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Author: Mr. Phetole Sekhula
SACSA, South Africa

THE CIVILIAN AND MILITARY COOPERATION IN THE REGULATION OF AIRSPACE: A
MODEL FOR NATIONAL SPACE LAW

Abstract

The challenges national space regulators to address the military uses of outer space pose serious hindrance to an effective regulation of space activities in many jurisdictions. In the South African national space regulatory prescripts, there is no direct exclusion of space military activities, but there is a de facto reluctance from military sector to be regulated through civilian structures.

The reluctance and un-cooperative stance by the military in space matters is in stark contrast to the cordial and seamless regulatory coordination in the use and management of air-space by civilian air services regulators and air force. The two administrations have, over the years developed protocols and entered into cooperative arrangements to ensure safety of the airspace. This cooperative model is warranted by the inter-governmental cooperation and coordination which is a cornerstone of government policy.

The current review of existing space legislation demands that a cooperative model for space governance inclusive of all users of space be created and enshrined in the new national space legislation. It is imperative for space regulators and military component responsible for military use of outer space coordinate their administrative efforts in a coherent legislative framework. The cooperative model in existence between the civilian and military uses of airspace should be a model for civilian and military administration of space activities.

It is therefore incumbent for the two departments to examine the manner in which the aviation administration and military have managed to interface and develop regulatory interfaces that minimizes conflict in airspace, more-so with the advent of not only new modes of aerospace transportation systems, but with the increasing technological miniaturization of space technologies that could pose significant national security issues. The envisaged national space legislation that will replace the current Space Affairs Act of 1993 must expressly include a cooperative governance between civilian and military uses and administration of outer space activities.