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Committee on the Peaceful Uses of Outer Space

Definition and delimitation of outer space: views of States members and permanent observers of the Committee

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Replies received from States members of the Committee	2
Pakistan	2
Saudi Arabia	2
III. Replies received from permanent observers of the Committee on the Peaceful Uses of Outer Space	3
Secure World Foundation	3



II. Replies received from States members of the Committee

Pakistan

[Original: English]

[7 January 2019]

Space activities are not conducted exclusively in outer space. For space objects to reach and return from an orbit, national and, occasionally, foreign airspace has to be overflown, giving rise to sensitive legal and political considerations. Air law and space law have different approaches to State territorial sovereignty. In accordance with the Convention on International Civil Aviation of 1944, States hold absolute and exclusive jurisdiction over their respective airspace. On the other hand, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies of 1967 establishes that outer space cannot be subject to national appropriation of any kind.

Presently, Pakistan has neither specific cases of a practical nature relating to the definition and delimitation of outer space nor any strong proposal justifying the absence of such a definition and delimitation. However, Pakistan has already supported the proposal of the Working Group on the Definition and Delimitation of Outer Space of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space on establishing a multilateral agreement on the issue of the definition and delimitation of outer space.

As far as the existing satellite programme of Pakistan is concerned, the definition and delimitation of outer space is irrelevant. The orbits of all planned satellites of Pakistan are far above the ambiguous delimitation of outer space.

Saudi Arabia

[Original: Arabic]

[18 December 2018]

Saudi Arabia believes that outer space should be defined and delimited in a manner that takes account of both current and future astronautical and aeronautical activities, particularly as it is now 40 years since this subject was first discussed. The Kingdom welcomes talks to delimit the boundary between airspace and outer space, in keeping with technological advances and the associated increase in space activity and in the number of countries entering the field of space exploration.

Under international law, the Kingdom has full sovereignty over the airspace located above its national territory. Now is the time to delimit this boundary, as private companies will soon be conducting crewed, suborbital space flights that will traverse both airspace and outer space.

How can liability be determined if one of these space objects crashes or is involved in a collision in airspace that results in damage? Does the Liability Convention apply? Or the Warsaw Convention? How can we ensure the safety of aircraft and space objects traversing airspace, which, under the Chicago Convention on International Civil Aviation (1944), extends to an altitude of 19 km above sea level, bearing in mind that spacecraft and objects, including satellites, fly at even higher altitudes?

If space objects and the activities they carry out were defined and outer space were defined and delimited, we would be able to determine liability. It is recalled that a stationary orbit of 36,000 km above the Earth has been determined to lie in outer space and is subject to the treaties and principles on outer space.

It would be best if an international or national legal framework covering objects in airspace and outer space could be elaborated.

The Kingdom's view on the definition and delimitation of outer space is based on the following considerations. The Kármán line is located at an altitude of 100 km above sea level and is typically considered to be the boundary between the Earth's atmosphere and outer space. The Earth's atmosphere is divided into five layers, from the troposphere out to the exosphere. This is consistent with the position held by the World Meteorological Organization, which is that the thermosphere begins at an altitude of 80 km above the Earth's surface and serves as the theoretical boundary between aeronautical and astronautical flight. Australian space law holds that launching an object into space means launching it to an altitude of more than 100 km above sea level. In the view of the Russian Federation, it means launching an object to an altitude of between 100 km and 110 km above sea level. The United States of America, on the other hand, defines persons who have flown at an altitude of 80 km above sea level as astronauts.

In view of the foregoing, Saudi Arabia proposes that the boundary between airspace and outer space should be set at between 100 km and 120 km above sea level.

III. Replies received from permanent observers of the Committee on the Peaceful Uses of Outer Space

Secure World Foundation

[Original: English]
[18 December 2018]

While potential uncertainties in the application of overlapping special regimes of air law and space law have been discussed at the academic level for many years, in practice, no pressing, or even emerging, need to legally delimit or define outer space has been clearly demonstrated. More importantly, both the air law and space law regimes function successfully in this regard. Additionally, there remains a lack of political will to even begin discussions at the international level on a legal boundary or delimitation between airspace and outer space.
