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IMPLEMENTATION OF SOFT LAW RELATING TO OUTER SPACE INTO DOMESTIC LAW

Abstract

Space law is clearly oriented towards creation of soft law instruments and their subsequent implementation directly into national law. However, it is not an ideal method for regulating the peaceful use of outer space. At least a few problematic issues should be noted. Firstly, the lack of scrutiny by parliaments with regard to soft law standards accepted by States. Secondly, the multiplicity of soft law documents on the same subject matter – especially in the case of space debris (IADC, UN, ISO or ESA), which may not be fully identical. Thirdly, developments in space technology mean that existing soft law standards may nevertheless be outdated in practice. Fourthly, the creation of new soft law is not always a quick process.

However, implementation of international soft law relating to outer space into domestic law ensures that international norms are binding under national law. It thus strives to guarantee both the development and the effectiveness of international space law, despite the absence of new treaty regulations.

KEYWORDS

implementation, soft law, space law, domestic law

SŁOWA KLUCZOWE

implementacja, soft law, prawo kosmiczne, prawo krajowe

1. INTRODUCTION

The implementation of treaty norms into domestic law is a well-known and relatively comprehensively studied topic in legal scholarship. The issue is part of a broader subject of the effectiveness of international law in the domestic legal order. With regard to the main space treaties, implementation primarily relates to issues such as authorization and supervision over space activities carried out from the state's territory and by its citizens, the establishment of a register of objects launched into outer space and the rules on liability for damage of private operators or owners of space objects where due to their conduct liability of a State is engaged. Conversely, an issue that has not yet been comprehensively analysed is the implementation of international soft law relating to outer space into domestic law. The term implementation in this context is understood primarily as encompassing legislative action, i.e. enacting domestic legislation, which either incorporates soft law or at least refers to it.

Globalisation fosters the growing importance of soft law norms on an international plane.¹ This is due to the relative ease of creating and modifying these norms compared to multilateral treaties. States consider such flexibility, in particular in regulating areas subject to rapid changes, due to, for example, fast technological progress, an important factor when deciding to apply soft law instruments. These processes tend to involve deformalization of sources of international law.² Such a phenomenon can be particularly evident in international space law.

The article comprises three parts. First, the issue of importance of soft law in international space law will be addressed. Second, the problem of implementation of international soft law to domestic legal order will be briefly characterised. Finally, the implementation of outer space-related soft law to domestic law will be presented. Given the journal's limits on article size, this contribution will introduce a general perspective of the issue at hand. Thus, it will not discuss some

¹ C. Mik, *Państwo i Prawo Wobec Procesów Internacjonalizacji, Integracji i Globalizacji*. Vol. 2. *Wpływ Globalizacji na Klasyczny Paradygmat Państwa i Prawa w Cieniu Pandemii*, Warsaw 2022, p. 373.

² J. d'Asprement, *Epistemic Forces in International Law. Foundational Doctrines and Techniques of International Legal Argumentation*, Cheltenham-Northampton 2016, p. 61.

broader questions such as the significance of soft law in international law³ or the need for new treaties in international space law.

2. OUTER SPACE-RELATED SOFT LAW

Despite the dynamic development of humankind's activities in space over the past 40 years which have involved states, international organisations and private actors, general international space law has developed primarily through soft law instruments.⁴ Martinez identifies two equal pillars that build space law – binding norms and soft norms.⁵ Soucek and Tapio label the current stage of development of this branch of law as the “era of guidelines”.⁶

As a result, the direction of development of law which assumes that one should first negotiate a soft law document and then, on its basis, a treaty or other binding instrument is no longer evident. Such a sequencing presented in the early days of the creation of international space law nowadays seems to have very limited relevance.

There are several reasons that explain this situation: the slow pace in negotiating multilateral treaties and the uncertainty of how quickly they may be

³ On this topic see seminal works: R. Baxter, *International Law in Her Infinite Variety*, ‘International and Comparative Law Quarterly’ 1980, Vol. 29(4), pp. 549–566; P. Weil, *Towards Relative Normativity in International Law?*, ‘American Journal of International Law’ 1983, Vol. 77, pp. 413–442; J. Klabbers, *The Redundancy of Soft Law*, ‘Nordisk Journal of International Law’ 1996, Vol. 65(2), pp. 167–182; D. Shelton (ed.), *Commitment and Compliance: The Role of Non-binding Norms in the International Legal System*, Oxford 2000; J. Pauwelyn, R.A. Wessel, J. Wouters (eds), *Informal International Lawmaking*, Oxford 2012.

