

# SMPAG AD-HOC LEGAL WORKING GROUP

## PLANS FOR 2<sup>ND</sup> REPORT

20th MEETING OF THE SPACE MISSION PLANNING  
ADVISORY GROUP (SMPAG)

February, 9<sup>th</sup>, 2023

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# RECAP & WORK PLAN

## Fall 2022

- Funding for the AHLWG coordination, previously approved in the Spring/Summer of 2022 by the PDC Chairs, was provided to SMPAG by the IAA (15k/year over 3 years)

## Winter 2022-23

- Past Ad-Hoc Legal WG members confirmed their participation in the 2<sup>nd</sup> report and reconvened (online) for 2 brainstorming sessions to determine:
  - A. Topic recommendations for the LWG 2<sup>nd</sup> report to submit to SMPAG
  - B. New Tasks & Team Schedule
  - C. Ways to recruit new team members
  - D. Possible roadblocks and how to avoid them

# TOPIC RECOMMENDED

- **1) Templates of the legal necessary steps in Planetary Defense mission design to ensure conformity with international law, depending on the method and technology used.**

With, as possible subtopics:

- 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.
  - 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.
  - A draft agreement by the potentially affected State(s) and the State(s) capable and willing to conduct the mission.
  - The study of Art. IX (due regard, avoid harmful interference, etc.) and XI (notification, obligation to share results, etc.) of the OST in relations to Planetary Defense Activities.
  - The study of Export Control in the context of SMPAG cooperation
- **2) The legality of nuclear-device-related activities in space**

*CAVEAT: The 2nd report will be more challenging as it is question here to come up with **new substance, proposals**, now that an overview of what exists in International Law regarding PD has been covered in the 1st report. The difficulty of the task should not be underestimated.*

# NEW TASKS & PROPOSED 2023 TEAM SCHEDULE

- Respond to PDC scenario legal questions by **late March 2023**
- Participate in the PDC Legal Aspect of PD session (**April 2-7**)
- Tentative in-person team meeting at either the LSC (**March 20-31<sup>st</sup>**) / PDC (**April 2-7**), IAC (**Oct. 2-6**) or SMPAG Fall meeting (**October 9<sup>th</sup>-10<sup>th</sup>**).
- Build a list of names of international space law experts to help SMPAG delegates with their nominations. (Proposed deadline: **April 23rd, 2023**, for a circulation to SMPAG members by **May 1st, 2023**, at the latest)
- Work on a proposed draft update of our Terms of Reference (to be presented to SMPAG during its **Fall meeting 2023**)

# SMPAG delegations without representation at the AHLWG (10/18)

- CNES (France)
  - CNSA (China)
  - Czech Republic
  - ISA (Israel)
  - JAXA (Japan)
  - KASI (Republic of Korea)
  - ROSA (Romania)
  - ROSCOSMOS (Russian Federation)
  - SSAU (Ukraine)
  - SUPARCO (Pakistan)
  - Future new SMPAG members
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# RECRUITMENT OF NEW TEAM MEMBERS

- Proposed deadline for SMPAG delegates to nominate their AHLWG space law expert:

- **SMPAG Fall meeting 2023**

- Current deadline for new members to join the AHLWG team:

- **None.**

All are welcome at anytime and will be able to provide feedback on the report until **one month** before its final draft version is submitted to SMPAG for review.

- Proposed deadline for new members to be involved in the report's writing:

- **Once chapters have been divided between team members (?)**

# SMPAG AHLWG Terms of Reference (p.1)

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.

# SMPAG AHLWG Terms of Reference (p.2)

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.



# TO DISCUSS: 2<sup>ND</sup> REPORT TOPIC RECOMMENDATION

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- 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.
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