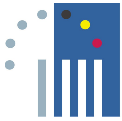

BELGIAN SCIENCE POLICY

KATHOLIEKE UNIVERSITEIT
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Towards a legal framework for space activities and applications:
Belgian, comparative and European perspectives

The Belgian Law on the activities of launching, operating and monitoring of space objects

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Introduction

This paper gives an overview of the presentation made on April 26, 2006 on the Belgian space law in the Colloquium co-organized by the Senate of Belgium, the Belgian Federal Office for Science Policy and the Catholic University of Leuven. It is completed by the hand out of the said presentation.

The *Law of September 17, 2005 on the activities of launching, operating and monitoring of space objects* has entered into force on January 1, 2006. This law put Belgium at the forefront of the new lawmaking effort initiated by several countries, including European ones (France, Italy, Netherlands, Germany, Austria). Other European States already have such legislations (United Kingdom, Sweden, Norway) and those existing legal instruments are definitely relevant in the drafting and the implementation of new national space legislations.
The Belgian space law fits Belgium's features as far as its involvement in space activities and their international legal framework is concerned. It may serve as a model to some extent but it must be kept in mind that national space legislations are subject to multiple elements which make them closely linked to the political, legal and technical frameworks in which national space activities are performed. They are also deeply connected with each State's position with regard to international law instruments, in particular the UN space treaties. Their provisions allow a large range of interpretations and it is foreseeable that working out existing or future incompatibilities will eventually fill up the gaps between each country's own understanding of the space law principles.

History and Context of the Belgian Space Law

1999. The UNISPACE III World Conference opens a new era in the international space cooperation. Space activities and applications are re-oriented towards the citizens and their needs. The constantly increasing involvement of the private sector in services provision constituted the main source of progress, but also concerns, during the almost two decades that separated UNISPACE II and UNISPACE III. And it is still the case nowadays. But the privatization and commercialization of outer space didn't reduce public and governmental intervention in space activities. Institutional customers are still the space markets best supporters and the States' role in mitigating the risks characterizing space technologies and systems is still a key element for a sustainable space business. Moreover, the growth and the development of commercial space services and products and, more generally, of private space activities require an appropriate regulation from governments. The widest possible application of the international treaties as well as their implementation at national level becomes are becoming a more and more concrete need.

The relevance of the principles of the UN space treaties is not questionable. Those rules adopted in the 60's and the 70's appears remarkably appropriate for current space activities and even for future ones. Nonetheless, it is true that some modalities of implementation need further clarification or

development. This can be done without jeopardizing the existing treaties or re-opening them: the necessity of agreements between States parties to those treaties has been enlightened at several occasions, notably in the UNGA Resolution 59/115 on the concept of Launching State. This approach is clearly taken over by the Belgian space law. The basic assumption of Belgium's legislation is that, in the absence of any multilateral consensus on the exact scope of the space treaties' provisions, such as the international responsibility or liability, States should adopt a pragmatic position with regard to those rules. While securing the general principles of space law, which constitute remarkable achievements of international law, they have to ensure preservation of multiple stakeholders' interests, including themselves.

The drafting of the Belgian space law started in 2000 on the basis of such assumption and considering the main features of Belgium's involvement in space activities and international cooperation in that area. By investing some 160 M€ per year in space R&D, the Belgian State occupies a medium position in the European space landscape. Its diversified industry allows Belgium to participate in all fields of space research and applications: launchers, Earth observation, telecommunications, space exploration, sciences, generic technology, etc.

Another main characteristic of Belgium is definitely its large amount of international organizations, NGO's and multinational companies represented or established on its territory. By hosting headquarters of institutions such as the European Union or NATO, Belgium appears as the *place to be* for institutional markets stakeholders. The example of the Galileo Joint Undertaking has shown how far the spin off process could lead: the establishment in Belgium of a *sui generis* entity in charge of the development and the in-orbit validation of a satellites system has inevitably raised questions with regard to international and national laws, including space law principles.

From a legal point of view, the necessity of a Belgian space legislation was quite obvious, despite the long time between the ratification by Belgium of the space treaties and their implementation in domestic law. As State party to the 1967 Outer Space Treaty, Belgium must set up a mechanism to authorize *national space activities* and ensure their continuous supervision. Such an obligation is stipulated by Article VI of the Outer Space Treaty. It also appeared necessary to involve the private operator in the international liability regime provided by Article VII of the same treaty. Finally, Belgium had to open a national register for space objects allowing the extension of the Belgian jurisdiction on and onboard space objects of which Belgium is (one of) the launching States.

