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Committee on the Peaceful Uses of Outer Space

Questions on suborbital flights for scientific missions and/or for human transportation

Note by the Secretariat

Addendum

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II. Replies received from Member States

Tunisia

[Original: French]

[16 January 2020]

Question (a). Is there a relationship between plans to establish a system of space traffic management and the definition and delimitation of outer space?

Yes, there is a link between plans to establish a system of space traffic management and the definition and delimitation of outer space in the sense that the latter should take into account continued technological advances in the area, in particular with regard to the equipment used for suborbital flights for scientific missions and/or for human transportation, because of the equipment used in such flights. Technological advances have enabled aircraft to fly at higher altitudes, thus implying an extension of the airspace over which States exercise sovereignty. At the same time, technological developments have enabled spacecraft to carry out orbital flights at lower altitudes. Furthermore, various organizations are planning suborbital operations that could have consequences for international civil aviation. This aspect should accordingly be taken into account in any plans to establish a system of space traffic management and shows that there is a relationship between such plans and the definition and delimitation of outer space.

Question (b). Is there a relationship between suborbital flights for scientific missions and/or for human transportation and the definition and delimitation of outer space?

The response to this question can be found in the response to the previous question concerning the establishment of a system of space traffic management, which can be achieved only through a well-defined legal framework. The relationship arises naturally from the obligation of Member States to ensure that their legislation reflects scientific progress. It is impossible to establish an area of applicable law, enforce laws, rules and regulations or effectively address possible legal issues, in particular, those related to suborbital flights, if outer space is not defined or delimited. Such definition and delimitation are themselves dependent on the definition of suborbital flights for scientific missions and/or for human transportation.

Question (c). Will the legal definition of suborbital flights for scientific missions and/or for human transportation be practically useful for States and other actors with regard to space activities?

Yes, the legal definition of suborbital flights for scientific missions and/or for human transportation will be of practical use to States and other actors, inasmuch as such a definition would enable better use of such flights and would contribute to the improved conduct of space activities by both public and private entities, in particular with regard to the apportionment of liability to pay compensation for damage caused by such flights, as well as with regard to investments following, inter alia, the rapid privatization of the space sector since the early 2000s.

Question (d). How could suborbital flights for scientific missions and/or for human transportation be defined?

Such a definition should take into account, inter alia, the issue of registration of objects launched into outer space and international liability for damage caused by space objects, including those used for suborbital flights for scientific missions and/or for human transportation.

Question (e). Which legislation applies or could be applied to suborbital flights for scientific missions and/or for human transportation?

The applicable legislation will depend on how outer space is delimited and flights are classified. As a result, that legislation could draw on both international law and domestic law.

Question (f). How will the legal definition of suborbital flights for scientific missions and/or for human transportation impact the progressive development of space law?

The impact of a legal definition of suborbital flights for scientific missions and/or for human transportation will be closely related to clarification of the status of the physical space in which those flights take place, in order to determine with certainty whether that space is subject to State sovereignty or whether it is part of freely accessible outer space. Furthermore, the legal definition of suborbital flights for scientific missions and/or for human transportation will have a direct impact on the definition and delimitation of outer space and consequently on the progressive development of space law more generally.

Question (g). Please propose other questions to be considered in the framework of the legal definition of suborbital flights for scientific missions and/or for human transportation.

At this stage, how could the various national legal regimes be harmonized so as to ensure regulatory certainty?
