

RSSSA Ad-Hoc Advisory Meeting – 10 June 2020 Notes

Chatham House Rules Version

Participants:

Kuan-Wei (David) Chen, McGill and co-chair
Michel Doyon, Gov of Canada – GAC, IGN Deputy Director and co-chair

Meghan Gagnon, GoC – NRCan
LCol Catherine Marchetti, GoC – DND
Michelle Mendes, SatCan
Mina Mitry, Kepler Communications
Gord Rigby, MDA Corporation
Shari Scott, GoC – ISED

Absent:

Sébastien Carrière, GoC – GAC, IGN Director
Chad English, GoC – NRC
Joanne Gabrynowicz, University of Mississippi
Isaac Holliss, Gov New-Zealand – MBIE
Wolfgang Schneider, Gov Germany – DLR
Wade Larson, Urthecast
Tom Zubko, New North Networks

Observers:

LCdr David Brennan, GoC – DND
Estelle Chou, GoC – GAC
Gordon Deecker, Invited Expert
Maj Daniel Denis, GoC – GAC
Stephanie Ferreira, MDA Corporation
Isolda Guevara, GoC – GAC
Subbaraman Ramachandran, GoC – GAC
Maj Brian Statham, GoC – DND

Summary: The Ad Hoc Committee Advisory Meeting of 10 June 2020 was the sixth in the series. The focus of the meeting was to discuss some of the questions raised by GAC during the last meeting (13 May 2020) on the Frequently Asked Questions and changes to the *Regulations*, as well as discussing a RSSSA Questionnaire and the review of three (3) points from the *RSSSA Renewal Document*, which lists recommendations to improve the *RSSSA*.

Agenda – 10 June 2020:

1. Welcome
2. Administration items
3. CPC Draft V2 // RSSSA Questionnaire
4. “Questions from GAC”
5. Modifications to the Regulations
6. RSSSA Renewal Document
7. Other Business
8. Next Meeting and Adjournment

1. Welcome

The Co-Chairs welcomed Members and observers to the meeting.

2. Administration items

The members approved the notes from the 13 May 2020 meeting and the agenda for the June meeting with a question regarding US law changes added to other business.

Prior to the meeting, the finalised notes from 25 Mar 2020 meeting were distributed.

GAC shared the implementation of a new email address specifically for the RSSSA and licensing related subjects.

- New e-mail: RSSSA-LSTS@international.gc.ca

3. CPC Draft V2 // RSSSA Questionnaire

The members discussed that the distribution of the second draft of the Client Procedural Circular (CPC) will be delayed until summer time. Even though a lot of progress has been accomplished, the CPC is not ready for broader consultation. There is also a need to ensure the overall length is appropriate.

The goal is to circulate it secretorially among the committee members, and to have a “translate ready version” by the next meeting (Sep 2020).

A RSSSA Questionnaire was provided to the Committee for consideration as possible questions to ask for additional input on suggested changes to the RSSSA and its *Regulations*. The intention is to circulate it with, or after, the official publication of the CPC.

1. *Keeping in mind Canada’s international obligations and security considerations in mind, with the growing rate of space activities (especially with the significant growth in number of satellites), should only remote sensing space systems be regulated?*
2. *How should Canada’s international obligations (e.g. Outer Space treaty, liability convention, and other bi-lateral agreements) be better met through the RSSSA? How could Canada’s international obligations be better met other than with the RSSSA?*
3. *Under the RSSSA as it is currently applied, what do you see are the strengths and weaknesses of the Act and its Regulations?*

