

## A STUDY OF AEROSPACE LEGISLATION OF CHINA

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In the past several decades, China has been continuously strengthening and improving its law system. On March 15, 2007, the third session of the ninth National People's Congress (NPC) passed "the Legislation Law" marking the beginning of a more improved and more matured period of China's legislation. In recent years China's space activities have developed rapidly and made astonishing achievements. On October 15, 2003, the manned Shenzhou-5 (SZ-5) was launched successfully, turning into reality a thousand-year old Chinese dream to fly into space. In 2007, China will launch the "Chang'e 1 exploration satellite to realize the dream of Chang'e to fly to the moon. In the course of its development, China's space technology needs the protection of laws, and further study of aerospace legislation laws.

### I. THE MANAGEMENT SYSTEM OF THE AEROSPACE ACTIVITIES OF CHINA

The management of the China's space activities relies mainly on the country's relevant policies, the State Council's resolutions and orders, and a large amount of internal managerial regulations of the departments in charge of aviation. The former Ministry of Astronautics Industry had over 300 regulations for internal management. They are mainly the regulations for management of various areas, such as planning, technology, quality, security and finance. In 1998, the State Council established a new Commission of Science Technology and Industry for National Defense (COSTIND) (China National Space Administration (CNSA)) as the top organization of China's aviation industry. COSTIND has at different times made regula-

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tions such as “the Method for Managing Space Objects Registration”, and “the Method for Managing Temporary License of Civil Space Launch Projects”. Until now, The NPC and the State Council have not laid down any specific laws, nor rules on the management of space activities. This is not comparable to our needs to develop space activities at high speed.

## II. CHINA NEEDS AEROSPACE LEGISLATION

China’s aerospace legislation has long been emphasized by the State overseeing authorities and experts in the fields. In 1986, to accelerate the development of the aviation industry, the Ministry of Aerospace Industry submitted its seventh five-year legislation plan to the State Council, suggesting making provisions on vitalizing aviation industry.

In 1993, on the eighth NPC, the Shanghai delegation signed unanimously and submitted to the Congress a bill for legislating China’s aerospace law. In the bill, it was pointed out that China’s aerospace technology develops rapidly, and has entered an international market of launching service. In order to solve the new problems encountered in developing aerospace technology in the new situation, the bill suggests that China develop its aerospace law as early as possible.

In 1996 and again in 1997, Professor Qizhi He, the well known Chinese space law expert and a legal consultant of the Department of Foreign Affairs, wrote letters to the Administrator of the CNSA suggesting China make aerospace law as soon as possible to regulate the management of domestic companies engaging in aerospace activities.

In 1997, on the 15<sup>th</sup> National Chinese Communist Party’s Congress (NCCPC), the president of China Academy of Aerospace Technology Research proposed that China should develop aerospace law so as to safeguard outer space resources and maintain the country’s interests; to protect aviation properties and promote the development of space enterprise; and to protect the talented people in aviation industry and guarantee there are successors.

On November 17, 1998, at COSTIND legislation strategy symposium, Enjie Luan, the Vice Minister of COSTIND and the

Administrator of CNSA, emphasized the urgency and necessity of a State aerospace legislation. He hoped to enact China's aerospace law as early as possible.

On the fifth session of the tenth NPC in March 2007, through seminars, private consultations and research, many a NPC representatives drafted the "Proposal on Speeding up the Legislation of China's Aerospace Activities", suggesting a speed-up in China's aerospace legislation.

From the managerial point of view for aerospace activities, the Chinese economic system has transformed from a planned economy to a socialist market economy. It is no longer adequate for China to rely solely on the regulations and the management of the government's administrative means in carrying out certain important aerospace activities. In order to smooth the management relations and improve the development of aerospace activities, China needs the regulation of a State's law.

China has acceded to four international aerospace treaties passed by the United Nations' General Assembly and has taken international responsibilities and duties accordingly. The related provisions of these international treaties should be reflected in China's laws so that government organizations, legal persons and natural persons who are engaged in aerospace activities can understand and obey these regulations.

From the point of view of aerospace legislation, whether comparing China's aerospace legislation to that of the major countries in the world, or comparing China's aerospace legislation to the development of China's aerospace technology, China needs to bring about the aerospace legislation as early as possible.

### III. RESEARCH ON CHINA'S AEROSPACE LEGISLATION

The organizations in charge of aerospace legislation in China and the related institutions, as well as the experts, have carried out beneficial investigations in China's aerospace legislation, and have taken on research work in various areas.

