

SPACE LAW AND POLICY  
WITH SIMULATED NEGOTIATIONS  
[5]

THE LIABILITY CONVENTION OF 1972 [2]

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YURI TAKAYA (PH.D)  
LECTURER, KOBE UNIVERSITY

SPACE NEWS:

BBC News:

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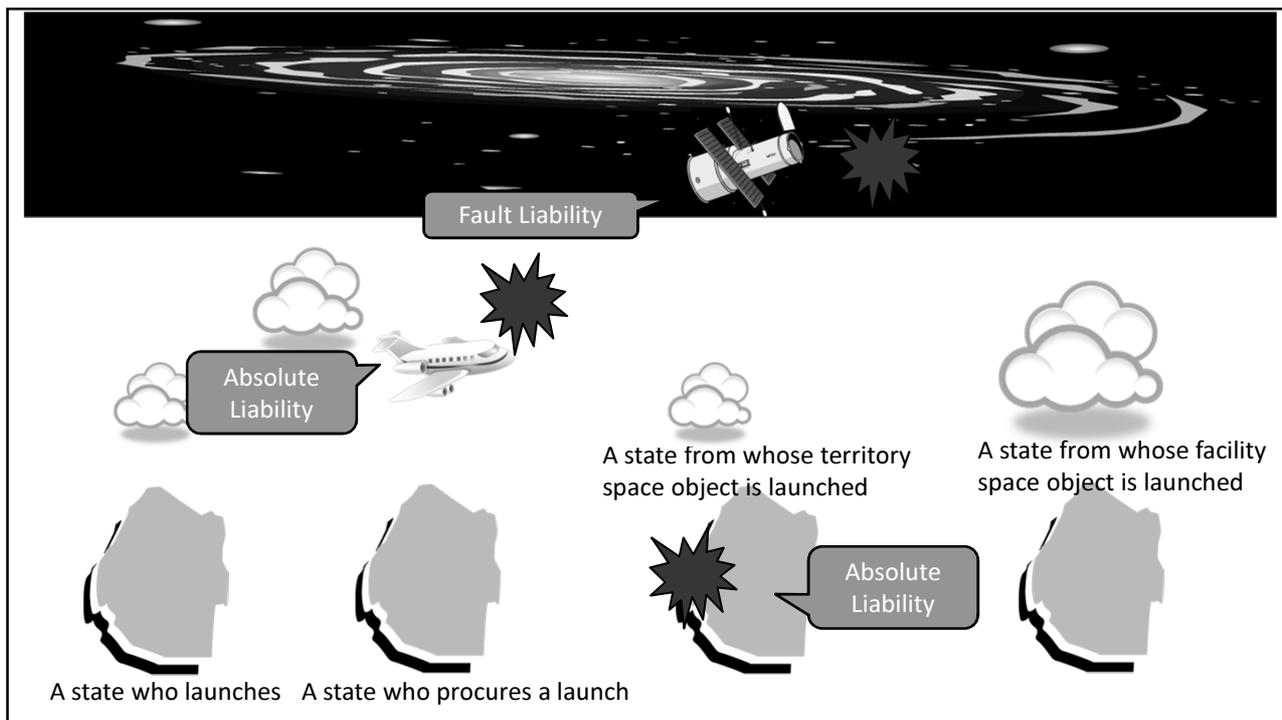
**Space X rocket successfully launches Japanese satellite and then lands at sea**

