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Committee on the Peaceful Uses of Outer Space

Questions on the definition and delimitation of outer space: replies from Member States

Note by the Secretariat

Addendum

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I. Introduction

1. At the forty-fifth session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, in 2006, the Working Group on Matters Relating to the Definition and Delimitation of Outer Space agreed to address to Member States the following questions:

(a) Does your Government consider it necessary to define outer space and/or to delimit airspace and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies? Please provide a justification for the answer; or

(b) Does your Government consider another approach to solving this issue? Please provide a justification for the answer (A/AC.105/871, annex II, para. 7 (f)).

2. At the forty-ninth session of the Subcommittee, in 2010, the Working Group agreed to address to the Governments of Member States the following additional question:

(c) Does your Government give consideration to the possibility of defining a lower limit of outer space and/or an upper limit of airspace, recognizing at the same time the possibility of enacting special international or national legislation relating to a mission carried out by an object in both airspace and outer space? (A/AC.105/942, annex II, para. 11 (c)).

3. At the fifty-first session, the Working Group again invited Member States to submit their replies to the above questions (A/AC.105/942, annex II, para. 11 (b) and (c)).

4. The present document contains replies to the above questions received by the Secretariat, as well as general replies to those questions.

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.105/889/Add.10.

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.

Bolivia (Plurinational State of)

[Original: Spanish]
[15 November 2012]

Question (a). Delimitation of airspace and outer space is of great importance to all countries, not only owing to the constant development and advances of technology in the field of both space and aviation, but also because it is relevant to the sovereignty of States.

Achieving a clear delimitation is extremely important, as the lack of a natural boundary between outer space and airspace makes it difficult for States to maintain control over their national rights and over airspace. If there is a lack of certainty regarding which area belongs to the sovereign jurisdiction of a particular State, this can cause problems in the medium term, with serious consequences as regards States' sovereignty over airspace.

The absence of a definition and delimitation of outer space in international space law may cause divergence in the positions of States on this matter, as each State may establish its own norms and definitions in its national legislation.

For the Plurinational State of Bolivia, the following factors are of particular importance:

- The Plurinational State of Bolivia is becoming a space-faring nation with the forthcoming launch of the Tupac Katari satellite
- The Plurinational State of Bolivia has its own air force and national air companies, which use aircraft with varying characteristics and functions
- Delimitation of airspace and outer space would make a useful contribution to Bolivian legislation on the use of national airspace.

For all these reasons, we consider that a definition of outer space and the delimitation of airspace and outer space are needed.

Question (b). At the moment we do not believe that it is necessary to consider any other approach to solving this issue.

Question (c). We consider that there should be special international legislation to regulate missions carried out by any object in both airspace and outer space.

It is also worth mentioning that, as the Plurinational State of Bolivia is only just becoming a space-faring nation, it does not yet have legislation relating to the peaceful exploration and use of outer space.

With regard to the invitation from the Office for Outer Space Affairs to inform it of space-related matters, it should be noted that our country has not carried out any research on space debris or on near-Earth objects and therefore has no information to send on these matters at present.

Finland

[Original: English]
[13 December 2012]

Question (a). No, no national issues on outer space. Issues relating to airspace are regulated by aviation law etc.

Question (b). See above, not applicable.

Question (c). No.

Jordan

[Original: English]
[14 December 2012]

Question (a). Yes, it is necessary to differentiate airspace and outer space for the purpose of simplifying their regulation.

Question (b). No.

Question (c). Yes, this action will be helpful for defining matters relating to space area.

Kazakhstan

[Original: Russian]
[14 January 2013]

Question (c). Kazakhstan believes that solving the problem of the definition and delimitation of airspace and outer space is important and relevant to all States, from the point of view of protecting States' economic interests and upholding their national security and also preventing inter-State discrimination as regards the uses of outer space.

The absence of a boundary between airspace and outer space makes it difficult for States to maintain control over their sovereign rights to national territory, including airspace. Finding a solution to the problem of delimitation will serve to strengthen the principle of the full and exclusive sovereignty of States over their airspace and also the principle of non-appropriation of outer space.

To that end, Kazakhstan believes that it is advisable to adopt a single solution to this problem and to set a lower limit for outer space through a multilateral international agreement within the framework of the United Nations.

Turkey

[Original: English]
[24 December 2012]

Question (a). Given the current level of space activities and technological development of Turkey, definition of outer space and delimitation of airspace are not deemed necessary at present.

Question (b). Currently, no alternative approaches are considered.

Question (c). The possibility of defining a lower limit of outer space and/or upper limit of airspace is not considered. However, it is considered that outer space should be explored freely by all States on equal terms.

III. General replies

Portugal

[Original: English]
[3 December 2012]

There is at present no formal, official position of the Portuguese government with respect to the definition and delimitation of outer space or of the status of the geostationary orbit.

However, the delegation of Portugal to the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space has had the opportunity to share with other delegations the recognition that the practical difficulty of defining geographical limits in such a physically intangible and imprecise environment as outer space does not recommend that rigid boundaries be established. Moreover, no practical difficulties have arisen until the present day that can justify the need for such delimitation.

We therefore favoured the initiative and the efforts undertaken, since 1994, by the Legal Subcommittee concerning the topic of aerospace objects by means of a questionnaire designed to collect information and advice from national delegations about the concept and a possible regime for such aerospace objects (see the compilation of replies received from Member States to the questionnaire on possible legal issues with regard to aerospace objects, as contained in document A/AC.105/635 and Add.1-11).

The delegation of Portugal to the Legal Subcommittee still believes that the elaboration of a set of principles or guidelines for the launching and operation of aerospace objects, one that is attentive to the differences in nature and implications of the operation of such objects if compared with space objects and that is ruled by space law, could respond better to the present requirements of clarity and legal security in this field.