

**HOW CAN EXISTING
INTERNATIONAL LEGAL REGIMES BE
ADAPTED TO REGULATE
(AERO)SPACEPORTS**

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OUTLINE

- ▣ Overview of the Existing International Legal Regimes:
 - Safety Regulation, Responsibility and Liability in relation to Space Transportation
 - Safety Regulation, Responsibility and Liability in relation to International Civil Aviation
- ▣ Analysis and Assessment of Existing International Legal Regimes
- ▣ Proposals for extending the scope of existing International Regimes to address emerging modes of aerospace transportation

Overview of Existing International Legal Regimes

- ▣ **Space Transportation – Safety Regulation:**
 - The Outer Space Treaty – Art. VIII
 - The 1992 NPS Principles
 - The 2007 Space Debris Mitigation Guidelines
- ▣ **Space Transportation - Responsibility & Liability**
 - The 1972 Liability Convention
- ▣ **International Civil Aviation – Safety Regulation**
 - Chicago Convention and its Annexes, ICAO
- ▣ **International Civil Aviation – Responsibility and Liability**
 - Warsaw System; Montreal Convention of 1999

Analysis of Existing International Legal Regimes - Space

- ▣ Existing space treaties generally oblige States to create *national* space safety standards and to establish *national* mechanisms for their implementation
 - There are no *international* standards and *international* implementing mechanisms in the treaties, except NPS Principles and Debris Mitigation Guidelines, which, in any event, are non-binding
 - The obligation to adopt national space safety standards does not facilitate uniformity
- ▣ COPUOS as a lawmaking institution has been stagnant lately, due to “consensus rule”
- ▣ Current treaties are thus insufficient and the COPUOS machinery is not suitable for developing new regimes

Analysis of Existing International Legal Regimes – Civil Aviation

- ▣ By and large, the Chicago Convention, its Annexes and ICAO have been a very effective safety regulation model in international civil aviation:
 - International SARPs – National implementation – Audit programs (USOAP & USAP), etc
- ▣ Liability regimes have also enhanced the development of the global air transport industry by limiting carrier liability and improving insurability of the risks inherent in air transport
- ▣ Concept of responsibility rarely used in civil aviation

Proposal for Extending the Scope of Existing International Legal Regimes

- ▣ Scope of application of Chicago Convention could be extended through the Annexes to govern Aerospace Vehicles and (Aero)spaceports
 - Art. 37 of the Chicago Convention enables ICAO to adopt international SARPs on specific issues such as Characteristics of Airports and Landing Areas; and generally on *such other matters concerned with the safety, regularity and efficiency of air navigation as may from time to time appear appropriate*
 - Art. 44 of the Chicago Convention – objectives of ICAO

Proposal for Extending the Scope of Existing International Legal Regimes

- ▣ A new or an additional set of SARPs could be developed under and by virtue of Art. 37 of the Chicago Convention to address several aspects of emerging modes of space transportation and to bring same under the auspices of ICAO
 - ▣ Annex 14 – Aerodromes could be expanded with the addition of a new Volume III to specifically address (Aero)spaceports;
 - ▣ Annex 16 – Environmental Protection could be updated and customized to new environmental threats;
 - ▣ All safety and security related Annexes may be adapted to (aero)spaceports and aerospace vehicles

Proposal for Extending the Scope of Existing International Legal Regimes

- ▣ Existing responsibility and liability regimes could be retained until such time that there is a proliferation of space transportation.
- ▣ As with air transport, there may be the need to elaborate upon a specific liability regime consistent with the needs of the industry. The resulting regime, however, must be a flexible and dynamic one as the needs of the sector are likely to change in the future.

**THANK YOU FOR YOUR
ATTENTION**

**QUESTIONS AND
COMMENTS ARE WELCOME**