Apart from the Belgian space law, the so called "Belgian *corpus iuris spatialis*" is constituted by several international agreements:

- the five UN space treaties (Belgium having acceded the 1979 Moon Agreement in July 2004);
- the conventions of several international organizations active in the space domain: ESA, EU, EUMETSAT, ECMWF, ESO, EUTELSAT,…);
- the 1998 International Space Station Intergovernmental Agreement and the Ariane Production Declaration;
- several bilateral cooperation agreements (with France, Argentina, Russia).

The Rational of the Belgian Space Law

Considering all the previous political and legal elements and the context as described here above, the choice was made to limit the national legislation to the operations of space objects, excluding thereby activities of exploitation of payloads, collect of data, regulation of products or services markets, etc.

Moreover, the intention was, from the very beginning, to integrate the legislation in the general Belgian *corpus iuris*, using existing procedures of administrative law, of civil liability law, etc. This should allow a better comprehension of the legislation with regard to the Belgian legal framework, including European Community's law and should serve the purpose of harmonization with other national legislations.

However, it is true that some adaptations of existing national legislations might be required in the future considering the specificity of space activities, such as Earth observation, and the implementation of space law principles (in-orbit jurisdiction on space objects, etc.).

The fact remains that the Belgian space law was built on three pillars :

- an authorization and supervision regime;
- a national register for space objects;
- a claim for compensation against the operator.

Those three elements correspond respectively to Articles VI, VII and VIII of the 1967 Outer Space Treaty. Those three provisions have been subject to many interpretations since their adoption. From 2000 on, Belgium prepared the ground for its national space legislation by staking its claim and making clear its position within the UN Committee on peaceful uses of outer space (UNCOPUOS).

Article VI OST

This provision imposes to the States parties the international responsibility for their national space activities, be they performed by governmental bodies or by non governmental entities.
A major part of the space law academic community considered at that time that Articles VI and VII of the 1967 Outer Space Treaty must be interpreted in a wide meaning, by saying that, contrary to the general theory of international responsibility, States parties to the Treaty are directly responsible for the acts of their nationals.

Some also argue that Articles VI and VII set up an unique liability regime encompassing the obligations of reparation under international responsibility for space activities and liability for damage caused by the space objects. This interpretation was objected by Belgium. While recognizing that reparation could be claimed as much according to Article VI as according to Article VII, but on a different kind of responsibility and following different procedures, Belgium refused to see in Article VI anything else than a specific application of the international responsibility's general principle. The whole provision must be read as providing for an international obligation (the setting up of an authorization and supervision mechanism) and to implement it in order to ensure compliance of national space activities, either by the Government or by private entities, with the provisions of the 1967 Outer Space Treaty. Contrary to the wide interpretation of Article VI, the Belgian position allowed States having taken all necessary measures to prevent unlawful national activities to happen, not to be held internationally responsible for such activities (this might be the case with activities of nationals performed from abroad).

But the extent and the nature of the States' international responsibility is not the only matter for discussion as far as Article VI is concerned. The famous notions of "*national space activities*" and "*appropriate State*" are also key elements of Belgium's position. Starting from the assumption that the ultimate purpose of Article VI was to prevent damages or hazards caused by national activities in space and, therefore, looking for the best way to ensure a coherent and efficient system of control and

supervision of those activities, it seemed clear that those notions needed to be interpreted in a teleological manner. Contrary to Article VII, Article VI doesn't allow the possibility of several States' responsible for the same activity. Therefore, the responsibility, and thus the sovereignty, must rest with the State which is the most able to ensure actual control and supervision on the activities. Taking into account the nature of space activities, it appeared more appropriate to allocate the responsibility to the State which exercises the *ratione loci* jurisdiction on the activities. The criterion of the operator's nationality would only allow an effective control and supervision in the hypothesis an agreement exists between the State of the nationality of the operator and the State of the location of the activity. Furthermore, designating two or more responsible States would impose heavy administrative burden to the operator.

In the case of activities outside of any national jurisdiction, the applicable international regime will provide the necessary elements to determine the State having jurisdiction on the activities.

