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THE FUTURE REGULATION OF SUBORBITAL FLIGHT IN EUROPE

Abstract

The EU 7th Framework Project FAST20XX aims to enlarge the foundations of suborbital high-speed transportation in a wide variety of fields, including the required regulatory frameworks. One of the key issues in this project is to outline a desirable regulatory framework that would best serve the interests of all European stakeholders in this field. The US Federal Aviation Authority (FAA) has issued relaxed requirements for operators of commercial suborbital flights under the 2004 Commercial Space Launch Amendments Act (CSLAA), enabling the corresponding market to develop. These regulations were initially valid until 2012 but will be extended until 2015, as announced in February 2012. In Europe, practical and successful attempts to fly experimental vehicles of this kind do not yet exist. However, several developments indicate that it is becoming urgent to pay attention to this potential new industry and find ways to regulate it in a safe yet flexible manner. The legal framework for suborbital human flights in Europe should assure the health and safety of passengers and third parties, regulate consequences of accidents and damage, yet avoid over-regulation in order not to end what has barely begun, the emergence of what could become a new industry benefiting the EU and its citizens. However, regulatory steps are so far non-existent in Europe. Although the European Aviation Safety Agency (EASA) undertook steps in 2008 to prepare for a certification approach under the concept of “Suborbital Aeroplanes” (SoA), this initiative has been put on hold in September 2011. So far, six EU member states have enacted national space legislation, but none of these addresses suborbital human spaceflight. In addition, the Lisbon Treaty that entered into force in 2009 proclaims that the EU is not to undertake harmonisation of the space laws and regulation of the Member States (Article 189 TFEU). The paper will highlight some of the research towards the establishment of a roadmap for future regulation of sub-orbital flight in Europe and will present results of a survey carried out among stakeholders from three groups: regulators (national and European), users (operators, manufacturers, insurers, brokers, spaceports...) and lobbyists. m