⁴ The term soft law is understood here as in the broad definition formulated by Shelton as ‘normative provisions contained in non-binding texts’, D. Shelton, 2000, *op. cit.*, p. 292 and Snyder “Soft law is rules of conduct which, in principle, have no legally binding force but which nevertheless may have practical effects’, F. Snyder, *Soft Law and Institutional Practice in the European Community*, (in:) S.M. Stephen (ed.), *The Construction of Europe – Essays in Honour of Emile Noel*, Dordrecht 1993, pp. 197–226. It is to be noted, however, that other definitions have also been proposed, in particular in the context of international space law: “soft law describes regulations which have the purpose of steering behaviour and conduct of states by creating recommendations and guidelines, which do not have sanctions that can be implemented in case of violations’, C. Brünner, G. Königsberger, *Regulatory Impact Assessment*, (in:) I. Marboe (ed.), *Soft Law in Outer Space: The Function of Non-Binding Norms in International Space Law*, Böhlau 2012.

⁵ P. Martinez, *The Role of Soft Law in Promoting the Sustainability and Security of Space Activities*, ‘Journal of Space Law’ 2020, Vol. 44(2), p. 522; similarly, F. Tronchetti, *Soft Law in Outer Space in Society, Politics and Law*, (in:) C. Brünner, A. Soucek (eds), *Outer Space in Society, Politics and Law*, SpringerLink 2011.

⁶ J. Tapio, A. Soucek, *National Implementation of Non-Legally Binding Instruments: Managing Uncertainty in Space Law?*, ‘Air & Space Law’ 2019, Vol. 44(6).

accepted by a sufficient number of states (the 1979 Moon Agreement ratified by only 18 States is a good example of this problem);⁷ the burdensome constitutional requirements for ratifying treaties (as is the case in the United States); or greater tendency to compromise when negotiating soft law documents. These types of justifications have underpinned the relatively rapid development of soft law relative to the use of space. Unlike in other areas of international law, however, the development of soft law has not been a result of the lack of capacity of States to comply with new commitments in this area. Nevertheless, it should be borne in mind that the willingness of States to accept soft law norms is also subject to limits, as the unsuccessful draft International Code of Conduct for Outer Space Activities well demonstrates.

The focus on soft law norms in this area does not preclude the development of traditional sources of international law. Indeed, soft law can interact with hard law in various ways. It can be an element for preparation of a treaty (such as the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space was a basis for the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies).⁸ Moreover, general support by states for soft law instruments can be proof of existence of an *opinio iuris*, which contributes to creation of customary norms.⁹ Furthermore, soft law as a subsequent agreement or subsequent practice can influence interpretation of binding treaty norms.¹⁰ What is relevant, as indicated by the International Law Commission in its recently concluded works, is the fact that agreements and practice of only some state parties to a multilateral treaty also can have interpretative importance.¹¹ Nonetheless,

⁷ COPOUS, Status of International Agreements relating to activities in outer space as at 1 January 2022, 28 March 2022, A/AC.105/C.2/2022/CRP.10.

⁸ The Treaty recalls the resolution in its preamble, UNTS 205.

⁹ Legality of the Threat or Use of Nuclear Weapons, ICJ Rep. 1996, pp. 254–255, para. 70; S. Marchisio, *Commentary – The Evolutionary Stages of the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS)*, ‘Journal of Space Law’ 2005, Vol. 31, p. 219.

¹⁰ The ‘current international space law, namely the Outer Space Treaty, the Registration and the Liability Conventions have in fact been reinterpreted by non-binding United Nations General Assembly Resolutions’, S. Hobe, *Space Law – an Analysis of its Development and its Future*, (in) C. Brünner, A. Soucek (eds), *Outer Space in Society, Politics and Law*, SpringerLink 2011, p. 85; cf.: Draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties, Report of the International Law Commission of 2018, A/73/10. Conclusion 6(2): “Subsequent agreements and subsequent practice under article 31, paragraph 3, may take a variety of forms” and Conclusion 10(1): “An agreement under article 31, paragraph 3 (a) and (b), requires a common understanding regarding the interpretation of a treaty which the parties are aware of and accept. Such an agreement may, but need not, be legally binding for it to be taken into account”.