Belgium opted for an effective interpretation of Article VI but considered at the same time the need to avoid gaps between the States' competences and to foster agreements in order to cover multinational activities. That is the reason why the Belgian space law provides that its application may be extended according to an international agreement providing so. Belgium may extend its jurisdiction and its international responsibility according to Article VI if such an agreement provides the necessary guarantees that an effective control and supervision will be possible and will provide for the sharing of the obligations related to the activities (responsibility, liability, registration, etc.). This reference to international agreement is also used in the regime applicable to the transfer of activities under the Belgian space law.

Article VII OST

Considering the exorbitant obligation to pay compensation of the damage under the absolute and unlimited liability of Article VII of the 1967 Outer Space Treaty, Belgium's position aimed at securing the benefit and the effectiveness of that audacious provision. This implied a clarification of the four criteria defining the notion of *Launching State*. Unfortunately, no consensus emerged within UNCOPUOS on that issue. The UNGA Resolution 59/115 on the concept of Launching State didn't bring any relevant element, although it recommended the conclusion of *ad hoc* agreements between States in order to solve the issue on a case by case basis.

The evolution of space activities made it urgent to clearly state the meaning of each of the criteria used by Article VII and by the 1972 Liability Convention. The notion of "*State*" was actually at stake: although the use of the word "*territory*" for the third criterion clearly indicates that Article VII refers to the definition of "State" as subject of international law, the view that those criteria must apply to private or non governmental entities emerged as self-evident. According to this view, a private company procuring the launch of a space object must be considered as the State of its nationality. Nevertheless, such reading of Article VII, which would have quite substantial consequences on the economy of space activities, has never been demonstrated with regard to the general rules of interpretation as provided in the 1969 Vienna Convention on the law of treaties.

The use of the four criteria allows in every case the identification of at least one launching State. Although this might not yet satisfy the defenders of the victim-oriented trend, there is no reason why Article VII should be interpreted in a manner that doesn't seem to fit the international lawmakers' intention in 1972. At that time, the existence of private space activities was already a well known fact, as shown by Article VI. But Article VII was drafted and adopted without any reference to private or non governmental entities. The third (*territory*) and fourth (*facilities*) criteria can be explained by the need to elect subsidiary links with a State's jurisdiction in case no State could be identified on the basis of the first (*launching*) or second (*procuring the launch*) criterion.

In any case, such obligation as the liability of Article VII must be interpreted in a restrictive manner. However, this should not prejudice its effectiveness. Therefore, Belgium proposed once again to adopt a pragmatic approach and to consider that a State launches or procures the launch as soon as it is involved in the development or in the manufacture of the space object. Such an involvement requires a *governmental decision* to take part in the corresponding project or program. This interpretation can be illustrated by the participation of the Belgian Government in the development of the French SPOT system: that decision induced the launch procurement which makes Belgium one of the launching States of the SPOT satellites. The fact that the launch contract with the operator is concluded by a private or non governmental entity is not relevant as long as the involvement of the government for a *particular launch / space object* can be demonstrated.

On the other hand, the participation in a launcher development program doesn't allow to link the participating State(s) to a particular launch. The same applies for launchers production phase. Article

VII's liability is always related to a particular launch / space object for which launching States must be identified taking into account the application *in concreto* of the four criteria.

Curiously enough, when it comes to the "*facilities*" criterion, the Belgian interpretation appeared somehow broader than what was commonly understood. The distinction has to be made between "*movable*" and "*unmovable*" (fixed to the ground) facilities.

As far as "unmovable" facilities are concerned, they are located, most of the time, on an identifiable territory or in an area subject to national or international jurisdiction. In some cases, the jurisdiction applying on the facility is not the one of the State of the territory they are located on (see the cases of the Russian launching facilities in Kazakhstan and of the ESA facilities in Kourou, French Guyana).

"Movable" facilities are subject to registration. In the case of ships, marine platforms or aircrafts, their registration makes them subject to a national jurisdiction, according to the "*flag regime*". The ownership of the facility is therefore of no relevance. Facilities may be considered as an extension of the State's territory[1].

Article VIII OST

The State of registry keeps jurisdiction and control on the space object. As it has been often pointed out, "*control*" in Article VIII doesn't refer to the operational control on the space object but rather to the exercise by the State of its jurisdiction on and onboard the space object. The notion of "*jurisdiction and control*" must then be taken as a whole.