4. *Should the approach to regulation be different for the space segment, the ground segment, and the data? Do you believe that regulating Controlled activities is appropriate?*
5. *How could RSSSA promote the competitiveness of the Canadian industry without compromising national security and interests and international obligations? For example, how should liability issues in case of failure of space missions be addressed?*
6. *Keeping Canada's international obligations and security considerations in mind, would the creation of a "class exemption" for future Licences, based on scope of mission (e.g. R&D, vs civilian, vs military, vs other) represent an efficient mean to lower the barrier to entry for certain categories of mission? Class exemption would include pre approved license conditions (or absence of) for certain type/classes of mission?*
7. *Global Affairs Canada intends to publish a Client Procedure Circular (CPC) to help licensees better understand the application process, the license management process and the expected obligations once a licence is granted. Are there any particular issues you would like to be addressed in such a document*
8. *What are your views on Canada's efforts in creating level playing field for Canadian industry with like-minded countries via bilateral and multilateral engagements? Is there more that the GoC could do?*
9. *What are your views on Canada's role in bringing other new space faring nations to regulate in similar manners?*
10. *What are the important elements for remote sensing space systems operations/businesses when being regulated?*

During this discussion, numerous points were raised:

- Final mechanism for outreach to the space community (a specialized community) remains to be determined.
- It was noted that some questions were very specific to government policy; therefore, might be outside the realm of expertise of industry (and other) resulting in questions having a partial answers or even none at all.
- Private sector websites or academic websites (such as McGill and SatCan) offered their respective platform to circulate the Questionnaire to a specific audience;
- The Questionnaire is a good opportunity for industry [and others] to help steer the direction policy should be headed.

4. "Questions from GAC"

At the last meeting (13 May 2020), the Committee members were asked to supply the following:

- Propose two (2) questions that could be embedded in the FAQ annex;
- Propose one (1) change to the *Regulations* that they would like to see.

Two responses were received regarding the FAQs:

- (1) *How much, and what kind of assistance is available to a potential applicant prior to submitting a formal application? Is it limited to telephone conversations or can it range up to requesting a review all of the required information and documents prior to formally submitting them? If so, how much lead time is recommended?*
- (2) *If the location of a mobile facility that handles raw data and remote sensing products in the*

operation of a remote sensing space system has to be changed after a Data Protection Plan is filed, how and when should the licensee inform the Government?

The Committee discussed these two proposed FAQs:

FAQ #1:

- Such a dialogue is presently supported by GAC. This consultation can be via e-mail, a telecom, or even face-to-face.

FAQ #2:

- When inquiring on who utilises “mobile facilities,” it appears that presently, only military, police, and government utilise them.
- Mobile facilities are already in use and changes in location are not the source of significant reporting issues, at the moment.
- “Mobile facility” will need to be better defined.
- This FAQ is something that the GAC regulators will need to explore at a later time.

Propose one (1) change to the *Regulations* that they would like to see.

- All received proposals are listed with Item 5.

5. Modifications to the Regulations

We received some suggestions on what could be addressed regarding the *Regulations* (listed below).

Received proposed *Regulation* changes include:

- i. *Clarifying Definitions: e.g. substantially, sensor vs satellite, particularly clearly define “raw data”*
- ii. *Licence Term: normally life of the sensor*
- iii. *Vague Terminology: better alignment with international terminology*
- iv. *Additional Requirements: no additional rules to be added to the licence*
- v. *Possible Outdated Formats for Documents: electronic not “written”*
- vi. *Guarantee Arrangements: delete and put in another more appropriate law*
- vii. *Documentation Requirements: add complete list of documents and technical details required*
- viii. *Satellite Registration: add requirement for proof of registration*
- ix. *Preamble for Industry: add support for industry “à la Trump directive 2”*
- x. *Built-in flexibility / future-proofing, so that it is adaptable to changes in technology*
- xi. *Faster licensing process*
- xii. *Clear indication to applicants that no ground station is to be built before a licence is granted.*
 - a. *As part of this, assess the location of a new ground segment, especially if it is to be built in proximity of another station.*

Other feedback was also received that included the following:

- i. *To have a tool or application form that clearly outlines what information is needed for an application (required fields, optional fields).*
- ii. *To establish ties with ISED and share information when a ground segment deals with space crafts requiring licences under the RSCSA and Radiocommunication Act*
Note: GAC and ISED is working ways of improving communications and data sharing.