¹¹ *Ibid.* Conclusion 4(3). “A subsequent practice as a supplementary means of interpretation under article 32 consists of conduct by one or more parties in the application of the treaty, after its conclusion”.

even if such an effect of soft law on international law cannot be found, it can still autonomously influence the behaviour of states, in particular through its implementation into national law.

Soucek and Tapio¹² classify UN soft law relating to outer space as Principle resolutions,¹³ Practice resolutions¹⁴ and Guidelines resolutions.¹⁵ From the perspective of implementation into domestic law the most pertinent instruments are¹⁶:

- The Principles Relevant to the Use of Nuclear Power Sources in Outer Space;
- The Safety Framework for Nuclear Power Source Applications in Outer Space;¹⁷
- The Space Debris Mitigation Guidelines;¹⁸
- The Recommendations on Enhancing the Practice of States and International Intergovernmental Organizations in Registering Space Objects;
- Guidelines for the Long-Term Sustainability of Outer Space Activities;
- ISO standard 24113 – Space Debris Mitigation Requirement.¹⁹

¹² J. Tapio, A. Soucek, 2019, *op. cit.*, pp. 567–568.

¹³ Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, UNGA Res A/RES/18/1962 (13 December 1963); Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting, UNGA Res A/RES/37/92 (10 December 1982); Principles Relating to Remote Sensing of the Earth from Outer Space, UNGA Res A/RES/41/65 (3 December 1986); Principles Relevant to the Use of Nuclear Power Sources in Outer Space, UNGA Res A/RES/47/68 (14 December 1992); Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries, UNGA Res A/RES/51/122 (13 December 1996).

¹⁴ Recommendations on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, UNGA Res A/RES/68/74 (11 December 2013); Application of the Concept of the ‘Launching State’, UNGA Res A/RES/59/115 (25 January 2005); Recommendations on Enhancing the Practice of States and International Intergovernmental Organizations in Registering Space Objects, UNGA Res A/RES/62/101 (10 January 2008).

¹⁵ Guidelines for the Long-Term Sustainability of Outer Space Activities adopted by COPUOS in 2019, A/74/20, Annex II; Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space, endorsed by the UNGA in 2007 as an annex to the International Cooperation in the Peaceful Uses of Outer Space, UNGA Res A/RES/62/217 (22 December 2007).

¹⁶ The author also notices the significance of the Charter On Cooperation To Achieve The Coordinated Use Of Space Facilities In The Event Of Natural Or Technological Disasters (UNHCR, 25 April 2000, Rev.3 (25/4/2000)). Although this document is not a treaty, the author does not agree with its qualification as a soft law document. The analysis of the Charter inspires a conclusion that it is a document binding between its parties. See, however, a different approach in N. Clark, *Gauging the Effectiveness of Soft Law in Theory and Practice: A Case Study of the International Charter on Space and Major Disasters*, ‘Air & Space Law’ 2018, Vol. 43(1), pp. 77–112.

¹⁷ Published by COPUOS, Scientific and Technical Subcommittee, and the International Atomic Energy Agency, A/AC.105/934, 2009.

¹⁸ Inter-Agency Space Debris Coordination Committee, IADC Space Debris Mitigation Guidelines, IADC-02-01, Revision 1, Sept. 2007.

¹⁹ ISO 24113:2019, Space Systems – Space Debris Mitigation Requirements, www.iso.org.

