

# **REPEAL OF THE SPACE AFFAIRS ACT NO. 84 OF 1993 BY THE SOUTH AFRICAN OUTERSPACE BILL**

**Portfolio Committee on Trade and Industry  
20 June 2017**

**Ms. Nomfuneko Majaja**

**Chief Director: SEZ & ET (Legal & Compliance: Space  
Affairs)**

**Ms Pontsho Maruping**

**Chairperson: South African Council for Space Affairs**



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# RATIONALE BEHIND THE REPEAL OF THE SPACE AFFAIRS ACT NO. 84 OF 1993

- Increasing involvement of domestic and foreign, public and private-sector entities in space activities in South Africa
- The growth of the commercial space sector locally and internationally since the enactment of the Act
- To ensure compliance with international legal trends in outer space
- To align regulatory framework to international space treaties
- To align to domestic policies & strategies



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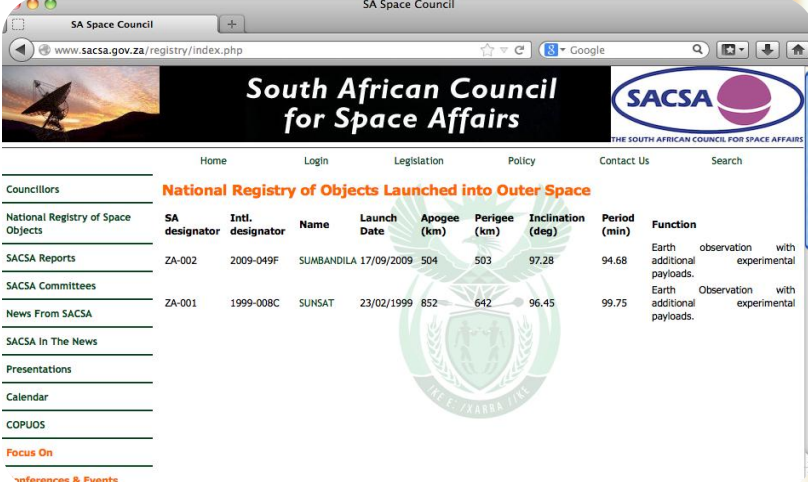
# RATIONALE BEHIND THE REPEAL .....International Obligations

South Africa is a member of the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS), a subsidiary body of the General Assembly .

UNCOPUOS is focal point for international co-operation in civilian space activities with a membership of 83+ countries.

South Africa is signatory to following treaties:

1. The 1967 Outer Space Treaty;
2. The Rescue Agreement;
3. The Liability Convention; (legal protection against damage to property and loss of life)
4. The Registration Convention.  
(Register all space objects launched)



The screenshot shows the SACSA website with a table titled "National Registry of Objects Launched into Outer Space". The table has columns for SA designator, Intl. designator, Name, Launch Date, Apogee (km), Perigee (km), Inclination (deg), Period (min), and Function. Two objects are listed: SUMBANDILA and SUNSAT.

SA designator	Intl. designator	Name	Launch Date	Apogee (km)	Perigee (km)	Inclination (deg)	Period (min)	Function
ZA-002	2009-049F	SUMBANDILA	17/09/2009	504	503	97.28	94.68	Earth observation with additional payloads.
ZA-001	1999-008C	SUNSAT	23/02/1999	852	642	96.45	99.75	Earth Observation with additional payloads.

- In addition UN Principles on various aspects of space activities; which are not legally binding like the Treaties but persuasive.
- Maturity of International discussion regarding the sustainability of outer space

## RATIONALE BEHIND THE REPEAL... Domestic Front:

- National Space Policy (2008), **the dti**
- National Space Strategy (2008), DST
- South African National Space Agency Act , 2010, DST
- Establishment of SANSA
- Establishment of Denel SpaceTeq, government Enterprises
- Shift from **military** – regulation focused on space technology to manage potential proliferation to focus on socio **economic development**
- Key role for industry & universities (skilling & manufacturing of Cube Sats)
- Industry support- clusters, incubation, skills development)



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## THE CONSULTATION PROCESS

- The first stakeholder consultation workshop was held at University of Pretoria in 2012 with domestic stakeholders to inform them of the intention by **the dti**
- A second stakeholder consultation workshop with domestic stakeholders, including industry and National Departments in 2014 to further examine & refine the findings from the UP study to support the legislative review process for the Space Affairs Act.



