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**Committee on the Peaceful
Uses of Outer Space**

Questionnaire on possible legal issues with regard to aerospace objects: replies from Member States

Addendum

Note by the Secretariat*

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* The present document was prepared on the basis of replies received from Member States after 26 January 2005.



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II. Replies received from Member States*

Question 1. Can an aerospace object be defined as an object which is capable both of travelling through outer space and of using its aerodynamic properties to remain in airspace for a certain period of time?

Libyan Arab Jamahiriya

[Original: Arabic]

The proposed definition lacks sufficient information on the characteristics of the aerospace object, on the one hand, and reference to the function of such an object, which distinguishes it from other aerospace objects.

Question 2. Does the regime applicable to the flight of aerospace objects differ according to whether it is located in airspace or outer space?

Libyan Arab Jamahiriya

[Original: Arabic]

1. Despite the fact that outer space is regulated internationally by means of international treaties, in particular the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex), and by means of other principles established by the international community, no specific definition has been developed for the term "outer space". Yet those treaties and principles regulate the status of aerospace objects when they are in outer space.

2. As regards airspace, the movement of aerospace objects is governed by specific principles by which the States parties to the Convention on International

* The replies are reproduced in the form in which they were received.

Civil Aviation¹ of 1944 (the “Chicago Convention”) recognize that each State has full and absolute sovereignty over the airspace located above its territory. The recognition of that principle resulted in the establishment of customary international law, while the role of the Chicago Convention was limited to recognizing that principle by developing specific rules relating to obtaining flight licences for the various types of civil and military aerospace object.

3. Civil Aviation Law No. 2 of 1965 adopted that principle in relation to the absolute sovereignty of the Libyan Arab Jamahiriya over the airspace above its territory, both land and sea. The Law also governs the regulation of the movement of civil aircraft, balloons and other aerospace objects. Article 3 of the Law provides that foreign aircraft may be allowed to fly above or land on Libyan territory only in accordance with an international treaty or a bilateral or multilateral agreement to which the Libyan Arab Jamahiriya is a party. Accordingly, such aerospace objects are subject to two different regimes, depending on their location.

Question 3. Are there special procedures for aerospace objects, considering the diversity of their functional characteristics, the aerodynamic properties and space technologies used, and their design features, or should a single or unified regime be developed for such objects?

Libyan Arab Jamahiriya

[Original: Arabic]

Functional characteristics must be taken into consideration when developing such regimes. A unified regime cannot be developed for such objects, but that should not, however, violate the rules relating to liability for damage caused to third parties by such objects.

Question 4. Are aerospace objects while in airspace considered as aircraft, and while in outer space as spacecraft, with all the legal consequences that follow therefrom, or does either air law or space law prevail during the flight of an aerospace craft, depending on the destination of such a flight?

Libyan Arab Jamahiriya

[Original: Arabic]

The aerospace object should be considered as being subject to air law when travelling through the aerospace located above States’ territories and international waters. This confirms the principle of sovereignty of States over their airspace, since this is an established principle in international custom, which is recognized by the international community in accordance with article 1 of the Chicago Convention and which requires the obtainment of the necessary flight authorizations and commitment to the air regulations established by the Convention and annex 2

¹ United Nations, *Treaty Series*, vol. 15, No. 102.

thereto. An aerospace object is considered a spacecraft while in outer space and subject to the rules of international space law and to any consequences that follow from applying international treaties that regulate such matters.

Question 5. Are the take-off and landing phases specially distinguished in the regime for an aerospace object as involving a different degree of regulation from entry into airspace from outer space orbit and subsequent return to that orbit?

Libyan Arab Jamahiriya

[Original: Arabic]

Take-off and landing operations take place in airspace. Accordingly, the two operations should be considered on this basis in relation to the regulatory framework that governs them.

Question 6. Are the norms of national and international air law applicable to an aerospace object of one State while it is in the airspace of another State?

Libyan Arab Jamahiriya

[Original: Arabic]

The rules of air law should be effective and applicable when an aerospace object of one State travels through the aerospace of another State. This follows from the principle of sovereignty over the airspace of the territory of each State, which is recognized by international air law and governed by national air legislation.

Question 7. Are there precedents with respect to the passage of aerospace objects during take-off and/or re-entry into the Earth's atmosphere and does international customary law exist with respect to such passage?

Libyan Arab Jamahiriya

[Original: Arabic]

Cases in which the passage of aerospace objects occurred during take-off and landing are not known well enough to develop customary rules for authorization or non-authorization of such passage.

Question 8. Are there any national and/or international legal norms with respect to the passage of aerospace objects during take-off and/or re-entry into the Earth's atmosphere?

Libyan Arab Jamahiriya

[Original: Arabic]

The passage of aerospace objects should be subject to the general principles of international and local air law, as long as take-off and landing take place in airspace. It should also be subject to the rules that regulate passage through the airspace of a State.

Question 9. Are the rules concerning the registration of objects launched into outer space applicable to aerospace objects?

Libyan Arab Jamahiriya

[Original: Arabic]

In view of the fact that aerospace objects travel through the atmosphere and outer space during some stages after launching and on return, following up the responsibility for such aerospace and outer space activity requires that they should be subject to the rules of national and international law that relate to the continuous registration of spacecraft, in addition to the rules of registration governing space objects.

Question 10. What are the differences between the legal regimes of airspace and outer space?

Libyan Arab Jamahiriya

[Original: Arabic]

1. There are substantial differences between international air law and space law in many aspects, which include but are not limited to:

(a) The degree of development of each of them. The rules of air law cover a wide range of air activities, which cover the sovereignty of a State over its airspace, registration of aircraft and crimes committed on board, the recognition of the rights thereto, the responsibility involved in operating the aircraft in terms of damage to passengers and their luggage, seizure of aircraft and other provisions. The rules of space law are still being developed, despite the fact that they cover many aspects;

(b) The principle of sovereignty occupies an important position in international air custom, which was later regulated by the Chicago Convention, whereas this principle does not exist with regard to outer space, including the Moon and other celestial bodies;

(c) The rules of liability in air law are governed by private air law, whereas the rules of liability in the space law are governed by general international law.

2. There are substantial differences that should be identified and studied extensively.