3. IMPLEMENTATION OF INTERNATIONAL SOFT LAW INTO DOMESTIC LAW

As a general rule, the concept of implementation of international law into national law is applied to binding norms, particularly those of a treaty nature, and is the result of the principle of *pacta sunt servanda* and the principle of not invoking provisions of domestic law as justification for the failure to respect a treaty rule (Articles 26 and 27 of the Vienna Convention on the Law of Treaties).²⁰ The obligation to bring domestic law into line with international obligations has also been emphasised in the decisions of international courts as deriving from customary law.²¹

Thürer notes that soft law standards stemming from recommendations of the International Labour Organisation or the Committee of Ministers of the Council of Europe can influence interpretation of domestic law by national courts.²² At the same time, the uniqueness of certain regimes of international soft law, which, due to their importance, are implemented in full or to a large extent into national law, is recognised. This applies in particular to standards of the Basel Committee on Banking Supervision, recommendations of the Financial Action Task Force, G-20 recommendations, standards prepared by FAO together with UNEP and OECD guidelines and principles.²³

This phenomenon is linked to the increasingly emerging mechanisms for verifying states' compliance with soft law.²⁴ An example of the reinforcement of the legal weight of soft law through national law is the US 1992 High Seas Driftnet Fisheries Enforcement Act, which required the Secretary of Commerce to impose

²⁰ K. Schmalenbach, *Article 27 Internal Law and Observance of Treaties*, (in:) O. Dorr, K. Schmalenbach (eds), *The Vienna Convention on the Law of Treaties*, Berlin/Heidelberg 2012 p. 462; S.E. Nahlik, *Kodeks prawa traktatów*, Warsaw 1976, pp. 185-186.

²¹ The 21 February 1925 Permanent Court of International Justice advisory opinion on the exchange of Greek and Turkish Populations, PCIJ, series B10, p. 20, states that '(...) a State which has contracted valid international obligations is bound to make in its legislation such modifications as may be necessary to ensure the fulfilment of the obligations undertaken.'; Judgment of 25 May 1926, Case Concerning Certain German interests in Polish Upper Silesia, PCIJ, Series A7, 1926, p. 17, 22 and 42, as well as Judgment of 27 August 1952, Case Concerning Rights of Nationals of the United States in Morocco, ICJ Rep. 1952, p. 176.

²² D. Thürer, *Soft Law*, Max Planck Encyclopaedia of Public International Law online, § 30.

²³ OECD, *Soft Law*, <https://www.oecd.org/gov/regulatory-policy/irc10.htm> (accessed 12.07.2023).

²⁴ UNGA resolution called upon states to implement fully a global moratorium on all large-scale pelagic driftnet fishing by the end of 1992. To ensure that this happened, the United Nations set up a supervisory mechanism in which the United Nations Secretary General reported to the UNGA on the resolution's implementation. The UN Food and Agricultural Organization (FAO) and the United Nations Environment Programme (UNEP) monitored the status of high seas driftnet fishing, D. Shelton, 2000, *op. cit.*, p. 538.

sanctions on a State that allows fishing with driftnets, despite the fact that the prohibition of this type of fishing only stemmed from a General Assembly resolution (46/215). In an NGO-initiated case, *Humane Society v. Brown*, the US Court of International Trade confirmed in 1996 that Italy violated US law by not respecting the General Assembly resolution in question. As a result, the Secretary of Commerce informed Italy that if it fails to prohibit such practices within 90 days, sanctions will be imposed.²⁵ Another type of such a mechanism is the US Justice for Uncompensated Survivors Today Act which requires that “the Secretary of State shall submit a report (...) that assesses and describes the nature and extent of national laws and enforceable policies (...) consistent with, and evaluated with respect to, the goals and objectives of the 2009 Holocaust Era Assets Conference”.²⁶ There is also a well-established practice of states requiring through their national legislation that companies comply with the UN Guiding Principles on Business and Human Rights.²⁷

This relatively brief evaluation of practice clearly illustrates that the implementation of soft law into national law is already an established phenomenon in international practice – albeit affecting different branches of international law to varying degrees.

4. IMPLEMENTATION OF SOFT LAW RELATING TO OUTER SPACE INTO DOMESTIC LAW

The development of international space law in the last 50 years, primarily through soft law norms, provides a typical approach for states when developing their own national regulations to also take these norms into account.²⁸ Undoubtedly, the major practice in this respect concerns mitigation of space debris.²⁹ A number of states indicate that international guidelines in this area have been

²⁵ A. Blackwell, *The Humane Society and Italian Driftnetters: Environmental Activists and Unilateral Action in International Environmental Law*, ‘North Carolina Journal of International Law’ 1997, Vol. 23, p. 313.

²⁶ S.447 – Justice for Uncompensated Survivors Today (JUST) Act of 2017, Section 2, letter b (USA).

