

52nd COLLOQUIUM ON THE LAW OF OUTER SPACE (E8)

Third party liability issues in commercial space activities (3)

Author: Dr. Paul Dempsey

McGill University, Canada, paul.dempsey@mcgill.ca

PERSONAL INJURY AND SURFACE DAMAGE LIABILITY FOR AEROSPACE VEHICLES

Abstract

Several international Conventions address the issue of liability for damages caused aboard or by aircraft (i.e., the Warsaw Convention of 1927, the Rome Convention of 1951, and the Montreal Convention of 1999), while others address the liability for damage caused by space objects (the Outer Space Treaty of 1967, and the Liability Convention of 1972). The former treaties place liability upon the air carrier, while the latter place liability upon the State. Neither the term "aircraft" nor the term "space object" is defined in either set of treaties. A diplomatic conference is scheduled for April 2009 to address surface liability issues and modernization of the Rome Convention of 1951.

With the imminent launch of aerospace vehicles carrying passengers, the issue of what law applies to liability for death or injury to passengers, or to other aircraft damaged by collision, or by surface damage is clouded. This essay will attempt to identify issues of ambiguity under the Conventions, and provide clarification of the applicable rules of liability. It will also provide recommendations as to how the liability regime may be improved.