U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

**800 Independence Ave., S.W.
Washington, D.C. 20591**

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Courtney B. Graham
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Office of the General Counsel
National Aeronautics and Space Administration
300 E Street, SW
Washington, DC 20546

Dear Ms. Graham:

This is in response to your July 3, 2013 letter requesting a statutory interpretation regarding whether the International Space Station International Partner astronauts (International Partner astronauts) must waive claims against the U.S. Government.

Title 51 U.S.C. Chapter 509 does not require the International Partner astronauts to waive claims against the U.S. Government or against U.S. Government contractors for bodily injury, impairment of health, or death because the Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America Concerning the Cooperation on the Civil International Space Station (IGA) specifically exempts such claims from waiver. Chapter 509 does require that International Partner astronauts waive claims for property damage or loss.

Background

The IGA is a multilateral agreement among the United States and fifteen other countries (the International Partners). The IGA establishes a framework for international cooperation for the operation and utilization of the International Space Station. IGA Art. 1, Jan. 29, 1998, 2001 WL 679938. You noted that because the U.S. Government has committed, under Article 12 of the IGA, to provide launch and return transportation services to the other International Partners, irrespective of whether that service is provided by government or commercial transportation services, NASA has an international obligation to transport International Partner astronauts to the International Space Station under the IGA. *See id.* at Art. 12. When NASA is transporting International Partner astronauts to and from the ISS, the International Partner astronauts meet the statutory definition of space flight participants because they are carried aboard a launch or reentry vehicle, and they are not crew. 51 U.S.C. 50902(17).

Discussion

Chapter 509 states that it shall be carried out "consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country." 51 U.S.C. 50919(e)(1). The IGA is such an agreement.

Article 16 of the IGA contains provisions for cross-waivers of liability. When NASA arranges for transportation for its International Partners, the IGA expressly excludes waivers of "claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Partner State) for bodily injury to, or other impairment of health of, or death of such natural person." IGA, Art. 16.3(d)(2). The term "natural persons" encompasses International Partner astronauts.

Because the IGA is an executive agreement between the U.S. Government and a foreign government, the cross-waiver requirements in the CSLA, 51 U.S.C. 50914(b), must be read consistent with the IGA. 51 U.S.C. 50919(e)(1). Therefore, the FAA will not require International Partner astronauts to waive claims for bodily injury, impairment of health, or death.

The IGA does not, however, address claims natural persons may bring for property damage or loss. Under Chapter 509, space flight participants and crew must also waive claims for property damage or loss. 51 U.S.C. 50914(b)(2). Because Chapter 509 does not conflict with the IGA with respect to requiring waivers of claims for property damage or loss, Chapter 509 requires that International Partner astronauts waive such claims.

We trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-8839. This response was prepared by Sabrina Jawed, Attorney, International Law, Legislation and Regulations Division of the Office of the Chief Counsel.

Sincerely,

Mark W. Bury
Assistant Chief Counsel, International Law,
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AGC-200