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Committee on the Peaceful Uses of Outer Space

National legislation and practice relating to the definition and delimitation of outer space

Note by the Secretariat

Addendum

Contents

| | <i>Page</i> |
|---|-------------|
| II. Replies received from Member States | 2 |
| Australia | 2 |
| Belgium | 2 |
| Kazakhstan | 3 |
| Samoa | 3 |
| Turkey | 4 |



II. Replies received from Member States

Australia

[Original: English]
[24 December 2012]

The position of Australia has not changed since its last submission, on 31 January 2012, which has been reproduced in document A/AC.105/865/Add.11.

Belgium

[Original: French]
[25 September 2012]

The Belgian Government considers that it should announce a recent initiative by the Minister for Science Policy to amend some provisions of the Law of 17 September 2005 on the Activities of Launching, Flight Operation or Guidance of Space Objects.

However, Belgium wishes to emphasize that the initiative in question is currently at the stage of draft legislation, which must be submitted on second reading to the Council of Ministers and then to the Head of State for signature and presentation to Parliament. In theory, the amendment to the Law should be effective by the end of 2012. At this stage, any information transmitted should be understood to be subject to the formalities of assent that remain and, in particular, agreement by Parliament.

Recent plans for operational space activities in Belgium have shown that, although the space legislation of 2005 dealt appropriately and satisfactorily with the characteristics of the national space sector, it would be useful to be more specific on the scope of application of the law. This ought to be achieved by adapting the definitions given to certain keywords in the law.

Such adaptations became necessary with regard to two types of activity that might affect Belgium under the terms of the international treaties to which it is party. On the one hand, the operations of non-maneuvrable satellites, such as CubeSats, were not clearly covered by the law. Once these satellites were in place, and no human intervention was either required or possible to control their orbit, the concept of “activity” became questionable. It was therefore decided to specify that the operational activity justifying its being subject to Belgian law consisted in the act of putting a satellite into orbit. On the other hand, suborbital flights were considered by Belgium to be activities falling within the scope of the five United Nations treaties on outer space and it was therefore preferable to find a more precise definition of the term “space object” that was not tautological.

The bill amending the Law of 17 September 2005 referred to above thus amends the definition of the term “space object” as follows:

- “(a) Any object launched or intended for launching on an orbit around the Earth or to a destination beyond Earth orbit;
- (b) Any component part of a space object;

(c) Any device used to launch an object on an orbit as set out in subparagraph (a) above. Such a device shall also be considered a spacecraft even where it is operated experimentally for the purposes of its development or validation stage.”

The criterion whereby a space object has an orbit was included in order to bring it into line with the concept of a space object as defined by the law, in view of the obligation to register an object launched into outer space provided for in article II, paragraph 1, of the Convention on the Registration of Objects Launched into Outer Space, opened for signature on 14 January 1975.

Belgium thus confirms the “functional” approach of its definition of the scope of application of international treaties on outer space. It does not advocate any legal delimitation between airspace and outer space. The solution adopted to clarify the characteristics of the legal regime of outer space, as compared with other regimes, including that of air law, thus consists of explaining the concept of “space object”, while bearing in mind its actual or hypothetical destination.

Kazakhstan

[Original: Russian]
[14 January 2013]

The Republic of Kazakhstan’s national legislation contains a definition of outer space.

The country’s Outer Space Activities Act, adopted on 6 January 2012, provides that “outer space is defined as space extending beyond airspace at a height exceeding 100 kilometres above sea level” (art. 1, para. 6, of the Act).

In accordance with article 27, paragraph 5, of the Act, a space object belonging to a foreign natural or legal person may perform a safe flight through the airspace of Kazakhstan in the process of its launch into outer space or return to Earth on condition of prior agreement with the Ministry of Defence of Kazakhstan and the competent bodies dealing with natural and man-made emergencies and environmental protection.

Samoa

[Original: English]
[11 January 2013]

At present, the Independent State of Samoa has not adopted domestic legislation that defines and regulates the general use and/or extent of outer space and airspace.

The only legislation in which airspace is considered is with regard to the Civil Aviation Act 1998 and the Civil Aviation Rules and Regulations 2000. The Act deals with the licensing and registration of aircraft and the registration of such while operating within Samoa’s airspace. The Act is administered by the Civil Aviation Division of the Ministry of Works, Transport and Infrastructure. The Civil Aviation Division has responsibility for overseeing the safety of civil aviation activities and

ensuring that Samoa's obligations under its international civil aviation agreements are implemented in accordance with section 6 of the Act.

The Convention on International Civil Aviation of 1944 (the "Chicago Convention"), to which Samoa acceded in 1996, recognized the concept of state sovereignty over its airspace. Article 1 provides that every state has complete and exclusive sovereignty over the airspace above its territory. This is despite that fact that "airspace" is not specifically defined under the Act.

Clause 3 of the Civil Aviation Rules and Regulations 2000 adopts the Civil Aviation Rules of New Zealand. The relevant provisions under the Rules are part 71 (Designation and classification of airspace) and part 72 (Objects and activities affecting navigable airspace). Part 71 designates airspace as either controlled airspace or special-use airspace. Section 2 of the Civil Aviation Act 1998 defines "controlled airspace" as airspace of defined dimensions within which an air traffic control service is provided to controlled flights. Due to limited resources (in equipment and qualifications) to effectively manage and control the use of airspace above 24,500 feet, any aircraft operated above this prescribed limit will be managed and controlled by the air traffic services of New Zealand on behalf of the Civil Aviation Division of Samoa. This mutual understanding does not have an impact on Samoa's sovereignty over its airspace pursuant to the Convention.

Aside from the Convention, Samoa does not have any domestic legislation, policies or practices in place which directly or indirectly define the (de)limitation of outer space and airspace.

Turkey

[Original: English]
[28 December 2012]

Considering the current and foreseeable level of development of aviation and aerospace technologies, there is no available legislation and practice as to the definition and delimitation of outer space.
