The Legal Framework of Activities in Outer Space – New Challenges in Times of Privatization and Commercialization

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Part I: The Current Framework

I) Background

II) Space Law Treaties

III) UN General Assembly Resolutions on Principles in the Exploration and Use of Outer Space

IV) Recent UN General Assembly Resolutions Responding to Privatization and Commercialization

V) New Developments
**Sputnik 1**
The First Artificial Satellite

- Launch on 10/4/1957 by the USSR
- “Sputnik shock”
- 58 cm, 83.6 kg
- In 96 minutes around the Earth
- Thermometer, radio transmitter
- 21 days sending signals
- Burnt up 92 days after launch
- Intercontinental rocket R-7
UN General Assembly

- Resolution 1348(XIII) of 13 December 1958
- Recognizes that outer space should be used for peaceful purposes only
- Outer space should be explored and exploited to the fullest extent for the benefit of mankind
- Establishes a Committee on the Peaceful Uses of Outer Space (UNCOPUOS) as an appropriate body for international cooperation
- Requests the UN Secretary General to render appropriate assistance
- UN General Assembly Resolution 1472 (XIV) of 12 December 1959
- Permanent Committee on the Peaceful Uses of Outer Space (UNCOPUOS) established to
  - Review international co-operation
  - Study practical and feasible means for space-related activities that could be undertaken under United Nations auspices
  - Organize exchange of information
  - Encourage and assist national space research programmes
  - **Study legal problems** which may arise from the exploration of outer space
UN Committee on the Peaceful Uses of Outer Space (UNCOPUOS)

1961: Establishment of two Subcommittees
- Scientific and Technical Subcommittee (STSC)
- Legal Subcommittee (LSC)

UNCOPUOS meetings are serviced by UNOOSA
Originated as a small expert unit in the UN Secretariat
Became a unit within the Department of Political and Security Council Affairs in 1962
Transformed into the Office for Outer Space Affairs (UNOOSA) of the Department for Political Affairs in 1992
Relocated from New York to the UN Office at Vienna in 1993
25 staff members plus seconded staff
Offices in Bonn and Beijing
I) Space Law Treaties

Five UN Space Treaties

- **Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies** 1967 (103/25) – “Outer Space Treaty”

- **Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space** 1968 (94/24) – “Rescue Agreement”

- **Convention on International Liability for Damage Caused by Space Objects** 1972 (91/22) – “Liability Convention”

- **Convention on Registration of Objects Launched into Outer Space** 1975 (60/4) – “Registration Convention”

- **Agreement Governing the Activities of States on the Moon and Other Celestial Bodies** 1979 (15/4) – “Moon Agreement”

(Ratifications and signatures as of 1 January 2014)
Outer Space Treaty: The main legal principles

Article I: Exploration and use of outer space for the benefit and in the interest of all mankind, “province of all mankind”

Article II: Principle of non-appropriation by States

Article III: Use in accordance with international law, including the UN Charter

Article IV: No placement of weapons of mass destruction in orbit or on celestial bodies

Article V: Astronauts are considered as “envoys of mankind” and shall be assisted and protected
The Outer Space Treaty (cont‘d)

Article VI: **International responsibility** for activities in outer space by governmental and **non-governmental (!)** entities

Article VII: International **liability** for damage

Article VIII: **Jurisdiction** over space objects by State of registry

Article IX: “**Due regard**” to corresponding interests of all other parties; **protection of the environment** of the Earth and outer space

Article XI: Information to Secretary General of activities

Article XII: Stations, installations etc. on the celestial bodies open to State parties representatives on basis of reciprocity
Rescue Agreement

Article 1: **Notification** about accidents involving *personnel of a spacecraft* to launching authority and UN Secretary General

Articles 2,3: Obligation to take all possible steps to **rescue** and render **assistance**

Article 4: Obligation to **return**

Article 5 (1): **Notification** about accident involving a **space object** to launching authority and SG

Article 5(2,3): Obligation to recover and to return

Article 5 (5): **Expenses for recovery of space objects borne** by launching authority
Liability Convention

Article I c: Definition of “launching state”
Article I d: Definition of “space object”
Article II: Absolute liability
Article III: Fault liability
Article IX-XIII: Compensation claims
XIV-XX: Procedure at the Claims Commission
Registration Convention

Article II: **National registration** required

Article III: **International registration** required (UN)

Article IV: **Information to be submitted:**

- name of launching state or states
- appropriate designator of the space object or its registration number
- date and territory of location or launch
- basic orbital parameters, including nodal period, inclination, apogee and perigee
- general function of the space object
Moon Agreement

Article 11: Common Heritage of Mankind

1. The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement, in particular in paragraph 5 of this article.

5. States Parties to this Agreement hereby undertake to establish an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible. This provision shall be implemented in accordance with article 18 [regarding a review conference after 5/10 years] of this Agreement.
II) Space Law Treaties (cont’d)

Other Treaties

– Constitution and Convention of the International Telecommunication Union as amended by the 2010 Plenipotentiary Conference (193 State parties, more than 700 private sector members)
  “ITU Constitution and Convention”

  “Cape Town Convention”

– Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets 2012 (not yet in force, 4 signatories)
  “Space Assets Protocol 2012”
III) UN GA Resolutions on Principles

– Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, Res 1962(XVIII) of 13 December 1963


– Principles Relevant to the Use of Nuclear Power Sources in Outer Space, Res 47/68 of 14 December 1992

– Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries, Res 51/122 of 13 December 1996
IV) Recent UN GA Res Responding to Privatization and Commercialization

- Application of the concept of the "launching State", Res 59/115 of 10 December 2004

- Recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects, Res 62/101 of 17 December 2007

- Recommendations on national legislation relevant to the peaceful exploration and use of outer space, Res 68/74 of 11 December 2013
Addressing Space Debris, Safety and Long-term Sustainability:


- **Long-term Sustainability of Outer Space Activities (LTSSA)**, agenda item of STSC of UNCOPUOS since 2009, envisaged guidelines elaborated by Working Group, within four Experts Group, to be submitted to UN General Assembly in 2016
V) New Developments

Addressing Safety and Security, Transparency and Confidence-building Measures and Long-term Sustainability

– Group of Governmental Experts (GGE) Report on Transparency and Confidence-building Measures (TCBMs) in Outer Space Activities, UN Doc. A/64/189 of 29 July 2013

– International Code of Conduct for Space Activities, initiated by EU, currently under consideration
Outer Space Activities and Law

Then

Now
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<td>Only US and SU</td>
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<td>Only States active in space</td>
<td>States and private actors active in space</td>
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<td>Strict distinction between “peaceful” and “military uses”</td>
<td>“Dual use” of most space objects</td>
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<td>Uses for military purposes, science and research, public services</td>
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The World’s Space Agencies

Thank you for your attention!

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