According to the 1975 Registration Convention, the State of registry must imperatively be (one of) the launching State(s) of the space object. A "transfer" of registration (from one national registry to another national registry) is conceivable between launching States of the same object but not between a launching State and a third party State. Contrary to the 1972 Liability Convention which allows agreements not only between launching States[2] but also with third party State[3], the 1975 Registration Convention doesn't allow a non launching State to register the space object.

[1] It must be noted that States do not *own* their territory. As an international law notion, the *territory* is the object of the State's *sovereignty* and not subject to ownership. The registration of facilities by the State creates a similar linked based on *sovereignty* and not on *ownership*…

[2] Article V.2 of the 1972 Liability Convention

[3] Article XXIII of the 1972 Liability Convention

Article VIII of the 1967 Outer Space Treaty does not go that far: it considers registration of space objects under another purpose: the extension of the State's jurisdiction and control thereon. By putting Article VIII and the 1975 Registration Convention together, it becomes clear that the registration of space objects pursues several finalities, the main ones being: firstly, to link the space object in orbit to a specific national jurisdiction, secondly, to allow identification of the space objects for the purpose of implementing the 1972 Liability Convention and thirdly, to allow the most accurate possible inventory of space objects orbiting the Earth by specifying their position, their function, their lifetime and other useful information thereabout.

In a quite recent statement at the 45th session of the UNCOPUOS Legal Sub-Committee under the agenda item dedicated to States' practices with regard to the registration of space objects, Belgium has reaffirmed the need to fully comply with the principles of the UN space treaties. That being said, it is true that current practices do not always allow to reach the aims of those provisions: transfer of activities, launching of "foreign" space objects, absence of national register, military classified satellites, etc. The causes of non registration are multiple.

One may regret that the 1975 Registration Convention didn't allow a space object to be registered by another State than its launching State(s). Actually, Article VIII of the 1967 Outer Space Treaty doesn't feature such restriction. The will of the 1967 lawmaker was to remain flexible with regard to the allocation of such task. That flexibility, however, didn't meet lawyers' expectations and appeared as a legal blur that required precision. Such precision was brought by the 1975 Registration Convention.

The distinction between the Stare having jurisdiction on the ***activities*** (according to Article VI) and the State having jurisdiction on the ***space object*** (according to Article VIII) raises several questions. If it is clear that it is the capacity of *Launching State* that is the source of the international liability, and not the capacity of *State of Registry*, the fact cannot be contested that exercising its jurisdiction on the space object generates an international responsibility according to the general theory of international law. The State of registry may therefore be held internationally responsible for the use of the space object in the case this use would not comply with international law principles, including the UN space treaties' provisions. This raises an issue when the State of registry is not the State designated as responsible for the activities according to Article VI. Such situation may occur whenever the operator is established or has moved in another country than the launching State. It is obvious that international agreements might help in such case. But, contrary to the liability compensation, it is not possible for

the State of registry to neutralize the effects of its responsibility and to abandon jurisdiction on the space object.

Another issue concerning Article VIII is the practice currently adopted by several States providing launching services not to register the payload whenever that payload is procured or is to be operated by another State or one of its national companies. This practice has been officially declared by the United States and might be followed by several countries having launching capacities.

This “practice” – should we say “policy” – can be understood to the extent that it fosters correspondence between the State of the activities (Article VI OST) and the State of registry (Article VIII OST). However, such “practice” might end up in a non registration situation affecting everybody. The question of “*which State is the most suitable State of registry ?*” must be completed by another question: “*which State should be responsible at the end of the day to ensure the effective registration of the space object ?*”. As responsible for licensing the launch, the *State of the launche*r holds all the necessary means to conclude appropriate international agreements with the *State of the activities* responsible for the operation and the exploitation of the payload. It is of prime importance that the State of the launcher ensure that all objects launched in outer space using its national capacities are registered according to the UN space treaties.

As far as Belgium is concerned, the limitation of he 1975 Registration Convention with regard to the definition of “*State of registry*” is particularly perceptible: in the case of a Belgian private company procuring the launch to be operated by a foreign company, there is no legal possibility for Belgium, even through bilateral agreement, to register the space object: Belgium is not a launching State according to Article VII of the 1967 Outer Space Treaty or to the 1972 Liability Convention. A solution could be to request the Belgian Government to make a declaration according which the Belgian State would be associated to the launch of the space object and could then be seen as *procuring the launch*. As a launching State, Belgium would then be allowed to register the space object.