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# FURTHER STAKEHOLDER CONSULTATION

## **Workshop with two international experts in space law matters in Dec 2014:**

- Dr Tare Brisibe: Director-Regulatory Affairs at OnAir, a subsidiary of SITA (Société Internationale de Télécommunications Aéronautiques) and Chairman of the Legal Subcommittee of the UN Committee on Peaceful Uses of Outerspace (COPUOS) for the period 2012 – 2013; and
- Prof Ram Jakhu: Associate Professor – Faculty of Law and Associate Director – Center for Research in Air and Space Law at the McGill University in Montreal, Canada.

## **Working Group established from Members of the following Departments / state agencies and industry association to review of the Act:**

- Department of Science and Technology (DST);
- Department of International Relations and Cooperation (DIRCO);
- Department of Defence;
- Department of Justice and Constitutional Development (DoJ & CD);
- Department of Telecommunications and Postal Services (DTPS);
- South African National Space Agency(SANSA); and
- Aerospace Maritime & Defence Industries Association (AMD),



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# OUTCOMES OF CONSULTATION

## Highlighted the Need for a New Act instead of an amendment due to:

- Essential Elements recommended by UNCOPUOS,
- **the dti** commissioned UP study
- International Legal Association (ILA) Model law
- Current Legislation falls short of addressing national developments (Policy and Strategy) and socio economic needs that:
  - reflects on domestic space needs : Policy objectives, commercialisation and industrialisation;
  - reflects on a need for a strengthened Space Affairs Team (Secretariat, monitoring & compliance and reviewing & implementation of Space Policy within **the dti**;) )
  - recognises new relevant legislation - Electronic Information Act, SANSA Act; and
    - provides for broad/procedural issues to be prescribed in the regulations
    - takes into consideration a Socio-economic Impact assessment with the support of Department of Planning Monitoring and Evaluation




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# SOCIO-ECONOMIC IMPACT ASSESSMENT

The Socio-Economic Impact Assessment System (SEIAS) was adopted by Cabinet for implementation by government depts in July 2015. The SEIAS aims to:

- Improve policy and legislative processes to optimise the benefits of legislation;
- Identify the risks associated with the implementation of the policy; and
- The assessment for this Outer Space draft bill was completed and a certificate issued on 4<sup>th</sup> May 2017.




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& evaluation  
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SOCIO-ECONOMIC IMPACT ASSESSMENT AND QUALITY ASSURANCE (CLUSTERS ONLY):

This is to confirm that:

1. The Department of Planning, Monitoring and Evaluation has assessed the Socio-Economic Impact Assessment Report as per the following:
  - \* Initiating Department : Trade and Industry (the dti)
  - \* Name of the Bill : South African Outer Space Regulatory
  - \* Type of Assessment : Final Impact
2. DPME will issue Sign off Form after Clusters' Recommendations are addressed and Cabinet Submissions are finalised
3. Verified and signed off by the SEIAS Unit:

Official Stamp



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& evaluation  
Department:  
Planning, Monitoring and Evaluation  
REPUBLIC OF SOUTH AFRICA  
SEIAS  
Socio-Economic Impact Assessment System  
No: 0 0 1  
AUTHENTIC AND OFFICIAL  
STAMP OF APPROVAL  
CLUSTER ONLY  
Date: 04 May 2017



## DRAFT LEGISLATION :Scope of Application

This draft bill covers the following space activities:

- Operation of a space facility;
- Manufacture of space objects;
- Launch of space objects into outer space;
- Operation and control of space objects in orbit;
- Re-entry of space objects;
- Space applications, through regulations, for attainment of the objects of the Act.



