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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

Contents

	<i>Page</i>
II. Replies received from Member States	3
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?	3
Question 2. Does the regime applicable to the flight of aerospace objects differ according to whether it is located in airspace or outer space?	3
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?	3
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?	4
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?	4

* The present document was prepared on the basis of replies received from Azerbaijan before 29 February 2008.



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?	4
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?	5
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? ...	5
Question 9. Are the rules concerning the registration of objects launched into outer space applicable to aerospace objects?	5

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?

Azerbaijan

[Original: Russian]

Azerbaijan considers that the definition should be formulated as follows: “A space object is an object capable of remaining and travelling in both airspace and outer space.”

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

Azerbaijan

[Original: Russian]

The question evidently relates to the legal regime applicable to the flight of aerospace objects. There are undoubtedly differences in the legal regimes governing the flights of such objects. In the case of aerospace objects located in airspace, the norms of international air law apply. In the case of aerospace objects located in outer space, the norms of international space law apply.

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?

Azerbaijan

[Original: Russian]

At present, there are no special procedures for aerospace objects, but, in the future, that problem should be considered in greater detail. In the view of Azerbaijan, it would be more appropriate to develop a unified regime for aerospace objects that would regulate their location in both airspace and outer space.

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

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?

Azerbaijan

[Original: Russian]

An aerospace object should be subject to the norms of international air and space law depending on the purposes and programme of the flight concerned. It is possible that, in the future, once a unified regime for aerospace objects has been elaborated and adopted, it will be seen to be necessary to supplement the existing norms of international air and space law.

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?

Azerbaijan

[Original: Russian]

There is currently no such distinction. At the same time, it may be assumed that, on the re-entry into Earth's atmosphere of an aerospace object that has passed over the airspace of another State, the norms of international air law may apply.

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?

Azerbaijan

[Original: Russian]

Azerbaijan considers that the norms of national and international air law could be applicable, just as an aerospace object in outer space should be subject to the norms of international space law. It should be noted, however, that in some cases, in particular upon completion of an Earth-orbit programme, there is little likelihood that the requirements of international air law will be fully met.

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?

Azerbaijan

[Original: Russian]

Azerbaijan finds it difficult to reply to the question about whether there are precedents with respect to the passage of aerospace objects following re-entry into the Earth's atmosphere. At the same time, the fact that most States do not complain about the passage of aerospace objects over their airspace does not signify their approval but is rather due to their not being informed about the passage or of any damage caused by it. As for the question of international customary law in relation to such passages, there is currently no such law.

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?

Azerbaijan

[Original: Russian]

In Azerbaijan, there are no national legal norms regulating the passage of aerospace objects following re-entry into the Earth's atmosphere, just as there are no international legal norms to that effect. That is a deficiency that, in the view of Azerbaijan, should be rectified.

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

Azerbaijan

[Original: Russian]

In the view of Azerbaijan, the defining factor is the programme and purpose of a given flight. If the purpose is a space flight, the rules governing the registration of objects launched into outer space undoubtedly apply to aerospace objects. At the same time, it is clear that, in the future, amendments and/or additions will need to be made to the rules established under the Convention on Registration of Objects Launched into Outer Space.¹

¹ United Nations, *Treaty Series*, vol. 1023, No. 15020.