Finally, Belgium particularly focuses on the issue of space objects launched in the frame of international (intergovernmental) organizations. A **first aspect** of that issue concerns international organizations having made a declaration of acceptance of the 1975 Registration Convention. Such organizations must hold their own register and may communicate information to the UN Secretary General according to Article IV of that Convention. However, that registration serves the purposes of

the Convention but it is not clear if it results in extending the organization's jurisdiction on and onboard the space object according to Article VIII of the 1967 Outer Space Treaty.

First, it must be recalled that, contrary to States, international organizations are endowed with a limited jurisdiction, restricted to the purposes of their enabling act by the *principle of speciality* governing international organizations as subjects of international law[4]. This restricted competence that international organizations are invested with doesn't cover all activities which to the space object may be subject. This has been illustrated by the issue of the registration by the European Space Agency of elements of the International Space Station. Such registration would not cover personal or criminal jurisdiction onboard that element. No solution was found since the European Partner's States decided to solve potential issues on a case by case basis. Considering the nature of activities involving space objects, it seems appropriate that a full jurisdiction applies on and onboard the space object. This might be the case for some international or supranational organizations which exercise a quite large range of competences able to cover all kinds of activities and to bear corresponding responsibilities, but not for specialized organizations dedicated to space R&D or applications.

That being said, the question remains whether an international organization may extend its jurisdiction on the space object it registers. Once again, an interpretation of the provisions of the 1967 Outer Space Treaty is necessary. Contrary to the other UN space treaties, the 1967 Outer Space Treaty doesn't provide for the possibility of an acceptance by international organizations of its relevant provisions. This doesn't mean that international organization may not refer to those provisions or that they don't have to comply with them, but it prevents the organizations to be assimilated to parties to the extent of their acceptance. Therefore, Article VIII of the 1967 Outer Space Treaty could be considered as addressing only *States*. However, there is no doubt that such an interpretation would not take into account the possibility granted by Article VII.1 of the 1975 Registration Convention. It would also ignore the possibility for States, under international law, to entrust an international organization with some of their sovereign capacities.

A **second aspect** of the problematic concerns organizations not having made any declaration of acceptance of the 1975 Registration Convention's provisions. A good example is the European Community which is intended to become a major actor in European space activities. The European

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[4] See ICJ Advisory Opinion, July 8, 1996 – General List nr 93: "*The Court need hardly point out that international organizations are subjects of international law which do not, unlike States, possess a general competence. International organizations are governed by the "principle of speciality", that is to say, they are invested by the States which create them with powers, the limits of which are a function of the common interests whose promotion those States entrust to them*".

Community will soon procure the launches of several satellites for the purposes of various activities: Galileo, Earth observation and surveillance or telecom. No doubt it would be appropriate for the European Community to declare acceptance of the UN space treaties. But as long as it is not the case, the question of the registration of space objects launched in the frame of EU programs remains. So far, the involvement and the cooperation of ESA has provided a possible solution to allow registration "on behalf" of all member States, but the possibility of launches procured by the European Community alone does exist (i.e. the next generation of Galileo satellites). Appropriate criteria should be identified to vest one State with the responsibility of ensuring the registration of the space object.

The Content of the Belgian Space law

The activities concerned

The Law on activities relating to the launching, flight operations and guidance of space objects is intended to regulate the navigation of space objects carried out from a place or installations placed under the jurisdiction or control of the Belgian State, that is to say:

- installations, bases, stations, control centres located in Belgian territory, including the territorial seas, except for any part of the Belgian territory placed under the jurisdiction or control of another State or an international organisation;

- vessels, aircraft, spacecrafts, offshore platforms or any other mobile installations registered by Belgium and to which such registration Belgian jurisdiction extends;

- installations, bases, stations, control centres located outside Belgian territory which are placed under its jurisdiction pursuant to agreements or rules of international law or which are placed under its control pursuant to specific arrangements, lease agreements, loan agreements or rights of use. The control of such places or installations by the Belgian State means necessarily that the Belgian State, acting through its government and official representatives, is solely authorised to take the relevant decisions to carry out or authorise the activities concerned.

The activities concerned must be authorized by the Minister.

<u>The ministerial authorization</u>

Who must apply for it?

The application must be submitted by the operator. The authorization is granted on strictly personal basis and may not be transferred.