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## THE OBJECTS OF THE ACT

**Establishes the South African Space Regulatory Council SASREC ( the Space Council) as a national competent authority to regulate space affairs (S8)**



- advise the Minister on regulations or any matter that may have an influence on space affairs;
- supervise and implement matters arising from international conventions, treaties and agreements, ratified by the Republic;
- issue, amend, suspend or revoke licences;
- oblige persons & authorities involved in the space industry to register with Council;
- provide for the appropriate and widest possible publication of information concerning the activities of the Council; and
- perform any other activity with a view to contributing to the effective achievement of the objects of the Act.



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## THE OBJECTS OF THE ACT

Establishes SASREC to issue licences or amend, suspend or revoke 14 -20



- Emphasises that **all** space activities shall be authorized by the Space Council through a licence;
- Deals with change of ownership and surrendering of a licence as authorised by the Space Council;
- Introduces licence fees, processes and procedures that may be prescribed by the Minister;
- Outlines conditions under which Space Council has the prerogative to grant, refuse, amend, suspend and revoke licences;
- Identifies the types of licences that may be issued:
  - Space Launch licence
  - Space Facility Licence
  - Re-Entry licence



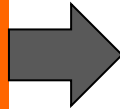
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## THE OBJECTS OF ACT

**Since SASREC is an Ad-hoc Body, the Space Affairs Chief Directorate is established and staffed by employees of the Dept to:**

**Establish the Space Affairs Chief Directorate to provide secretariat functions to SASREC (S13)**



- ❑ Review and monitor the implementation of the National Space Policy by all stakeholders;
- Develop, implement and monitor compliance to regulations of the space activities;
- Develop and implement Space Industry Framework;
- Serve as the Secretariat for the Council and its 3 Committees;
- Perform all other critical work necessary for the performance of the functions of the Council and its Committees which include amongst others:
  - licensing, overall supervision, monitoring; and
  - ensuring of compliance of all space activities in the country.

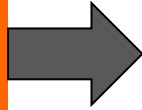


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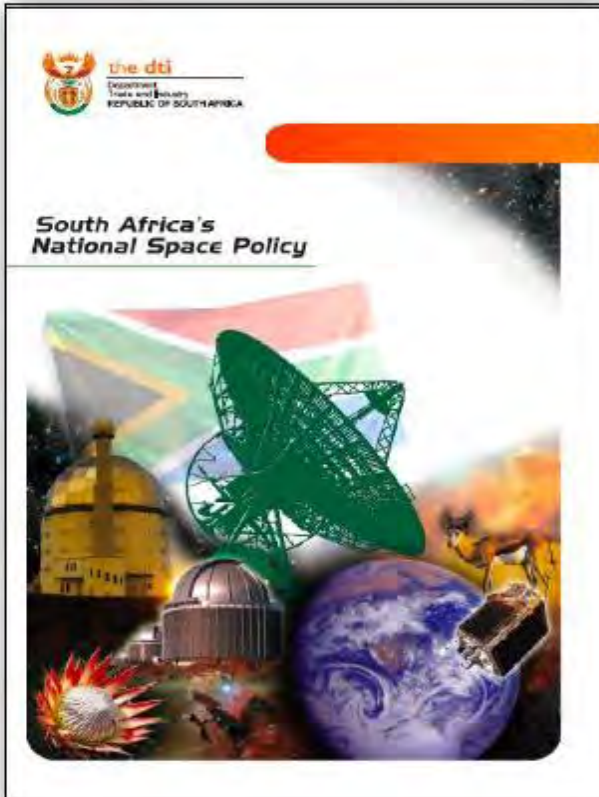
## THE OBJECTS OF THE ACT

Determine and review  
National Space Policy [S 5]



The Minister may determine & review the National Space Policy in consultation with Ministers from other Departments, with a view to:

- promote the orderly development, through regulation, of space capabilities & space activities that address the socio-economic needs of the Republic;
- provide for coordinated & improved intergovernmental cooperative governance of space affairs;
- facilitate international cooperation in the conduct of space activities to address national, regional and continental socio-economic developmental challenges; and
- ensure that all the international commitments and responsibilities of the Republic in respect of the peaceful utilisation of outer space are met.



## THE OBJECTS OF THE ACT ...

Promote and develop clear and transparent regulatory environment .

