

SMPAG AD-HOC LEGAL WORKING GROUP

Updated ToR, invitation to new members
and suggestions for 2ND report

21ST MEETING OF THE SPACE MISSION PLANNING
ADVISORY GROUP (SMPAG)

October, 10th, 2023

Alissa J. Haddaji,
SMPAG Ad-Hoc LWG Coordinator / COSPAR Representative to SMPAG

Presentation Plan

- I. **AHLWG Summer Workshops Recap (5min)**
- II. **Current and Prospective Members as of Oct. 11th 2023 (10min)**
 - To be **reviewed** by SMPAG (and approved after SMPAG meeting)
- III. **Invitation Letter to New Members (10min)**
 - To be **reviewed & approved** by SMPAG
- IV. **Proposed Workplan (5min)**
 - To be **reviewed & approved** by SMPAG
- V. **Updated ToR (10min)**
 - To be **reviewed & approved** by SMPAG
- VI. **Suggested topics for 2nd AHLWG report (15min)**
 - To be **reviewed** by SMPAG

I. AHLWG Spring + Summer Workshops 2023 Recap

- LWG members participated in the PDC 2023 Legal Aspect of PD session (**April 2-7**)

1st Summer Workshop: Tuesday, July 11th, 2023, 14.30-16.00 CET

- 1st review of AHLWG 2017 ToR
- 1st review of membership invitation letter draft

2nd Summer Workshop: Friday, July 21st, 2023, 17.30-18.30 CET

- 2nd review of AHLWG 2017 ToR
- 2nd review of membership invitation letter draft
- 1st brainstorming session + suggestions for AHLWG 2nd report

3rd Summer Workshop Part 1: Thursday, August 31st, 2023, 18.00-19.00 CET

3rd Summer Workshop Part 2: Friday, September 1st, 2023, 15.00-16.00 CET

- 2nd/3rd brainstorming sessions + suggestions for AHLWG 2nd report
- **Review meeting (Team Coord. + SMPAG Chair + SMPAG Sec.): Thursday, Oct. 5th, 15:00 CET**

II. Current (16) and Prospective (2) Members as of Oct. 11th 2023

See shared Google Sheet:

<https://docs.google.com/spreadsheets/d/1EQsmgR7bvPU3d96BfwCQVHkwfwYj3ZukS-7P-7r-5jg/edit?usp=sharing>

Current members				
First Name	Last Name	Email Address	Delegation	Expert Type
Cordula	Steinkogler	cordula.steinkogler@univie.ac.at	Austria	Legal
Irmgard	Marboe	irmgard.marboe@univie.ac.at	Austria	Legal
Jean-François	Mayence	jean-francois.mayence@belspo.be	Belgium	Legal
Alissa J.	Haddaji	alissa.haddaji@spaceconsortium.com	COSPAR	Legal
Detlef	Koschny	detlef.koschny@tum.de	ESA	Science
Alexander	Soucek	alexander.soucek@esa.int	ESA	Legal
Alan	Harris	alan.harris@dlr.de	Germany	Science
Felix	Lerner	felix.lerner@dlr.de	Germany	Science
Peter	Stubbe	peter.stubbe@dlr.de	Germany	Legal
Martin	Reynders	martin.reynders@dlr.de	Germany	Legal
Sergio	Marchisio	sergio.marchisio@uniroma1.it	Italia	Legal
Rosa Ma	Ramirez De Arellano Y Haro	ramirezdearellano.rosa@aem.gob.mx	Mexico	Legal
Daniel	Mazanek	daniel.d.mazanek@nasa.gov	USA	Science
David	Koplow	koplow@law.georgetown.edu	USA	Legal
Steve	Mirmina	steve.mirmina@nasa.gov	USA	Legal
Nicholas	Fernandes	nicholas.fernandes@dsit.gov.uk	UK	Legal

Prospective members				
First Name	Last Name	Email Address	Delegation	Expert type
Keren	Shahar	kerens@mfa.gov.il	Israel	Legal
Or	Levin	or.levin@mfa.gov.il	Israel	Legal

SMPAG delegations without representation in the AHLWG (50%, 9 of 18 delegations)

- CNES (France)
- CNSA (China)
- Czech Republic
- JAXA (Japan)
- KASI (Republic of Korea)
- ROSA (Romania)
- ROSCOSMOS (Russian Federation)
- SSAU (Ukraine)
- SUPARCO (Pakistan)
- Future new SMPAG members

III. Invitation Letter to New Members

To: All SMPAG Delegations
From: SMPAG Chair & Secretariat
Oct. 11th, 2023

Dear SMPAG Members,

The SMPAG Legal Working Group is now refreshing and reorganizing its mandate and its membership to be able to address some of the additional questions and topics of interest to SMPAG. To do so, we are in need of additional members, and we invite SMPAG delegates to designate legal and/or scientific experts to join the team. We would like to begin the next phase of our work as soon as possible with as complete a roster of experts as possible, so please:

- 1) Submit the name(s) and contact information for your expert(s) or
- 2) Express your intention to abstain from nominating a representative to the SMPAG Legal Working Group for now

By **Tuesday, October 31st, 2023**.

