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**Committee on the Peaceful
Uses of Outer Space****National legislation and practice relating to definition and
delimitation of outer space****Note by the Secretariat*****Addendum****Contents**

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* The present document was prepared on the basis of a reply from a member State received after 27 January 2006.



II. Replies received from member States

Australia

[Original: English]

1. Introduction

1. The present document aims to inform the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space about the history and current status of relevant sections of Australia's Space Activities Act 1998 (referred to as the "Act" below).

2. Summary of key points

2. (a) There is no definition of "outer space" in domestic Australian law and Australia recognizes that there is no internationally accepted definition or delimitation of the term;

(b) The Act regulates the launch from, and the return to, Australia of space objects and the launch of space objects by Australian nationals outside of Australia;

(c) As a result of amendments in 2002, the Act applies to space activities that occur or are intended to occur above 100 kilometres (km) in altitude;

(d) The amendments gave greater certainty about where the Act applies and the activities that the Act regulates;

(e) Identifying the 100-km altitude in the Act was not an attempt on Australia's part to define or delimit "outer space";

(f) Australia has not received to date any international feedback specifically relating to the 100-km altitude identified in the amended Act.

3. Scope of the Act

3. The Act regulates the launch from, and the return to, Australia of space objects and the launch of space objects by Australian nationals outside of Australia. The Act gives effect in domestic legislation to certain Australian obligations under the United Nations treaties on outer space.

4. The Act and "outer space"

4. When introduced in 1998, the Act applied to space activities that occurred or were intended to occur in "outer space". There is no definition of "outer space" in domestic Australian law and Australia recognizes that there is no internationally accepted definition or delimitation of the term. In the absence of such domestic or internationally agreed definitions, there was some uncertainty about where Australia's Act took effect and the activities that it regulated.

5. The amended Act applies above 100 kilometres

5. Australia amended the Act in 2001 and in 2002. Inter alia, the amendments in 2002 gave greater legislative certainty about where the Act applies and the activities that it regulates. Australia amended certain sections of the Act by replacing the term

“outer space” with the phrase “an area beyond the distance of 100 kilometres above mean sea level”. Consequently, the Act currently applies to space activities occurring or intended to occur above 100-km in altitude.

6. Following the amendments in 2002, the term “outer space” is used in the Act only in specific references to international agreements such as the United Nations treaties on outer space. The Act still does not define “outer space” and the term is not defined in other Australian legislation. The 100-km altitude represents a practical clarification of where the Act applies. The 100-km altitude was not an attempt on Australia’s part to define or delimit “outer space”.

7. The relevant sections of the Act that were amended in 2002 are listed below. For ease of identification, text inserted into the Act in the context of the 2002 amendments is underlined:

(1) Section 8, definition of “launch”: “**launch** a space object means launch the object into an area beyond the distance of 100 km above mean sea level, or attempt to do so”;

(2) Section 8, definition of “launch vehicle”: “**launch vehicle** means a vehicle that can carry a payload into or back from an area beyond the distance of 100 km above mean sea level”;

(3) Section 8, definition of “return”: “**return** a space object means return the space object from an area beyond the distance of 100 km above mean sea level to Earth, or attempt to do so”;

(4) Section 8, definition of “space object”: “**space object** means a thing consisting of:

“(a) a launch vehicle; and

“(b) a payload (if any) that the launch vehicle is to carry into or back from an area beyond the distance of 100 km above mean sea level;

or any part of such a thing, even if:

“(c) the part is to go only some of the way towards or back from an area beyond the distance of 100 km above mean sea level; or

“(d) the part results from the separation of a payload or payloads from a launch vehicle after launch;”

(5) Notes to Subsections 26 (2) and 42: “A ... returning space object need not be the same as the space object launched. For example, a launch vehicle could carry a payload into an area beyond the distance of 100 km above mean sea level and return without it, or even collect a different payload from an area beyond the distance of 100 km above mean sea level and return that to Earth.”

8. A full copy of the current version of the Act is available on the Internet (<http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401851?OpenDocument>). An Explanatory Memorandum provides further information on the specific changes made to the Act in 2002 and the rationale for each of the changes (available on the Internet at <http://www.comlaw.gov.au/ComLaw/Legislation/Bills1.nsf/bills/bytitle/AE0A850D95E7667ACA256F7200243200?OpenDocument&VIEWCAT=attachment&COUNT=999&START=1>). The Explanatory

Memorandum formed part of a suite of documents considered by the Australian Parliament when it amended the Act.

9. Further links to Australia's involvement in space are available through the Australian Government Space Portal (<http://www.industry.gov.au/space>).

6. International feedback on the Act

10. Since the Act was amended in 2002, Australia has responded to international requests for general information about the Act such as from overseas Governments that may be reviewing their own respective domestic space legislation. Australia has not received to date any international feedback on the Act specifically relating to the 100-km altitude at which the Act applies.
