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English only

**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Fifty-eighth session
Vienna, 1–12 April 2019

**Comments on the draft guidance document under
UNISPACE+50 thematic priority 2. “Legal regime of outer
space and global governance: current and future
perspectives” (A/AC.105/C.2/L.310) received during the
fifty-eighth session of the Legal Subcommittee from
delegations of States members of the Committee on the
Peaceful Uses of Outer Space**

The present document contains comments on the draft guidance document under UNISPACE+50 thematic priority 2. “Legal regime of outer space and global governance: current and future perspectives” (A/AC.105/C.2/L.310) received during the fifty-eighth session of the Legal Subcommittee from the delegation of the following State member of the Committee on the Peaceful Uses of Outer Space: Austria.

Austria

Para 3

Requested edit: At the end of line 5 add: “It also highlights benefits the outer space treaties provide for States that are not (yet) carrying out space activities.”

Comment: Otherwise, this paragraph seems to address only space faring States, but it would be useful to refer to the benefits also of other States in the accession to, or ratification of, these treaties.

Para 9:

Requested edit: Line 3, replace “international space law” by “international regime of outer space”.

Comment: The use of the expression “international space law” is not entirely correct here since General Assembly resolutions and other documents are referred to which are not legally binding. On the other hand, also customary international law is relevant for outer space activities. It would be more appropriate to use a more general term here, such as “the international regime of outer space”.



Para 15

Requested edit: Last line, replace “international space law instruments” by “the outer space treaties, GA resolutions and other instruments”.

Comment: The expression „international space law instruments“ is not entirely appropriate, if it also includes non-binding GA Resolutions. Perhaps it is necessary here to be more specific and refer to “the outer space treaties, GA resolutions and other instruments”.

Para 19

Requested edit: Add in the last line: “and irrespective of whether they are carrying out space activities or not.”

Comment: The document should also highlight the benefits for non-spacefaring States in the accession to, or ratification of, the space treaties.

Para 21 lit c

Requested edit: Add in the last line a new sentence: “This includes States that are not carrying out space activities and their nationals.”

Comment: The document should also highlight the benefits for non-spacefaring States in the accession to, or ratification of, the space treaties.

Para 37 lit d

Requested edit: Add in the second line “...., in order to restore the person, natural or juridical, State or international organization, to the condition, which would have existed if the damage had not occurred (art. XII);”

Comment: This is the wording of article XII LIAB, which is quite precise with respect to the valuation of compensation and should not be diluted.

Para 43

Requested edit: In the first line, replace “under international space law” by “the registration regime for outer space objects”.

Comment: The use of the expression “international space law” is not entirely correct here since also non-binding General Assembly resolutions are referred to. It would be more appropriate to use “the registration regime for outer space objects”.

Para 47 b

The right to participate in any review of the convention should also be highlighted with respect to the other treaties, such as the LIAB.

Para 48

This paragraph should be inserted before para. 45, as it describes more generally the registration regime and its advantages.

Para 50

Requested edit: In the first line the word “further” should be inserted before the word “consideration”.

Comment: The two issues mentioned are important, but not more important than the previous ones. They are “also” important. The word “further” would make this clear.

Para 52 d

Requested edit: In the third line, it should be added: "... and in General Assembly resolution 68/774 of 11 December 2013 entitled "Recommendations on national legislation relevant to the peaceful exploration and use of outer space".

Comment: As with the other Working Groups referred to above the resulting UN GA of 2013 should be mentioned.

Launching State

Comment: This title does not fit very well to the text below. We understand that the work of the LSC with respect to privatization and commercialization of space activities over the years should be reflected here, which started with the discussion of the "Launching State". However, the subsequent text does not reflect this well and rather deals with other issues.

Furthermore, some elements in this section seem to overlap with the section on "National space legislation". There is some repetition and overlap. As the "Guidance Document" should be a practicable and stringent document some streamlining is recommended.

Para 54

Comment: This paragraph is not very clear. A more general formulation would be preferable, which introduces the subject and does not only refer to national legislation and licensing, which is mentioned specifically further below.

Para 54 (after lit m)

Comment: "Registration" and the issues mentioned under this heading fit better to the section further below on "national legislation".

Para 54 (after lit p)

Comment: "Liability, insurance/financial responsibility requirements and indemnification" also fit better to the section further below on "national legislation".

Para 54 lit x:

Comment: What does "Intellectual property" mean? This needs further explanation.

Para 54 (after lit y)

Comment: "International aspects of national space legislation" also fit better to the section further below on national legislation.

Para. 59

Requested edit: Add in the first line, after "international agreements", "as well as international organizations".

Comment: It is important to highlight that international organizations are an important and effective forum for international space cooperation.

Para 61

Requested edit: Replace "non-legally binding space-related multilateral agreements" by "non-legally binding instruments".

Comment: It is better to avoid the expression "non-legally binding "agreements" throughout this document since the normal use of the term "agreement" refers to

a legally binding instrument. We propose the term used in para 83 “non-legally binding instruments”.

Para 65 ff

Under the paragraphs starting with para. 65 under the heading “Specific considerations in implementing and applying the legal regime on outer space” we see quite some overlapping and repetition. We suggest streamlining and shortening, or even deleting this part (with the exception of the section on “space debris mitigation”, which needs to be highlighted and therefore deserves a special section with a dedicated heading.)

Para 79

Requested edit: In the third line, the term “asset of agreements” should be replaced by “a set of instruments”. In the last line, “non-legally binding agreements” should be replaced by “non-legally binding instruments”.

Comment: It is better to avoid the expression “non-legally binding ... agreements” throughout the document since the normal use of the term “agreement” refers to a legally binding instrument (see also 61, 81). We propose here to use “a set of instruments” and “non-legally binding instruments” here.
