secondary level of regulations that went into greater detail. The Working Group noted the various approaches taken by States to regulate indemnification of liability incurred by a State, in cases where a State had included in its national legislation defined ceilings for the limitation of liability. The Working Group observed that it was in the interest of all States engaging in space activities to protect themselves against international liability. For that reason, national requirements to that effect should be an incentive for States to establish relevant national regulatory regimes.

17. Regarding the issues referred to in paragraph 8 above, the Working Group considered in particular the issues of transfer of ownership and control of space objects in orbit and of transfer of licences for space activities. Of concern to the Working Group was the effect on international law of such changes in the operation of space objects, rather than the private or commercial law aspects of the transfer of space activities. The issue of change in status of ownership or control of a space object was closely linked to the jurisdiction of the States concerned, in particular where non-governmental actors were involved.

18. The Working Group noted that some States had national regulations governing the activities of private individuals in space flights. The Working Group also noted that some States were preparing regulations concerning liability issues in service-provider contracts, in particular in connection with global positioning and navigation services.

19. After a discussion of the proposal by the Chair on a tentative structure for the final report of the Working Group (A/AC.105/C.2/2010/CRP.16), the Working Group agreed that, upon completion of its multi-year workplan, it should issue a comprehensive report on its work with the following structure:

- I. Summary of the work conducted by the Working Group under its multi-year workplan
- II. Overview of national space legislation
- III. Findings of the Working Group
- IV. Conclusions

Annex I. National space legislation: regulative categories (set of elements for consideration by States in enacting national space legislation)

Annex II. Schematic overview of national space legislation

20. The Working Group agreed that the Secretariat, in consultation with the Chair, should prepare the draft report on the work of the Working Group, for consideration and finalization by the Working Group in 2011. The report should build upon the

research and assessments conducted as part of the multi-year work under the agenda items on the launching State and registration practice, respectively. In that sense, the findings of its current multi-year work on national space legislation would be consistent with the findings and recommendations made under those agenda items.

21. After a discussion on the matter, the Working Group concluded that the draft set of main elements for consideration by States enacting national space legislation (A/AC.105/C.2/2010/CRP.16, annex I) should have the following three column headings: “Regulative category”, “Examples of corresponding United Nations treaties and principles on outer space, other related General Assembly resolutions and guidelines” and “Elements”. The Working Group also agreed that the table should list the following seven regulative categories: “Scope of application”, “Authorization and licensing”, “Continuing supervision of activities of non-governmental entities”, “Registration”, “Liability and insurance”, “Safety” and “Transfer of ownership or control of space objects in orbit”. Within the category of “Safety”, the following items should be addressed: avoidance of harmful interference with activities in the peaceful exploration and use of outer space, as stipulated in article IX of the Outer Space Treaty; design and technical requirements, safety assessments and risk analysis; and responses to emergency situations.

22. The Working Group discussed the draft schematic overview of national space legislation (A/AC.105/C.2/2010/CRP.12). The main elements for consideration by States in enacting national space legislation should have the same regulative categories as in annex I to the report on the work of the Working Group (see para. 21 above). The Working Group agreed that the schematic overview, when finalized, would serve as an important source of information on how States regulated their space activities. To that end, the Working Group agreed that Member States should be invited during the intersessional period to provide to the Secretariat information for the completion of the schematic overview of national regulatory frameworks for space activities.
