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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 air space 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-sixth session of the Subcommittee, in 2007, the Working Group again invited Member States to submit their replies to the above questions (A/AC.105/891, annex II, para. 16 (f)).

3. The present document has been prepared by the Secretariat on the basis of replies received by 21 January 2008 from the following Member States: Belarus, Czech Republic, Denmark, Jordan, Nicaragua and Ukraine.

II. Replies received from Member States*

Belarus

[Original: Russian]

1. In the view of Belarus, with regard to question (a), such a definition and delimitation are essential in view not only of the current level of space and aviation activity, but also of the rapid pace of future technological development and the associated increase in the number of flights.

2. This approach is consistent with national law and the interests of Belarus. The legal delimitation of space should serve as the definition of the areas of State responsibility and the limits of the State's sovereignty over space. This should contribute to the development of air and aerospace transport and space flights, permit efficient control of flights in air space and outer space and monitoring of the environmental situation, ensure the safety of persons living in the territories concerned and reduce the risks encountered by participants in air and space travel.

3. Belarus does not consider another approach to solving the issue of defining outer space and/or delimiting air space and outer space.

* The replies are reproduced in the form in which they were received.

Czech Republic

[Original: English]

1. During earlier periods of the development of space activities, the former Czechoslovakia, and the Czech Republic as one of its successors, held the view that a definition of outer space and the delimitation of air space and outer space were desirable. This approach was substantiated particularly by the principles of the 1967 Outer Space Treaty, some of which are based on the differences in the regimes of air space and outer space. Those principles, especially those set out in articles II, III, IV and VI of the Treaty, require a definition of outer space for the purposes of ascertaining their sphere of validity. The other principles, which are based on a functional rather than a spatial approach, do not need such a definition and/or delimitation for their application. Some of the principles even relate to space activities from the moment of, or even before, the launching of space objects (e.g., article IX).
2. The current level of space and aviation activities does not seem to require the adoption of a treaty definition and/or delimitation of outer space, and for the present this issue could be left to the theory and practice of States. However, there remains a certain risk that by their national legislation, States might establish their own differing definitions of outer space and delimitations of air space by affirming the upper limits of their sovereignty. Moreover, technological developments in space and aviation may bring some important new aspects for the consideration of the issue. Some issues of this kind in other areas of international law, such as the law of the sea, remained unresolved for a long time until they became ripe for regulation, which was effected by the 1982 United Nations Convention on the Law of the Sea.
3. In the existing circumstances, the delegation of the Czech Republic intends to support the idea of keeping the issue under further consideration without insisting on its immediate resolution.

Denmark

[Original: English]

The Danish Government acknowledges the importance of the subject, but does not consider it necessary to define outer space and/or delimit air space and outer space at present. The subject will be kept under close review, as it is under discussion in national as well as in European contexts. A response will be given to the Secretary-General of the United Nations in due course.

Jordan

[Original: Arabic]

1. Jordan has a firm interest in the definition and delimitation of outer space. The non-definition of outer space will result in ambiguity in the relevant laws and conventions. Moreover, the delimitation of outer space will be useful for the concept of national sovereignty, placing States on an equal footing before international law.

2. Article 2 of Civil Aviation Act No. 41 of 2007 defines an aircraft as any machine whose continuous flight in aerospace is derived from air and other reactions above the surface of the Earth.

Nicaragua

[Original: Spanish]

Regarding the definition and delimitation of outer space and the character and utilization of the geostationary orbit, Nicaragua considers that equitable coordination should be undertaken by the International Telecommunication Union in accordance with the stipulations of its Radio Regulations.

Ukraine

[Original: Russian]

Ukraine believes that, given the current pace of development in space techniques and technologies, the absence of a definition or delimitation of outer space is causing legal uncertainty in international outer space and air space law. Ukraine shares the view that there is a need to distinguish between outer space and air space. To prevent disputes between States from arising, matters relating to State sovereignty and the line of demarcation between the two legal regimes must be resolved.