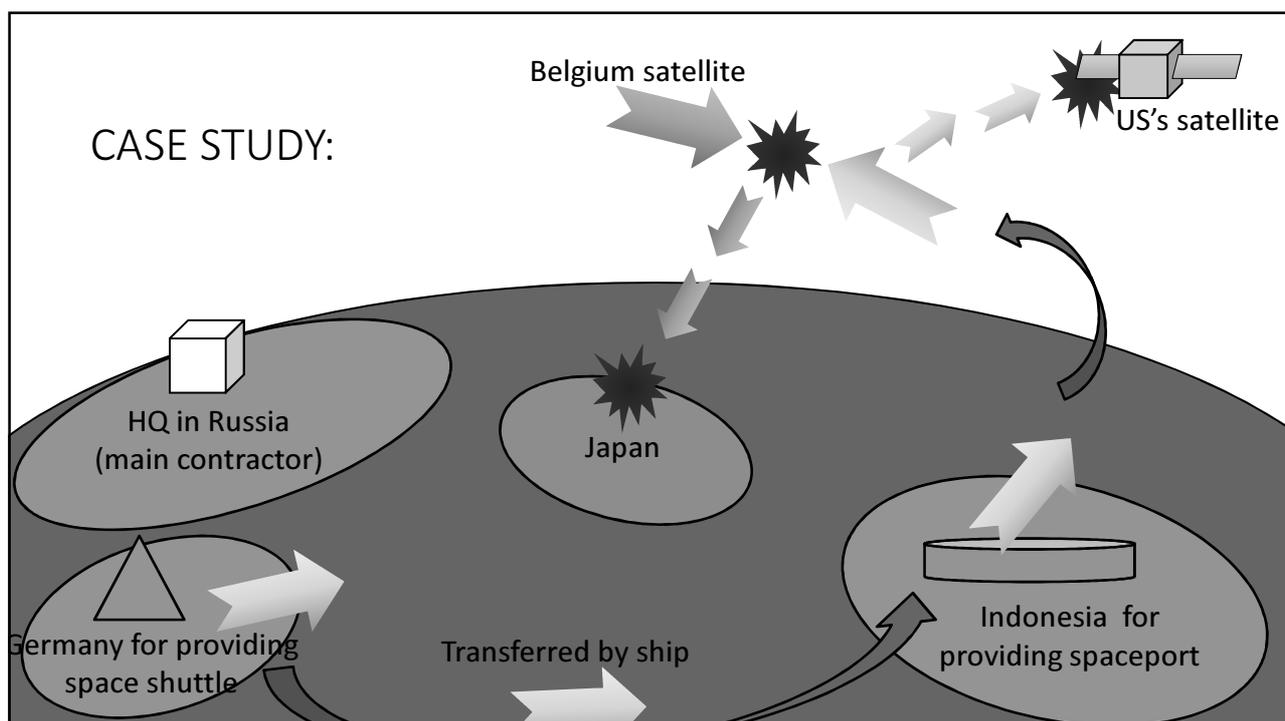
<https://www.youtube.com/watch?v=-5uUv3EymGo>

# LIABILITY CONVENTION OF 1972 [ARTICLE IV-XIII]

CONVENTION ON INTERNATIONAL LIABILITY FOR DAMAGE CAUSED BY SPACE OBJECTS

3





## 1. THIRD PARTY LIABILITY (ART. IV)

- ◆ Who is the third party?
- ◆ Damage to the third party on the Earth  
Absolute liability
- ◆ Damage to the third party in outer space  
to the degree of faults of launching states  
no clarification on the degree → divide the compensation in even

## 2. JOINT LIABILITY (ART. V, VI)

### ◆Joint Liability applies to...

whenever two or more states involved in launching a space object in a joint effort

→they will be jointly and severally liable for any damage caused

→the launching states from whose territory or facility a space object launched are also jointly liable (Article V (3)).

If a damage is caused to the third state, states who launched jointly are jointly liable

(the same pattern as the Rome Convention of 1952 on damage caused to third persons on the surface by aircraft.) 7

## 3. EXONERATION FROM ABSOLUTE LIABILITY (ART. VI)

### ◆Condition:

Exoneration from absolute liability shall be granted to the extent that:

- 1) a launching State establishes that the damage has resulted either wholly or partially from gross negligence; or
- 2) from an act or omission done with intent to cause damage on the part of a claimant State or of natural or juridical persons it represents.

### ◆Exception:

In the case when outer space activities are not in conformity with international law in particular: 1) the Charter of the United Nations; and 2) the Outer Space Treaty of 1967. 8

#### 4. COMPENSATION FOR DAMAGE (ART. XII) - 1

◆ Compensation for damage shall be determined

in accordance with international law and the principles of justice and equity.  
in order to provide such reparation [...] restore the person, natural or juridical,  
State or international organization on whose behalf the claim is presented  
to the condition which would have existed if the damage had not occurred.