“I wish to nominate legal and/or scientific experts from my country to join the Legal Working Group”:

- YES
 NO

If YES, please provide the name(s) of the SMPAG delegation representative(s) to the SMPAG Legal Working Group you wish to submit to SMPAG:

SMPAG Delegation:
Name of SMPAG Delegate:
Email of SMPAG Delegate:.....
Name(s) of SMPAG Expert Delegate(s) to join the SMPAG-LWG:
.....
Email(s) of SMPAG Expert Delegate(s) to join the SMPAG-LWG:
.....

If the form is left without a response from the SMPAG delegation after **October 31st 2023**, it will be considered as a “NO”.

Best regards,
Detlef Koschny
SMPAG Chair

IV. Proposed Workplan

- SMPAG delegations will be invited to suggest new members to the AHLWG by **Oct. 31st 2023**.
- A complete list of new prospective members will be sent out to all SMPAG delegations by **Nov. 15th 2023**.
- Without objections from SMPAG delegates by **Dec. 1st 2023**, all prospective members may be approved to join the AHLWG team.
- A first virtual AHLWG team meeting will take place on **Dec. 15th 2023**, with a follow-up first in-person meeting planned in **Spring 2024**.
- From **Oct. 15 to Dec. 15th 2023**, current and prospective AHLWG team members may be virtually convened to provide input and participate in brainstorming sessions on prospective topics for its second report.
- When requested, the AHLWG team will review the **SMPAG Exercise Sprint 2 report**.

V. Suggested updates to SMPAG AHLWG ToR (1/4)

Version 1.0

11 Oct. 2017

**TERMS OF REFERENCE
FOR THE
SPACE MISSION PLANNING ADVISORY GROUP'S AD-HOC
WORKING GROUP ON LEGAL ISSUES**

This document constitutes the Terms of Reference (ToR) for the Space Mission Planning Advisory Group's (SMPAG) Ad Hoc Working Group on Legal Issues (SMPAG Legal WG) and describes the basic principles of its work and purpose, namely to advise the SMPAG on legal measures for near-Earth object threat mitigation (see ToR SMPAG).

The SMPAG Legal WG was established under the mandate of SMPAG at its 6th meeting in February 2016 and started its work in November that year.

1. Scope

The work of the SMPAG Legal WG includes:

- Describing the existing legal context, in particular international law, relevant to the work of SMPAG.
- Identifying, formulating and prioritizing relevant legal questions and issues requiring clarification.
- Where necessary, suggesting possible ways forward to deal with legal questions and issues.
- Providing legal advice to SMPAG as required.

2. Report of findings

First findings of the SMPAG Legal WG should be presented to SMPAG before the end of 2018. It will be the prerogative of the SMPAG to decide how to act on these findings.

3. Membership

The SMPAG Legal WG consists of legal experts and technical experts. The legal experts work on the legal questions, while the technical experts are responsible for clarifying aspects of the SMPAG work program, as required, and answering any technical questions raised by the legal side.

Members will be employees of national space agencies or other governmental departments and agencies, or representatives designated by such departments or agencies.

New SMPAG Legal WG members will be nominated by a SMPAG member on behalf of his/her organization and will be appointed upon consensus by SMPAG. SMPAG may also invite supporting experts or observers to participate in meetings of the SMPAG Legal WG.

SMPAG Legal WG members may nominate a substitute representative in case they are unable to attend a meeting themselves. Any member may withdraw from the membership of SMPAG Legal WG at any time.

V. Suggested updates to SMPAG AHLWG ToR (2/4)

Membership is normally limited to 15 legal experts and 5 technical experts; exceptions may be authorized by SMPAG.

The SMPAG Legal WG's work is facilitated by a group coordinator, whose job it is to help with the organization of meetings, preparation of documents, text input, internal communication, and similar matters.

4. Relation to the SMPAG

The SMPAG will direct and prioritize the activities of the SMPAG Legal WG by:

- proposing issues and questions to be considered by the SMPAG Legal WG,
- participating in the meetings of the SMPAG Legal WG through its technical experts,
- assessing reports and any other products from the SMPAG Legal WG, and
- appointing the group coordinator and new members of the SMPAG Legal WG.

5. Meetings

Regular meetings of the SMPAG Legal WG will be organized by the group coordinator in connection with the SMPAG meetings. Extra meetings, in person or online, may be organized as needed.

6. Terms and Conditions

The SMPAG Legal WG members provide their own funding and resources to support their participation in the SMPAG Legal WG.

These ToR may be modified or terminated by consensus of SMPAG.

V. Suggested updates to SMPAG AHLWG ToR (3/4)

Version ~~21.0~~

11 Oct. ~~2023~~ 2017

**TERMS OF REFERENCE
FOR THE
SPACE MISSION PLANNING ADVISORY GROUP'S **LEGAL WORKING GROUP**
~~AD-HOC-
WORKING-GROUP-ON-LEGAL-ISSUES~~**

This document constitutes the Terms of Reference (ToR) for the Space Mission Planning Advisory Group's (SMPAG) ~~Legal Working Group Ad-Hoc-Working-Group-on-Legal-Issues~~ (SMPAG-LWG-~~Legal-WG~~) and describes the basic principles of its work and purpose, namely to advise the SMPAG on legal measures for near-Earth object threat mitigation (see ToR SMPAG).