1. The Aerospace Corporation Has Set Up an Investigative Group for Aerospace Law Legislation In 1993, on the eighth NCP, the Shanghai Delegation submitted a pro-

posal to legislate the aerospace law. When the Ministry of Aviation and Aerospace (CNSA) was preparing the bill, an investigative group for the aerospace law legislation was established. They consulted the Shanghai NPC standing committee for specific comments on aerospace legislation, collected and translated aerospace laws of U.S., Russia, Ukraine and others. They consulted the NPC's Commission of Law Enforcement and the Bureau of Laws and Regulations of the State Council for opinions on legislating a State aerospace law. They also carried out research on the framework of aerospace law and at the same time conducted a research study on "The Aerospace Law Legislation of China".

2. In 1998, after the new COSTIND was established, it became the organization in charge of the State aerospace activities. COSTIND laid a great importance on the study of the aerospace legislation. Every year there were research studies related to issues of aerospace legislation. Among the studies, two important research projects were accomplished by entrusted institutions. In 2001, "A Study on the Legislation Structure of China's Aerospace Law" was finished. The study laid out the framework for China's aerospace legislation system and also the substance for its composing parts. In 2003, "A Comparative Study on Aerospace Laws of World Powers" was finished. Through this comparative study, suggestions for China's aerospace legislation were made as reference. Included were the major contents of China's aerospace law and the acceleration of the legislation. The accomplishment of these two important projects has laid a good foundation for State aerospace legislation.
3. Begin the Study of "The People's Republic of China Management Regulations of Aerospace Activities". In recent years, on top of its regular work and its related research tasks, COSTIND started studies on "The P. R. C. Management Regulations of Aerospace Activities". It focuses on the provisions that should be included in the management regulations of the aerospace activities.

## IV. AN OUTLOOK ON CHINA'S AEROSPACE LEGISLATION

## 1. China Has the Conditions Necessary for Aerospace Legislation.

In addition to the need for aerospace activities management, our country's aerospace legislation has a relatively a good foundation in terms of technical conditions in aerospace legislation.

- a. China's aerospace activities have taken place on a considerable scale. The development of its aerospace science and technology maintain a high speed and stability. After decades of hard work, Chinese aerospace activities have made remarkable achievements in the world and are of considerable scale. There are a large number of internal managerial regulations and rules, which put down a good foundation for China's aerospace legislation.
- b. The international treaties joined by China, and the bilateral and multilateral agreements on aerospace activities signed by the Chinese government with many countries regulate the rights and responsibilities in carrying out space activities. They also provide some important contents for the legislation of China's aerospace activities.
- c. China's experience in aerospace legislation and years of research studies on aerospace legislation, especially the study organized by COSTIND in recent years, have created a favorable condition for its aerospace legislation.

## 2. Establishing a System in China Aerospace Legislation

According to China's legislation rules and regulations, the Chinese aerospace law system should take a comprehensive aerospace law as its basis, supplemented with other related laws, administrative rules and institutional regulations to form a more complete aerospace law system. According to differentiated administrative duties and needs of the State, government and responsible institutions, corresponding laws, administrative rules or regulations should be made respectively. Currently,

China should continuously modify, enrich and improve the making of the regulations. At the same time, China should be actively engaged in the making of administrative rules and the study of legislating the aerospace law.

### 3. The Management Regulations of Aerospace Activities Are in Hope to Come Out Early.

In both procedure and the degree of difficulty, making administrative rules is much faster than legislating a set of laws. We are still in the period of reform, and a considerable amount of laws pertaining to the country's policies and its people's lives need legislation or modification urgently. If putting aerospace legislation on the NPC legislation agenda requires a long period of time, then making administrative rules and regulations first will be the faster alternative. Thus, we will not only fill in a blank in China's legislation, but will also lay down a foundation for legislating the aerospace law. COSTIND is working on "The People's Republic of China Aerospace Activities Regulations". It will soon come into being.

### 4. Legislating China's Aerospace Law is the Developing Trend.

The rapid development of China's space technology and the daily improvement of China's legal system will certainly bring forward the development of China's aerospace legislation. On basis of the existing administrative regulations and established administrative rules regarding aerospace activities, plus the achievements of many years of studies in aerospace legislation, an aerospace law of China is no longer a distant dream but a reality in the near future.