[S 8]

Strive to disseminate all benefits emanating from space regulation as widely as possible to the public

Protect the national interests of the Republic and promote international cooperation in the conduct of space activities

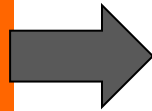


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## THE OBJECTS OF THE ACT

Promote the development of space capabilities that address socio-economic needs of the Republic.  
(S33-34)



- The Space Council will maintain Space National Registry with information of space objects licensed under the Act;
- All persons and authorities involved in the space industry must :
  - Register space capabilities with the Space Council through a Space Council Compliance register in order to enhance and co-ordinate the space industry and its capabilities.
- Furthermore, it is envisaged that incubation/clustering of space industries will be considered as per **the dti** Policy.

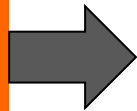


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## THE OBJECTS OF THE ACT

**Develop and enforce technical and safety standards for the space sector.  
(S29-32)**



- The Space Council will be responsible for developing, implementing, enforcing and providing oversight for all space activities through regulations.
- Inspectors may be used when deemed necessary to:
  - Inspect any document data or anything concerning the licensed space activities
  - Ascertain compliance with license conditions
- Investigators may also be appointed in cases where an accident/incident poses an unacceptable safety risk to investigate



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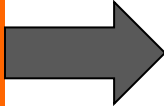
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## THE OBJECTS OF THE ACT

The State Liability for damage attaches irrespective of whether the space activity in question was authorised or not.

**Introduce insurance clause for the compensation of damage or loss resulting from the conduct of space activities**



- Emphasises obligation on any person conducting space activities to obtain and maintain a liability insurance against any liability that might incur under this Act; and
- Introduces compensation payment for any damage to third parties that the launch, operation or return may cause;
- This obligation does not apply when government is undertaking space activities;
- Introduces Insurance waivers such as:
  - the Council may recommend to Minister an exemption on a case by case basis from one or more provisions of the Act on conditions that overlap with other regulations or
  - where a duplicate regulatory environment administered by other regulatory authority e.g. NPC, NCACC.



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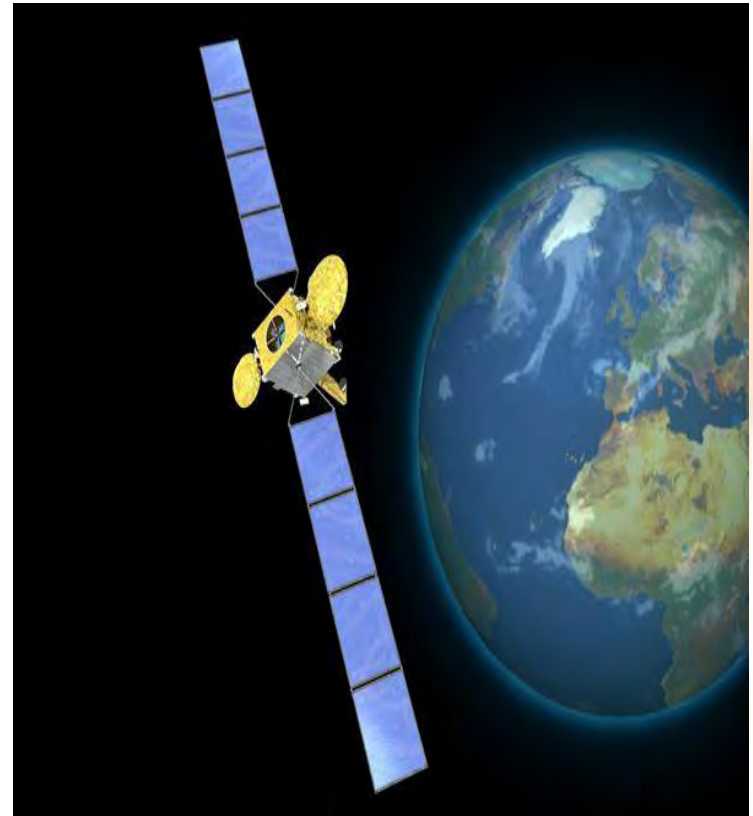
## CONTINUOUS MONITORING OF COMPLIANCE SPACE ACTIVITIES

The Space Council has certain obligations under this legislation to:

- ensure proper and continuous supervision “rather license and forget “ scenario such as
- scrutinise annual declarations

Licensees are required to inform the Space Council of any information:

- regarding the placement in orbit, any post launch orbital changes, on orbit commissioning plan, etc.;
- pertaining to operational status; any loss of operation control etc.;
- on end of life disposal, plan-re-entry into atmosphere, etc.;
- any deviation and any other changes with respect to conditions of the license.