→The definition of “damage” is the same as Article I

○ Direct damage    ▲ Indirect

→the principles of justice and equity    “too general, very vague”

(left the possibility of applying national law to arbitration?)

→No clarification in the Convention regarding the “duration” of damage<sup>9</sup>

#### 5. EXCEPTION TO THE PRINCIPLE OF TOTAL COMPENSATION (ART. VII) - 1

◆ The following states/nationals are not entitled to bring a case of their damage:

(a) Nationals of that launching State;

(b) Foreign nationals during such time as

they are participating in the operation of that space object

The provisions of this Convention shall not apply to damage caused by a  
space object of a launching State to:

from the time of its launching or at any stage thereafter until its descent, or  
during such time as they are in the immediate vicinity of a planned launching or  
recovery area as the result of an invitation by that launching State.<sup>10</sup>

## NATIONAL SPACE LAW AND POLICY OF RUSSIA

### 1. TREATIES RUSSIA RATIFIES

◆ Space Treaties	The Outer Space Treaty of 1967	○
	The Rescue Agreement of 1968	○
	The Liability Convention of 1972	○
	The Registration Convention of 1975	○
	The Moon Agreement of 1979	×
◆ Delimitation of Outer Space:	Need to Delimitate nor Define by height	
◆ Application of Space Law:	Spatialist	

## 2. HISTORY AND GENERAL OVERVIEW

### ◆ History

The first state that launched a satellite "Sputnik-1" on October 4<sup>th</sup>, 1957.

The first state that launched a manned spacecraft on April 12, 1961.

### ◆ National Legislation

1992 President adopted No. 185 on

"Space Activities Administration Structure in the Russian Federation"

→ The Russian Space Agency / Roscosmos) was formed

(→ reformed in 2015 as state company)

1993 Supreme Council passed the "Law on Space Activities"

Others: The Civil Code, the Air Code, the Land Code of the Russian Federation)

### ◆ Hierarchy of Norms Governing Space Activities

Constitution of the Russian Federation

General principles and norms of international law concerning outer space activities

## 3. LIABILITY

### ◆ The same wordings as Article II and III of the Liability Convention of 1972.

(textbook p. 328)

"Compensation for personal or material damage caused by Russian space objects shall be paid by the organizations or citizens who have insured their liability according to the law of the Russian Federation."

→ There are several states that oblige private entities

to get insurance concerning their launch activities.

#### 4. INTERNATIONAL COOPERATION

◆ Legal status of foreign organizations and citizens who conducts space activities under the jurisdiction of the Russian Federation

“They are subject to the legal regime of space activities applicable to Russian organizations and citizens to the extent that the domestic regime of the relevant foreign state is applied to nationals of the Russian Federation.”

The Russian Federation ensures that it will guarantee legal protection of the technology and trade secrets of foreign nationals engaged in space activities under its jurisdiction.

#### 5. REGISTRATION

◆ Russia has no space objects registration procedure.

The Draft Registry Order might serves the purpose of the Registration Convention of 1975.

1 month before the actual launch, Roscosmos must be provided with information from a Russian organization exploiting a space objects or procuring its launch.

Information of a launched object must be communicated to Roscosmos within a week about:

- 1) name of the space object;
- 2) time and date of the launch;
- 3) territory or place of the launch;
- 4) name of the launcher;
- 5) main parameters of the orbit;
- 6) general purpose of the space object
- 7) position in the geostationary orbit if appropriate

It is a Roscosmos that needs to furnish the information to the Ministry of Foreign Affairs  
for subsequent communication to the UN Secretary-General.

(✕As Roscosmos became a state company, this procedure should be researched.)

## SIMULATED NEGOTIATION

### Time Table:

16:00 ~ 16:15 Group Discussion

16:15 ~ 16:35 Presentation

### THEME

"WHAT ARE REQUIREMENTS FOR INTERNATIONAL SPACE COOPERATION?"

You are starting an international space program for launching activities.  
Please make a list of requirements in selecting your partner univ./company/state,  
taking technology transfer and liability issues into consideration.

TEAM A: Universities

1. Technology transfer

2. Liability Issues

TEAM B: Private Entities

1. Technology transfer

2. Liability Issues

TEAM C: States

1. Technology transfer

2. Liability Issues

END