The operator is the natural or legal person that carries out or plans to carry out the activities, ensuring alone or jointly the *effective control* of the space object.

The effective control of the space object consists in *controlling* the means of control or remote control and related means of supervision, necessary for carrying out the activities.

To whom must the application be submitted?

The application for authorization must be submitted by registered letter to the Minister designated by the Law (in principle, the Minister with responsibility for Federal Science Policy).

What information and documents need to be submitted with the application?

The law specifies the information and documents to be enclosed with the application (see article 7, §§2, 3 and 4; article 8). They are divided into three categories:

1) information and data relating to the space object and the activities carried out by the operator;

   <u>attention</u>**:** Other than the information specified by the Law, the operator must communicate any information *of which it is aware and may be relevant with regard to the Minister's decision whether or not to grant the authorization*.

In the event of a failure to communicate such information, the authorization may be withdrawn by the Minister. In addition, the operator shall lose the benefit of the limitation on its liability in the event of damage caused by the space object.

2) the study of the impact on the environment containing the elements specified by the King;
3) information relating to the possible use of a nuclear source of energy.

Information falling within the scope of the 1st and 3rd categories is provided on a form established by the King. That form may be downloaded from the Internet.

How long does it take for the authorization to be granted/refused?

In principle, the Minister's decision is notified within 90 days after the application has been submitted. If additional information is requested by the Minister, that period is increased to 120 days.

If no decision is notified by the Minister before the above deadline(s), the application is deemed to have been rejected and the authorization refused. The applicant then has the right to appeal against the Minister's decision under common administrative law (Council of State).

Except when stipulated otherwise in the Law, all decisions of the Minister in implementation of the law are subject to the rights of recourse and rules and procedures provided for under administrative law (publication of administrative documents, justification for administrative decisions, administrative disputes, etc.).

The Minister may designate experts in order to examine an application before taking a decision; the appointment of an expert shall not modify the prescribed time for a decision to be taken.

Under what conditions can the authorization be suspended or withdrawn?

The Minister may decide to suspend or withdraw the authorization in 3 cases:

- either in the case of non compliance with a condition attached to the authorization;
- or in the case of a violation of the provisions of the Law;

- or for imperative reasons of public order, the security of persons or properties.

In the first two cases, except in an emergency duly justified, the Minister offers the operator the opportunity, prior to the suspension or withdrawal of the authorization, to explain the reasons for any such non compliance or violation and, if applicable, to regularise the situation by a date to be specified.
In the third case (imperative reasons), the Minister may grant the operator a hearing, provided that such a hearing does not undermine the effectiveness of the suspension or withdrawal of the authorization.

In the event that the authorization is suspended or withdrawn, provisional management measures, in particular with regard to outstanding contracts binding the operator, may be adopted at the latter's request.

When a space object is in flight at the time the authorization is suspended or withdrawn, the Minister takes all necessary measures to ensure the security of the operations. In this regard he may in particular entrust the management of the activities to a third party or transfer them to a new operator.

The transfer of activities

May the operator transfer its activities and under what conditions?

The operator may transfer the activities covered by the authorisation to another operator provided that such a transfer is authorized by the Minister.

The transfer referred to by the Law concerns the *effective control* of the space object (see above), irrespective of the legal nature of the rights transferred. That means that the sale of the satellite or it being pledged as collateral to a third party does not in itself constitute a transfer within the meaning of the law and does not require any authorization by the Minister. On the other hand, if the operator maintains the ownership of the space object, but subcontracts its *effective control* to a third party, that constitutes a transfer which must be authorized.

The transfer authorization application must be submitted by the transferee operator. The same procedure and arrangements as those applying to the original application for authorization apply.

The Minister may attach conditions to the transfer; those conditions may be binding on both the transferee operator and the transferor operator.

When the transferee operator is not established in Belgium, the Minister may make the transfer authorization conditional on the prior conclusion of a specific agreement with the State of the party in question. That agreement must in particular specify the arrangements with regard to the supervision of activities, any sharing of liability, exchanges of information, etc.

The National Register of space objects

What is the National Register of Space Objects?

The National Register of Space Objects enables Belgium to register all space objects for which it is, alone or jointly with other States, the *Launching State* within the meaning of Article VII of the 1967 Outer Space Treaty, Article I of the 1972 Liability Convention and Article I of the 1975 Registration Convention.