The SMPAG ~~Legal-WG~~ was established under the mandate of SMPAG at its 6th meeting in February 2016 and started its work in November that year. ~~The first~~ This version of the ToR was approved by the full SMPAG at its meeting of 11, October 2017.

1. Scope

The work of the SMPAG ~~Legal-WG~~ includes:

- Describing the existing legal context, in particular international law, relevant to the work of SMPAG.
- Identifying, formulating and prioritizing relevant legal questions and issues requiring clarification.
- Where necessary, suggesting possible ways forward to deal with legal questions and issues.
- Providing legal advice to SMPAG as required.

2. Report of findings

~~First~~ Findings of the SMPAG ~~Legal-WG~~ should be presented to SMPAG ~~before the end of 2018~~. It will be the prerogative of the SMPAG to decide how to act on these findings.

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Alissa J. Haddaji
11:33 PM Oct 5

Replace: "This" with "The first"



Alissa J. Haddaji
11:05 PM Oct 5

Add: ", "



Alissa J. Haddaji
11:05 PM Oct 5

Add: ", "



Alissa J. Haddaji
11:11 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:25 PM Oct 5

Replace: "First f" with "F"



Alissa J. Haddaji
11:11 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:07 PM Oct 5

Replace: "before the end of 2018" with "and work progress should be presented at SMPAG meetings"



Alissa J. Haddaji
11:14 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:14 PM Oct 5

Replace: "his/her" with "their"



Alissa J. Haddaji
11:15 PM Oct 5

Suggestion: switch to a gender-neutral pronoun

V. Suggested updates to SMPAG AHLWG ToR (4/4)

Members will be employees of national space agencies or other governmental departments and agencies, or representatives designated by such departments or agencies.

New SMPAG ~~Legal~~WG members will be nominated by a SMPAG member on behalf of ~~his/her~~their organization and will be appointed upon consensus by SMPAG. SMPAG may also invite supporting experts or observers to participate in meetings of the SMPAG ~~Legal~~WG.

SMPAG ~~Legal~~WG members may nominate a substitute representative in case they are unable to attend a meeting themselves. Any member may withdraw from the membership of the SMPAG ~~Legal~~WG at any time.

~~Membership is normally limited to 15 legal experts and 5 technical experts;~~ exceptions may be authorized by SMPAG.

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These ToR may be modified or terminated by consensus of SMPAG.



Alissa J. Haddaji
11:16 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:16 PM Oct 5

Add: "the"



Alissa J. Haddaji
11:16 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:17 PM Oct 5

Delete: "Membership is normally limited to 15 legal experts and 5 technical experts"



Alissa J. Haddaji
11:19 PM Oct 5

Suggestion: "The number of SMPAG LWG legal experts should be limited to twice the number of SMPAG delegations."



Alissa J. Haddaji
11:20 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:20 PM Oct 5

Delete: "egal"



Alissa J. Haddaji
11:20 PM Oct 5

Delete: "egal"

3 Proposed Edits

- Proposed harmonized name change: from « *SMPAG Ad-Hoc Working Group on Legal Issues (SMPAG Legal WG)* » to « SMPAG AHLWG » to « *SMPAG Legal Working Group (SMPAG LWG)* »
- « New SMPAG LWG members will be nominated on behalf of *his/her* organization » to the gender neutral « on behalf of *their* organization »
- A first virtual AHLWG team meeting will take place on **Dec. 15th 2023**, with a follow-up first in-person meeting planned in **Spring 2024**.
- « *Membership is normally limited to 15 legal experts and 5 technical experts* »

Suggestions taking into consideration the following feedback:

- No number limitation to create an incentive?
- Should there be a difference between the number of legal experts and technical experts ?
- Can all SMPAG delegations be represented?
- Does the number of team member remain manageable?

Proposed edit: « *The number of SMPAG LWG legal experts should be limited to twice the number of SMPAG delegations* »

VI. Suggested topics for 2nd AHLWG report

See working document here:

<https://docs.google.com/document/d/1apHPAItncf3WRSbQfqHMQETyx6dKf9evRNhg4OImTyE/edit?usp=sharing>

- Focus on **liability-related questions**, for example:

“What should be done now, and/or on the eve of a planetary defense mission, about the following international legal matters in order to simultaneously:

a) avoid deterring a state from undertaking a planetary defense mission, due to fear of the acting state’s financial liability (..)

b) ensure there is appropriate and just financial assistance to the state(s) where the asteroid does strike.”

“Proposed Goal(s): Analyze the liability issues, describe some alternatives, and present the legal problems for political decision-makers.”

“Study the possible liability and risks of not doing anything.”

“How to we ensure compensation to the states impacted? And to possible states impacted if something went wrong? How to make sure states do not act out of fear to be liable for damage if they helped?”

- Review and respond to **legal questions** discussed by the PD community (Ex: at **the PDC**) (other than the nuclear option)

Any questions?