²⁷ Modern Slavery Act 2015, 2015 c.30 (UK); Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas, OJ L 130, 19.5.2017, p. 1–20.

²⁸ I. Supancana, *How the Progressive Development of Outer Space Law Affects the Formulation of National Space Legislation: The Experience of Indonesia*, ‘Air & Space Law’ 2015, Vol. 40(1), pp. 93–106.

²⁹ I. Marboe, G. Hafner, *Brief Overview over National Authorization Mechanisms*, (in:) F.G. von der Dunk (ed.), *Implementation of the International Space Treaties*, Nijhoff 2011, p. 70;

implemented into their national law or are being followed by their national agencies and other actors. In Australia, internationally recognised guidelines or standards for debris mitigation are outlined in the Space Act 2018 and the Space Rules 2019.³⁰ The Austrian Outer Space Act provides that “the operator has to make provision for the mitigation of space debris in accordance with the state of the art and in due consideration of the internationally recognised guidelines for the mitigation of space debris. Especially measures limiting debris released during normal operations have to be taken”.³¹ The Danish Executive Order on requirements in connection with approval of activities in outer space explicitly refers to ISO standards.³² The Finnish Act on Space Activities provides that an operator shall seek to ensure that the space activities do not generate space debris in accordance with generally accepted international guidelines.³³ Similar regulations can be found, for example, in Greece.³⁴ In assessing a mission proposed by a licence applicant, the UK Space Agency requires that applicants demonstrate compliance/conformance with existing norms/best practices such as the IADC Space Debris Mitigation Guidelines, Space Debris Mitigation Guidelines of the COPUOS, and other international standards relating to debris.³⁵ The Indian Space Research Organisation (ISRO) follows internationally accepted Space Debris Mitigation Guidelines and best practices while conducting space operations.³⁶ Mexico has emphasized that the compliance rate of space debris mitigation guidelines (estimated to be between 40 and 60 per cent) is far from optimal.³⁷ Myanmar has expressed plans for implementing space debris mitigation “as it is important to ensure a secure and peaceful space environment while its own satellite system is in progress”.³⁸ States that do not explicitly refer to international standards in their national law and regulate the issue autonomously – such as France and Germany – indicate at the same time that their regulation is in line with international standards.³⁹

Similar to the space debris mitigation guidelines, the norms concerning Nuclear Power Source Applications in Outer Space are also not subject to treaty

cf. Sofia Guidelines for a Model Law on National Space Legislation, annex to ILA Resolution No. 6/2012 Space Law.

³⁰ UNOOSA, Compendium Space Debris Mitigation Standards Adopted by States and International Organizations, 28 March 2021, p. 9.

³¹ *Ibid.*, p. 11.

³² *Ibid.*, p. 27.

³³ *Ibid.*, pp. 29.

³⁴ *Ibid.*, pp. 39-40.

³⁵ *Ibid.*, pp. 79-80.

³⁶ *Ibid.*, pp. 41-42.

³⁷ UNOOSA, Research on space debris, the safety of space objects with nuclear power sources on board and problems relating to their collision with space debris, 17 November 2022, A/AC.105/C.1/123, p. 11.

³⁸ *Ibid.*, p. 12.

³⁹ UNOOSA, 2021, *op. cit.*, pp. 32-37.

regulations. Still, India has demonstrated its readiness to apply them in case Indian space facilities use such a power source.⁴⁰

The need for such implementation into national law is particularly highlighted in the guidelines on the long-term use of space. It is worth noting that when accepting these guidelines “The Committee encouraged States and international intergovernmental organizations to voluntarily take measures to ensure that the guidelines were implemented to the greatest extent feasible and practicable”.⁴¹ The Explanatory Memorandum accompanying this document specifies that states and intergovernmental organisations should, on a voluntary basis through national mechanisms, ensure the implementation of these guidelines to the greatest extent possible (§ 16). In addition, it is envisaged that COPUOS will provide a forum to discuss practical issues concerning the implementation of these guidelines.

The guidelines themselves point to the need to implement generally accepted international norms, standards and practices into the national regulatory framework (§ A.1.2), in particular the requirement to implement a number of already mentioned General Assembly resolutions (e.g. A.2.2).

