Legal Subcommittee Working Group on National Space Legislation

UN/I.R. Iran Workshop on Space Law
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Background

2007: New agenda item "*General exchange of information on national legislation relevant to the peaceful exploration and use of outer space*" under a four-year work plan:

2008: Presentations by Member States or reports on their national legislation

2009: Establishment of a working group, and examination of responses received in order to develop an understanding of the manner in which Member States have regulated governmental and non-governmental space activities

2010: Working group continues to examine responses received and begins drafting its report, including conclusions

2011: Working group finalizes report to the Legal Subcommittee

Documentation

2008

- Replies by Czech Republic, Germany, Morocco, Nicaragua, Turkey, Ukraine (A/AC.105/912)
- Presentation by United States (A/AC.105/C.2/2008/CRP.9)
- Information by Brazil, Colombia, Germany, the Netherlands (CRP.14)

Report of the forty-seventh session of the Legal Subcommittee (A/AC.105/917)

2009

- Replies by China, Czech Republic, Germany, Mongolia, Republic of Korea, Turkey (A/AC.105/932)
- Information by Poland and Saudi Arabia (A/AC.105/C.2/2009/CRP.9); South Africa (CRP.13); Republic of Korea (CRP.14); Mexico (CRP.15); Japan (CRP.17); France (CRP.18)

Report of the forty-eighth session of the Legal Subcommittee (A/AC.105/935)

Previous documentation for consideration of the Working Group

- Note by the Secretariat from 2001 on authorization and supervision of non-governmental entities in outer space, A/AC.105/C.2/L.224 (review of legislation in Argentina, Australia, Japan, Russian Federation, South Africa, Sweden, Ukraine, United Kingdom, United States)

- Report of the Secretariat from 2002 on State practice in applying the concept of the "launching State", A/AC.105/768 (including launch systems and ventures, jurisdiction, safety, liability, indemnification procedures, registration of launches, practice of international organizations)

2008 Plenary Assessment

- Broad picture of how States regulate their national space activities provides valuable information for other States in their efforts to establish a domestic regulatory framework
- Exchange of information on national legislation allows to examine developments taking place at the national level and to identify common principles, norms and procedures
- Identification of issues dealt with in national regulatory frameworks
- Information about domestic regulations on space debris mitigation and the protection of the Earth environment
- Different legal systems represented by either unified acts or a combination of national legal instruments dealing with different aspects of space activities

2009 Working Group

Main questions:

1) **Why did your Government enact national space legislation?**

2) **If your Government has not yet enacted national space legislation, what are the reasons for the absence of such legislation?**

3) **What kind of activities are covered? (e.g. launching, operation of space objects, space research, application of space technology, remote sensing)**

4) **What are the "national-requirement"? (personal or territorial jurisdiction? i.e. activities carried out by natural or legal persons of the State's nationality, or in the territory of the State, or others)**

Main questions (cont'd):

5) What are the national authorities competent for registration, authorization, and supervision in Member States? (government, ministry, space agency, relationship between them)

6) What are the conditions to be fulfilled for registration and authorization? (e.g. safety of persons, property, public health, protection of environment, space debris mitigation, financial security, strategic and economic interest of the State, international obligations of the State)

7) Is there any regulations concerning liability? (transfer of liability, limitation of liability, recourse, insurance requirements)

8) How is compliance monitored? (supervision, control, sanctions)

A) Reasons for States to enact national space legislation

- Need to fulfil obligations under treaties to which a State has become a party
- Need to achieve consistency and predictability in the conduct of space activities under the jurisdiction of the State
- Need to provide a practical regulatory system for private sector involvement
- Need for improved national coordination
- Need for integration of a wider range of national activities

B) Scope of space activities targeted by national regulatory frameworks

Broad variety of activities, such as

- Launching of objects into outer space
- The operation of a launch or re-entry site
- The operation and guidance of space objects
- The design and manufacturing of spacecraft
- The application of space science and technology such as that used for Earth observation and telecommunication
- Exploration activities and research

C) Scope of national jurisdiction over space activities

- Most national regulatory regimes require authorization for space activities carried out from national territory
- Most regimes require authorization for certain launches outside the national territory in which nationals are involved (such as citizens and non-governmental entities established or incorporated under the laws of the State in question)
- In some cases a more complex jurisdictional system is applied in order to regulate private sector involvement, to balancing public and private interests

D) Competence of national authorities in the authorization, registration and supervision of space activities

- Different national authorities involved, ranging from space agencies and other similar authorities up to ministerial-level authorities
- In some cases, involvement of different governmental entities for different activities requiring a licence
- In some cases, separate procedures for the licensing of operators conducting space activities and for the authorization of specific projects and programmes
- Broad variety of means of registering space objects with a national registry, including through a governmental ministry or through a space agency or similar authority

E) Conditions to be fulfilled for registration and authorization

- Ensuring the safety of space activities, in particular laws governing the launch of objects into outer space
- Most launch-licensing regimes include measures to ensure that the launch does not create significant risk of personal injury, environmental damage or damage to property
- Conditions concerning safety and technological standards closely linked to States' concern about meeting space debris mitigation requirements
- Conditions related to the professional and financial qualifications of the applicant
- National security and foreign policy interests usually involved in authorization and licensing procedures

F) Regulations concerning liability

- Liability Convention contains a liability regime with no ceiling
- Several States have established ways of seeking recourse from operators
- National liability regime for space operations, in addition to general tort law or environmental liability
- Broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements

G) Compliance and monitoring

- Most States apply procedures for the supervision and monitoring of licensed space activities
- In situ inspections or a more general reporting requirement for the fulfilment of obligations under a licence
- Most national regulatory regimes operate with a set of administrative measures for minor violations, and sanctions regime, including penal sanctions in some cases for more serious offences

Considerations in 2010

- Pursue examination of the issues addressed in 2009

Special attention:

- Regulations by States of transfer of ownership of space objects
- Participation of private individuals in space flight
- Treatment in service-provider contracts of issues of liability and responsibility for collisions of satellites

Thank You