



# General Assembly

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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\*

#### Contents

	<i>Page</i>
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? . . . . .	4
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? . . . . .	5

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\* The present document was prepared on the basis of replies received from Member States after 17 February 2003.



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? .....	5
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? .....	6
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?...	6
Question 9. Are the rules concerning the registration of objects launched into outer space applicable to aerospace objects? .....	7
Question 10. What are the differences between the legal regimes of airspace and outer space?	7

## 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?**

**Peru**

[Original: Spanish]

Although a binding definition relating to aerospace technology could become obsolete, an aerospace object could be defined as “an object capable of travelling in outer space and moving in airspace in continuous flight during the launch phase or the return to Earth”.

**Slovakia**

[Original: English]

1. The exact answer to this question should be formulated in cooperation with the Scientific and Technical Subcommittee of the Committee on the Peaceful Uses of Outer Space (COPUOS). Today the term “aerospace objects” comprises several technically very different craft. The term is also completely new to international law. In the opinion of Slovakia a legal definition of aerospace object is needed because of the possibility of the wide range of use in the future. Therefore this definition is considered only a basic point of departure for further work.

2. Aerospace objects will most probably be used for the transport of material as well as transport of people from one point of the Earth to another and for the transport of the material and equipment from Earth to outer space. A legal definition of the term should be the part of an international agreement or General Assembly resolution.

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

**Peru**

[Original: Spanish]

Air law applies to aerospace objects travelling in airspace and space law to objects travelling in outer space. Transit conditions are not invariably the same and their application depends on the law of individual States.

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

**Slovakia**

[Original: English]

Slovakia thinks that the regime applicable to flight should depend on the purpose of the mission of an aerospace object. The regime of air law should apply to craft used for Earth-to-Earth transport of material or persons. Where the main purpose of the mission of an aerospace object is the exploration of outer space, space law should prevail. This proposed distinction in the regime is only one of several possibilities (e.g. the regime applicable to the flight of an aerospace object could be determined based on whether that object is located in outer space or in airspace).

**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?**

**Peru**

[Original: Spanish]

Because of ongoing advances in technology, situations could arise that are not provided for in the current air and space regimes. This should be taken into account by the creation of a special regime covering new situations and clarifying their legal status, with allowance for the territorial sovereignty of States.

**Slovakia**

[Original: English]

See the replies to questions 1 and 2.

**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?**

**Peru**

[Original: Spanish]

According to current international law, a spacecraft is an object travelling in outer space and an aircraft is one travelling in airspace. However, a spacecraft situated in airspace during its ascent or descent may be regarded as an aircraft during this portion of its journey. A special regime could be established, however, to define the scope of the legal consequences that this involves.

**Slovakia**

[Original: English]

Considering the unique nature of aerospace objects, it is assumed that space law should prevail while aerospace objects are in outer space. While in outer space an aerospace object should be considered a spacecraft with all the legal consequences that follow therefrom, including the obligations arising under the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, the “Registration Convention”). The destination of such a flight may also be taken in consideration, however, when the aerospace object is located in airspace during most of the time of its flight and is used for Earth-to-Earth transport.

**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?****Peru**

[Original: Spanish]

Yes, there are different regulations in air law and space law for aerospace objects during flight.

**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?****Peru**

[Original: Spanish]

Aerospace objects travelling in airspace are regarded as aircraft subject to air law, unless their entry is merely transitory as part of the launch or landing phase.

**Slovakia**

[Original: English]

Slovakia believes that norms of national and international air law could be applicable up to a certain point, but the extent of such application has to be exactly determined.

**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?**

**Peru**

[Original: Spanish]

To date, no State has claimed jurisdiction in the numerous cases of a spacecraft from another State crossing its airspace as it descends to Earth.

**Slovakia**

[Original: English]

There are some precedents concerning the re-entry of space objects and also international customary law does exist; these precedents might be applicable also to aerospace 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?**

**Peru**

[Original: Spanish]

To date, no national or international legal norms have been formulated to regulate the legal aspects of the passage of a spacecraft descending from orbit or re-entering the Earth's atmosphere.

**Slovakia**

[Original: English]

Slovakia does not have any national legislation concerning the passage of space objects into the Earth's atmosphere. The provisions of space law are considered applicable (namely, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex) and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex)).

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

**Peru**

[Original: Spanish]

All aerospace objects are subject to the rules for registration, but only those capable of flying in airspace are subject to the registration rules for aircraft.

**Slovakia**

[Original: English]

Slovakia believes that the provisions of the Registration Convention are applicable to each object that is able to reach outer space.

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