A number of countries report on the implementation of the guidelines at national level. In 2023, these were Japan, Austria, the United States, Norway, Italy, Germany, and Brazil and in 2022 it was the United Kingdom.⁴² Japan, for example, informs in its report that when adopting or amending guidelines for domestic regulations it requires them to be equivalent to generally accepted international standards.⁴³

Implementation of the guidelines was considered such an important issue that a working group was setup within the COPUOS to monitor this process.⁴⁴ Still, it needs to be noted, as Tapio and Soucek rightly point out, that implementation of several guidelines will not be possible through sole reference in national legislation due to the lack of sufficient specificity of the guidelines in question.⁴⁵

⁴⁰ UNOOSA, 2022, *op. cit.*, pp. 6-7.

⁴¹ UNGA, Report of the Committee on the Peaceful Uses of Outer Space, Sixty-second session, (12–21 June 2019), A/74/20, para. 163.

⁴² UNOOSA, Long-term Sustainability of Outer Space Activities, <https://www.unoosa.org/oosa/en/ourwork/topics/long-term-sustainability-of-outer-space-activities.html> (accessed 14.07.2023).

⁴³ UNGA, Report on the implementation of the Guidelines for the Long-term Sustainability of Outer Space Activities in Japan, 8 February 2023, A/AC.105/C.1/2023/CRP.28.

⁴⁴ UNGA, 2019, *op. cit.*, paras 165-167.

⁴⁵ J. Tapio, A. Soucek, 2019, *op. cit.*, p. 581.

5. CONCLUSION

The development of new soft law standards is regarded by many states as still the most reliable method for the development of international space law.⁴⁶

The relative success of soft law regulations in international space law does not mean that this development path remains without controversy. Undoubtedly, it is not an ideal method for regulating the peaceful use of outer space and subsequently implementation into national law. At least a few problematic issues should be noted. Firstly, the lack of scrutiny by parliaments with regard to soft law standards accepted by states. This is a consequence of the legislative technique of placing only a general reference to these standards in legislative or executive acts. As a result, parliaments may not be able to control the content of the obligations required of national actors. Secondly, the multiplicity of soft law documents on the same subject matter – especially in the case of space debris (IADC, UN, ISO, or ESA), which may not be fully identical.⁴⁷ This raises the question as to which standards should be applied under national law. Thirdly, developments in space technology mean that existing soft law solutions may nevertheless be outdated in practice – this is, for example, pointed out in relation to the space debris mitigation guidelines, which do not take into account the phenomenon of megaconstellations. Fourthly, the creation of new soft law is not always a quick process. It took eight years to adopt guidelines for the long-term use of space. This weakens to some extent the argument regarding the speed with which soft law standards are created compared to treaties. However, negotiating multilateral agreements and, in addition, waiting for their entry into force is still usually a longer process (unless they are applied provisionally).

In conclusion, space law is clearly oriented towards a creation of soft law instruments and their subsequent implementation directly into national law. To what extent such a legislative technique, which works for example in international financial law, will prove effective and guarantee legal certainty in the long term

⁴⁶ Cf. A practical and inclusive approach to identifying and studying challenges and considering possible new guidelines. Conference room paper submitted by Canada, Italy, Japan, Luxembourg, New Zealand, the United Kingdom of Great Britain and Northern Ireland and the United States of America, 16 February 2023, A/AC.105/C.1/2023/CRP.31/Rev.2, para. 3: “To progress and complement the work of ‘LTS 1.0’, the Working Group should focus on next steps rather than amending or revising previously adopted Guidelines. The identification of possible new guidelines should instead be informed by the identification and study of new and existing challenges.”

⁴⁷ When it comes to end-of-life disposal, there is a significant difference between the COPUOS debris mitigation guidelines and the IADC guidelines. The former does not incorporate the so-called ‘25- year rule’ for removing spacecraft from protected orbital regions within 25 years after the end of nominal mission operations – S. Freeland, Y. Zhao, *Rules of the Space Road: How Soft Law Principles Interact with Customary International Law for the Regulation of Space Activities*, ‘Journal of Space Law’ 2020, Vol. 44(2), p. 432.

is an open question. Nevertheless, to a certain extent it ensures that international norms are binding under national law. It thus strives to guarantee both the development and the effectiveness of international space law, despite the absence of new treaty regulations.

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