

RESOLUTION 05/2024

SPACE LAW COMMITTEE

The 81st Conference of the International Law Association held in Athens, Greece, 25 - 28 June, 2024:

HAVING CONSIDERED the Report on Non-orbital Spaceflight Activities prepared by the Space Law Committee;

RECOGNISING that significant progress has been made in recent years in the technological development of non-orbital flights, including crewed flights, and other high altitude flights, whose performance raises important legal questions, inter alia, about the applicable regime of international law, its relationship with applicable regimes of national law and the identification of the authorizing, liable and registering authorities;

BELIEVING that the adoption of model rules on non-orbital spaceflight activities, which may guide the interpretation and reform of national legislation as well as regional and international instruments, can contribute to the building of a more reliable and predictable legal framework;

TAKING INTO ACCOUNT the relevant international regulatory frameworks on space activities and civil aviation activities, as well as recent developments at national and international level in the regulation of non-orbital spaceflight and other high-altitude activities, including the adoption of various national legislations and the formulation of a proposal on the concept of ‘sub-orbital flights’ by the International Civil Aviation Organization;

ADOPTS these Rules on Non-orbital Spaceflight Activities;

REQUESTS the Secretary-General of the International Law Association to forward a copy of this Resolution and its annex to appropriate international organizations, in particular the United Nations Committee on the Peaceful Uses of Outer Space, the International Civil Aviation Organization and the International Telecommunications Union;

DRAWING ATTENTION to the Commentary to these Rules in the Report of the Space Law Committee;

Requests the Executive Council of the International Law Association to extend the work of the Space Law Committee under a new subject matter at its Meeting in November 2024.

RULES ON NON-ORBITAL SPACEFLIGHT ACTIVITIES

Article 1

Definitions

- a) A non-orbital spaceflight activity is any activity at least partly in outer space that does not reach orbital velocity and is not intended to complete an orbit around the Earth.
- b) A non-orbital spaceflight vehicle is any object performing a non-orbital spaceflight activity.
- c) A non-orbital spaceflight operator is the entity, governmental or non-governmental, carrying out a non-orbital spaceflight activity.

Article 2

Authorizing State

Every non-governmental non-orbital spaceflight activity must be authorized by an appropriate State, being, in the following order of priority,

- (i) the State on whose territory or from whose facility the activity, or part(s) of it, is carried out; or
- (ii) absent a territorial link, the State from whose vessel or aircraft (registered in the State's national registry) the activity, or part(s) of it, is carried out; or
- (iii) absent the previous two, the State whose nationals, including natural and legal persons, carry out the activity, or part(s) of it.

Article 3

Common Elements of Authorization

- (1) The information required for deciding on the authorization of non-orbital spaceflight activities shall cover the activity, the vehicle, and the operator.
- (2) The activity-related information shall include:
 - (a) Main purpose of the activity;
 - (b) Route description: altitude/trajectory/time of non-orbital spaceflight and landing location;
 - (c) Coordination with air traffic control;
 - (d) Type of cargo/number of crew members and spaceflight participants;
 - (e) Qualification of commanders, crew members and spaceflight participants;
 - (f) Compliance with Annex 6 and 16 of the Chicago Convention on Operation of Aircraft, as far as applicable;
 - (g) Compliance with rules of the International Telecommunications Union.

(3) Information with regard to the non-orbital spaceflight vehicle shall include:

- (a) Initial air/space worthiness in compliance with Annex 8 of the Chicago Convention on Airworthiness of Aircraft, as far as applicable,
- (b) Main design features;
- (c) Safety features;
- (d) Continuing air/space worthiness, including maintenance organization and maintenance personnel, in accordance with Annex 8 on Airworthiness of Aircraft, as far as applicable.

(4) Information relating to the operator shall include:

- (a) Operator name and trading name;
- (b) Operator's principal place of business address;
- (c) Names and contact details of operational management;
- (d) Documentation on technical expertise, including certificates as applicable;
- (e) Proof of financial viability;
- (f) Proof of third-party liability insurance.

(5) States may impose conditions relating to public interests, public safety, public health, environmental protection, national foreign policy or security interests, or any other matter deemed relevant by them at their own discretion and with respect for their international obligations.

Article 4

Registration of Vehicles Involved in a Non-Orbital Spaceflight Activity

(1) A national register must be established by the authorizing State containing at least the following details relating to non-orbital spaceflight vehicles:

- (a) Name and business name;
- (b) Manufacturer;
- (c) Type and registration number;
- (d) Name and address of owner;
- (e) Name and address of operator;
- (f) General function of the non-orbital spaceflight vehicle;
- (g) Technical information on type of power, maximum velocity and altitude;
- (h) Location and date of first launch/take-off.

(2) Certificates of Registration and Deregistration in accordance with Annex 7 of the Chicago Convention on Aircraft Nationality and Registration Marks need to be obtained, if applicable.

Article 5

Liability

(1) Without prejudice to any liability arising under other obligations of international or national law as concerns, inter alia, operator and carrier liability, the authorizing State is liable for any damage caused by the non-orbital spaceflight vehicle to persons or property not directly participating in the non-orbital spaceflight activity.

(2) The term “damage” means loss of life, personal injury or the impairment of health, or loss of or damage to property of States or of persons, natural or juridical, or damage to property of international intergovernmental organizations.

(3) The authorizing State can have recourse against the non-orbital spaceflight operator under the conditions and within the limits specified by applicable national legislation. The liability of the operator for any personal injury or death of the crew or participants in the non-orbital spaceflight activity is regulated with reference to Articles 17 and 20 of the 1999 Montreal Convention on International Civil Aviation and can thus be capped. For any sum above this cap, the authorizing State will be liable.

Article 6

Crew of Non-orbital Spaceflight Vehicles and Participants in Non-orbital Spaceflight

The rights and responsibilities of persons directly participating in a non-orbital spaceflight activity shall be differentiated based on the following roles:

- (a) Commander: the person directing the non-orbital spaceflight activity on board the non-orbital spaceflight vehicle;
- (b) Crew members: persons essential to the operation of the non-orbital spaceflight vehicle or responsible for the safety on board under the command of the Commander;
- (c) Spaceflight participants: persons participating in a non-orbital spaceflight activity with the consent of the operator, who are not members of the crew.

Article 7

Non-orbital Spaceflight Launch Facilities

Details concerning ground facilities used for the launch of non-orbital spaceflight activities (e.g. airports and spaceports) shall be regulated in specific laws and regulations to ensure safety of operations and minimize the risk of accidents considering the standards and recommended practices contained in the respective Annexes of the Chicago Convention.