

SMPAG AD-HOC LEGAL WORKING GROUP

MOVING FORWARD PART III

17th MEETING OF THE SPACE MISSION PLANNING
ADVISORY GROUP (SMPAG)

October 13th, 2021

Alissa J. Haddaji, Harvard University

SMPAG Ad-Hoc LWG Coordinator / COSPAR Representative to SMPAG

10 TEAM MEMBERS (2021-)

- Nicholas Fernandes (Government Legal Department, UK)
 - Alissa J. Haddaji (Harvard University)
 - Dave Koplow (Georgetown University/Personal Capacity)
 - Martin Reynders / Felix Lerner (DLR)
 - Irmgard Marboe (University of Vienna)
 - Sergio Marchisio (Sapienza University of Rome)
 - Jean-François Mayence (Legal unit of Belgian Federal Office for Science Policy)
 - Cordula Panosch (University of Vienna)
 - Rosa Ma. Ramírez de Arellano (Mexican Space Agency)
 - Alexander Soucek (ESA)
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CONCLUSIONS FROM MARCH 2021

- I. SMPAG supports the continuation of the Ad-Hoc Legal Working Group.
- II. The SMPAG Ad-Hoc LWG was put on **hiatus / stand by** for the Spring and Summer 2021. New tasks / ways forward are to be discussed during SMPAG's 17th meeting.
- III. SMPAG members were invited to send feedback on the topics that should be explored by the LWG team in their 2nd report and to submit names of possible new team members. (none were received)
- IV. Depending on the scale of the research required (needing international consultation or not), funding will need to be secured to assure the coordination of the LWG.

AD-HOC LWG REPORT PUBLICATIONS

- Presented at COSPAR Cyber Edition 2021 (A. Haddaji)
- 3 presentations at the Planetary Defense Conference 2021 (PDC) in a Special Legal Session (Day 2 – April 27th):
 - A) Report's Executive Summary (A. Haddaji)
 - B) In-Depth Presentation of Key Report Topics (Liability, Decision to Inform and to Act, etc.) (I. Marboe)
 - C) Legal aspects of the use of NEDs in Space (D. Koplów)
- 1 presentation at the 2021 UNCOPUOS Legal Sub-Committee (A.Haddaji, I. Marboe)
- Publication as a UN Conference Room Paper (R. Kofler)

New book on the “Legal Aspects of Planetary Defence”,
Edited by I. Marboe – published in September 2021



Part 1: “Planetary Defence and International Cooperative Efforts”

Explain the background, motivation, and activities carried out by space agencies and other institutions, nationally and internationally, in the context of planetary defence

Part 2: “Legal Analysis of Different Aspects of Planetary Defence”.

Authors are experts who have been working together in SMPAG and its Ad hoc Working Group on Legal Issues, as well as other authors who have accepted the invitation to contribute and enlarge the geographical scope, including Australia, Brazil, and Japan.

AD-HOC LEGAL WG TEAM SUGGESTED TOPICS (1/2)

The investigation of the legal instruments and/or mechanisms (at the international and possibly national levels) to serve the implementation of the report's recommendations and to foster better coordination among states

- **Decision to Act:** templates of the legal necessary steps in Planetary Defense mission design to ensure conformity with international law depending on the method and technology used (*i. Elements of a mandate for States carrying out a Planetary Defense mission;* *ii. Parameters for the need of authorization for certain PD technologies;* *iii. A draft agreement by the potentially affected State(s) and the State(s) capable and willing to conduct the mission*)
- **Liability considerations**, such as a limitation or a waiver of liability for States conducting the mission and modalities for the compensation of victims on the ground or for other damage suffered as a result of the mission.

AD-HOC LEGAL WG TEAM SUGGESTED TOPICS (2/2)

Other proposed topics:

- **Reflection on agreements** among national or international/regional planetary defense actors (i.e. AIDA (Artificial Intelligence for Data Analysis) project, ESA's Hera mission and NASA's DART mission)
- **The legality of NEDs-related activities for Planetary Defense missions**
- **A legal approach to classifying and defining various categories of celestial bodies.**
- **The possible relation between legal aspects of planetary defense and legal aspects of space mining/spaceresource utilization activities.**
- **The study of Art. IX of the OST** in relations to Planetary Defense activities

AH LEGAL WORKING GROUP – WHEN TEAM COORDINATION IS ON STANDBY

Topics that would not require international coordination and could be answered by directly reaching out to individual LWG team members:

- **Questions** regarding points addressed in the already published **LWG report** (April 2020)
- Questions sent to **individual members** of the LWG team **based on their areas of expertise**
- **Country-specific questions** addressed to **legal national point of contact**

CONTINUATION OF THE AD-HOC LWG

Step 1: Determine the scope of a potential new research project / 2nd report

Step 2: Secure funding for new research coordination

- Possible funding sources:
 - ESA: **No** (Fall 2020); UNOOSA: **No Response** (Fall 2020); NASA PD office: **No** (February 2021); NASA Interagency Coordination Office: **No Response** (February 2021); COSPAR: **No** (March 2021)

Key reason: SMPAG is entirely operated on a voluntary basis and has thus no dedicated budget

Step 3: Recruit new team members (led by a SMPAG delegation?)

- Currently, 80% of the 10 Ad-Hoc LWG members are European, 10% from Central America, 10% from North America. (No members from Asia, South America or Africa)