- iii. *Having more FTEs and bigger budget at GAC to support the increased number of applications and be able to address issues quickly (e.g. security issues, inspection, etc.).*

Note: GAC is slowly growing, with additional funding for site inspections and other expenses.

During the discussion, it was expressed that some of the Committee members could not differentiate what constitute *Regulation* changes, *Act* changes, and CPC changes. It was explained that CPC changes are the easiest to achieve to help licensees. *Regulation* changes take time but are easier than *Act* changes, which is a law that requires numerous approvals. Example of potential *Act* changes are definitions, such as “remote space system”.

There was confusion expressed about how to decide when the *Act* or the *Regulations* were the best place for a change or perhaps additional information in the CPC would suffice.

6. RSSSA Renewal

With eight (8) items left to be reviewed and three (3) meetings remaining, we decided to review three (3) items today and at the next meeting, with the final two items at the last planned meeting. The members discussed the following recommendations from the RSSSA Renewal document:

- ***Recommendation 11***

Establish an independent regulatory body that is tasked with overseeing the RSSSA from the perspective of reviewing applications, granting licences, conducting inspections, monitoring compliance, etc. The independent body should be provided with sufficient financial resources, technical expertise, a broad mandate to regulate (in consultation with other key departments and agencies) and should aim to facilitate commercial space remote sensing activities.

- The debate centered on the terminology of “independent regulatory body.”
- If the makeup of the independent body is outside of government (non-government), questions about funding (whether by government or commerce) and stakeholder representation, were raised. If the body is independent, the budget can erode and management would be a concern. An arms-length independent body could be an issue with business confidential and security concerns. The matter of staff turnover may also be a concern.
- Another interpretation is an independent body within government.
- Having a separate organisation will mean the interactions will be deferent than current interactions.
- The creation of a “regulatory advisory board”, with the involvement and input of industry stakeholders in a way that the RSSSA *Ad Hoc* Committee is set up and functions, could be an interesting addition. There was worry that this board would “add” oversight instead of reducing it.

- ***Recommendation 12***

Implement a reasonable fee in the application and licensing process that will establish a certain level of expected service and, if implemented on a cost-recovery basis, will alleviate the resource shortages currently associated with the regulator’s office.

- Measures of success should be published along with a clear set of service standards.

- Fees could be a source of barrier to growth. Consider just licensing the initial application and the initial licence.
- Many considerations regarding fees: how to manage and meet expectations for services rendered; reimbursement when conditions not met; GoC is not good at gathering/collecting fees; the fee must be a reasonable amount.
- The addition of fees must be well thought out. This may impact industry, since initiating a licence is one thing, licence upkeep is something else (condition changes, adding a System Participant, Inspections, etc.)
- In the end the creation of a fee was not recommended

- **Recommendation 13**

Implement a formal process whereby the licensee and the regulator have an opportunity to discuss and review a licence (before and after it is issued), such that any disagreements regarding conditions or restrictions can be resolved or mitigated as best as possible without needed to undertake the licence amendment process.

- Early contact is a reality. A note of caution: A licence or a permit is NOT a contract, the wording in a permit or licence is NOT negotiated. Applications can be discussed but should not be reviewed in advance of submission.
- Early contact permits GAC to manage expectations in the licencing process.

7. Other Business

- **Committee Members views on the proposal to modify the US Remote Sensing Regulations.**

Committee Members views on the proposal to modify the US Remote Sensing Regulations were requested. There was no discussion other than the point that “Commerce likes it” and some expressed wonder if Canada will adapt a similar approach. The proposed “Class Exemptions” can be compared to the US proposed “Tier” approach.

8. Next Meeting and Adjournment

The next meeting is scheduled for 09 Sep 2020, at 13h00 Ottawa time. The agenda will cover possible *Act* changes and the second draft of the CPC.