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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

Note by the Secretariat*

Addendum

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* The present document was prepared on the basis of replies received from Member States after 18 December 2006.



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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?

Egypt

[Original: Arabic]

An aerospace object can be defined as a man-made space object capable both of travelling through outer space and of using its aerodynamic properties to travel through airspace for a single purpose, namely to reach outer space or to return from it (it is also an object that can be launched and pass innocently, swiftly and without interruption through airspace and reach outer space or return from it).

Kuwait

[Original: Arabic]

A space object can be defined as capable of travelling to outer space and remaining in space by using its aerodynamic capabilities.

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

Egypt

[Original: Arabic]

If the activity of the aerospace object is restricted to undertaking space missions, as is probable, it is appropriate to apply the outer space regime to it, even when it is passing through airspace, in accordance with the previous definition, namely, innocent passage. Accordingly, in order not to complicate the regime and to avoid the problems that might arise from applying two regimes, the foreign State through whose airspace the space object may travel should be notified and safety measures should be complied with. If the aerospace object is essentially used to undertake missions in airspace, it should be subject to the air regime rather than that specific to space travel, bearing in mind regulations to guarantee the safety of air traffic when the aerospace object passes through airspace, in view of the extremely high speed at which it does so and the consequent dangers this may present to air traffic.

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

Kuwait

[Original: Arabic]

The regulations and laws connected with space objects cannot be applied to aerospace objects.

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?

Egypt

[Original: Arabic]

At present there are no special procedures, but there is a need to establish a regime relating to the use of such objects specific to missions undertaken in airspace, as well as a regime to protect air traffic while aerospace objects are travelling through airspace. At present, however, this is no more than laying down measures on aerospace objects in view of the current restrictions on their use.

Kuwait

[Original: Arabic]

In order to distinguish between space objects according to their technical specifications, aerodynamic characteristics and technological uses connected with space, regulations and laws will need to be drafted for each case.

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?

Egypt

[Original: Arabic]

In reality, aerospace objects combine the characteristics of spacecraft and aircraft, although with respect to the discussion about the regime applicable, it is difficult to make aerospace objects subject to both air law and space law. Taking a functional approach, it has to be taken into consideration that aerospace objects are essentially designed to operate and execute space missions. Consequently, it is preferable to apply space law to them, to establish a regime on the safety of aviation and to notify and obtain the consent of the terrestrial State through whose airspace the object will travel, bearing in mind that if it undertakes a mission in airspace, it is subject to air law.

Kuwait

[Original: Arabic]

The laws and regulations applied to space objects are based on the characteristics, distinguishing features and technologies used, as well as whether the space objects are in space or outer space.

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?**Egypt**

[Original: Arabic]

No.

Kuwait

[Original: Arabic]

The laws and regulations are connected with the take-off and landing of space objects, without being connected with the passage of space objects in space.

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?**Egypt**

[Original: Arabic]

In this case Egypt distinguishes between when the presence of the aerospace object is considered innocent and it has a rapid, uninterrupted passage in order to reach its destination in outer space or to return to Earth, in which case national and international air law will not be applied, if there are international regulations guaranteeing the safety of aviation and it is there with the knowledge and consent of the State overflown. If, on the other hand, it is undertaking a terrestrial mission or its journey is not considered innocent, it will be subject to national and international air law.

Kuwait

[Original: Arabic]

The presence of laws and regulations related to the passage of space objects from the airspace of one country to that of another is possible within a bilateral or international agreement on this matter.

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?

Egypt

[Original: Arabic]

There are precedents with respect to the passage of aerospace objects during take-off and/or re-entry into the Earth's atmosphere, such as the passage of the space shuttle Buran of the former Soviet Union over Turkish territory during its single return from outer space in 1988 and the passage of the American Atlantis space shuttle over the former Soviet Union in 1990, but there is no firmly established customary law on the passage of aerospace objects over the territory of other States.

Kuwait

[Original: Arabic]

The laws and regulations are also connected with the space route used by space objects.

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?

Egypt

[Original: Arabic]

The international legal norms on liability and other norms contained in the United Nations conventions on space are applicable and aerospace objects are subject to the norms regulating the airspace of States with respect to its relationship with State sovereignty. However, there are as yet no Egyptian norms regulating this matter.

Kuwait

[Original: Arabic]

There are no international or regional laws or regulations relating to defining routes for space objects and their movement from the Earth's atmosphere to space and outer space and their subsequent return.

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

Egypt

[Original: Arabic]

In view of the fact that such objects are launched for space travel on the basis of their ability to go to and return from space many times, the appropriate regime for them is registration of the journeys they undertake. It follows that the current rules on registration of space objects are inadequate and need to take into account aerospace objects.

Kuwait

[Original: Arabic]

The laws and regulations must be related to the process of registration of space objects launched into outer space.

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

Egypt

[Original: Arabic]

The essential differences reside in States' enjoyment of sovereignty over the airspace above their territory, while outer space is open to exploration and use by all States, with all the legal consequences that follow from that.

Kuwait

[Original: Arabic]

There should be laws relating to space objects according to their journey to outer space or space. Such clauses are being studied in order to take them into account when drafting a comprehensive general law on this matter.