Such registration has two main purposes:

- it is intended to enable the space object, its component parts or debris to be identified;
- it places the space object under the jurisdiction and control of the Belgian State.

In addition, registration enables the space object to be entered in the Register kept by the Secretary General of the United Nations.

The registration must be effective when the space object is launched.

Entries in the National Register are made by the Minister who ensures that the conditions of registration by Belgium have been duly satisfied.

The registration entry includes a series of data relating to the space object and which are set out in the Law.

Updates to the data entered in the National Register must be communicated to the Minister by the operator at the latter's expense.

In addition to the National Register, the Minister keeps a *register of authorizations issued* listing the terms and conditions attached to each authorization, as well as the name of the Launching State and the State of Registry for each space object.
The National Register of Space Objects and the Register of authorizations are accessible to everyone and are published on the Internet.

Liability for damage caused by space objects

What happens in the case of damage caused by a space object for which Belgium is the launching State?

When the Belgian State is liable for reparation in respect of damage pursuant to Article VII of the Outer Space Treaty of 1967 or the provisions of the 1972 Liability Convention, the Law provides for a right of recourse against the operator.

The amount of the compensation under such an action is determined in accordance with the procedure established by the Law.

The Law extends the benefit of the international liability of the Belgian State for damage caused by a space object for which it is the launching State to *victims who are Belgian nationals*. As regards the latter, the procedure set out in the 1972 Liability Convention for the evaluation of the damage does not apply. The Law therefore provides for an *ad hoc* procedure.

The amount of the compensation determined in accordance with the applicable procedures may be limited by the King. That limitation may be based, for example, on a percentage of the operator's average revenue. The aim of that limitation is:

- to avoid the operator having an unlimited liability, objective in certain cases, which is first of all the responsibility of the Belgian State;
- to enable the operator to insure the risk under reasonable conditions.

However, the ceiling on the operator's liability established by the King shall not apply:

a. when the operator does not comply with the conditions to which it is subject;
b. when the operator fails to inform the crisis centre designated by the King of any anomaly, malfunctioning or any danger arising during its activities;
c. when the operator carries out the activities without authorization or with an authorization obtained on the basis of incorrect or inaccurate information.

The Belgian State's action against the operator is in no way linked to the actions that it might institute against third parties or other launching States. That action is completely independent and is based solely on the creation of a debt for liability on the basis of Article VII of the Outer Space Treaty of 1967 and/or the provisions of the Convention on International Space Liability of 1972 or the provisions of the Law extending the liability of the Belgian State to its nationals. Nor does the action instituted by the Belgian State exempt the operator from other liability actions against it. However, it goes without saying that such actions must take account of any compensation which may have already been paid by the operator and the Belgian State pursuant to their respective liabilities.

Miscellaneous questions

What happens when a space object falls on Belgian territory?

That object or the debris must be handed immediately to the competent authorities so that it may inform the Minister who shall take the necessary measures to identify the space object or debris and return such to the State of registry.

If, during its fall, the object or debris in question has caused or might have caused damage to persons, property or the environment, the Minister takes the necessary measures to safeguard the object(s) found in order to protect the rights and interests of identified or potential victims.

What sanctions can be imposed under the Law?

Other than the withdrawal or suspension of the authorization and the loss of the benefit of the limited liability in the event of damage, the Law stipulates that any person carrying out without authorization the activities covered by the Law or with an authorization obtained on the basis of false information communicated, is liable to a period of imprisonment ranging from eight days to one year and a fine of between 25 and 25,000 euros, or only one of those sanctions.

What must the operator pay under the Law?

No rights are payable under the Law. The operator must however bear the following costs:

a. the costs in connection with the impact studies,
b. the costs of technical experts designated by the Minister in the framework of the Law,
c. the costs related to updating data entered in the National Register of Space Objects,
d. The duties fixed by the King covering the administrative costs to be paid when the application for authorisation is submitted.

When will the Law enter into force

The Law enters into force on the first day of the second month following its publication in the Belgian Official Journal. However, prior to its application, the Law must be completed by an implementing Royal Decree which is currently in preparation.

The Law stipulates that with effect from the date of its entry into force, operators active in Belgium have:

- 6 months to notify the Minister of the activities that they carry out and which may fall within the scope of the Law;
- 12 months to obtain an authorization from the Minister for the activities for which such authorization is required.

During that 12 month period, no activities covered by the Law may be transferred.

For any further information:

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