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## STEPS STILL TO BE UNDERTAKEN

- Cabinet Cluster request to take draft legislation on wider public consultation – August 2017;
- Publication in the government gazette - September 2017;
- A public consultation/workshop – October 2017;
- Collation of inputs & comments by the Policy & Legal Committee will take place – November 2017;
- Collated document to be sent to the State Law Advisers – January 2018;
- Review and updating of the draft bill by the drafting Committee with State Law Advisers – February 2018.



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# South African Council for Space Affairs and Secretariat



Front row: Ms N Sonjani, Ms P Maruping ( Chairperson), Adv. L Makapela  
2<sup>nd</sup> row: Mr NN Njovane (sec.), Mr W Makwinja, Dr. V Munsami  
3<sup>rd</sup> row: Mr L Anamalai, Mr T Tenza, Mr L Petzer  
Last row: Mr H Mudau, Mr L McPatie, Ms V Matlou,  
Ms P Swarts (sec.), Ms N Majaja (Vice Chairperson)



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THE SOUTH AFRICAN COUNCIL FOR SPACE AFFAIRS

# Activities of the Council and **the dti**

- Supported review of new Outer Space Draft Bill;
- Reconstituted Council Committees and reviewed TORs:
  - Industry Support;
  - Policy & Legal;
  - Science and Technical;
- Developed the Council's Draft Strategy;
- Undertook induction and stakeholder engagements in the Western Cape;
- Participated at UNCOPUOS committees;
- Co-hosted with SANSA the Manfred Lachs African Region Moot Court Competition, which is the Capacity Building Program for Space Regulation:
  - University of Pretoria won & will represent Africa in the finals at the IAC in Australia.



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THE SOUTH AFRICAN COUNCIL FOR SPACE AFFAIRS

# Planned priorities for 2017/18

- Support finalisation of the new Outer Space Draft Bill;
- Undertake stakeholder engagements in Gauteng;
- Undertake research and advise Minister on the ratification of the Moon Treaty;
- Support **the dti** and the DST in the development of Space Industry Framework;
- Review and finalise licensing and registration processes;
- License the 2<sup>nd</sup> CPUT CubeSAT;
- Participation at the IAC, 2017;
- Support SA's participation in the UNCOPUOS;
- Support preparation of SA's participation in UNISPACE +50.

# IAC 2017, Australia

- Theme: Unlocking Imagination, fostering Innovation & Strengthening Security;
- Date: 25-29 September 2017, Adelaide, Australia;
- The world's largest annual gathering of space industry, agencies, policy makers and professionals;
- Provides large exhibition space – SA to prepare a National pavilion hosting all its institutions and industry to showcase achievements in space capabilities;
- Members of Parliament Meeting on the 24 Sept 2017.



# UNISPACE +50, 18-29 June 2018, Vienna

- Marks the 50<sup>th</sup> anniversary of the first UNISPACE conference;
- Takes stock of the contributions to global space governance;
- Creates a blueprint towards Space 2030;
- **Key Dates:**
  - High-level Forum: “Space as a driver for socio-economic sustainable development”, 6-9 November 2017, Dubai;
  - High level event: 18-19 June 2018;
  - Official opening 20 June 2018;
  - Objectives include the presentation of lessons learned and new ideas in the four thematic areas;
  - [United Nations/South Africa Symposium on BSTI "Small Satellite Missions for Scientific and Technological Advancement"](#), Stellenbosch, 11-14 December 2017. Will include a Space Policy & Legal segment.



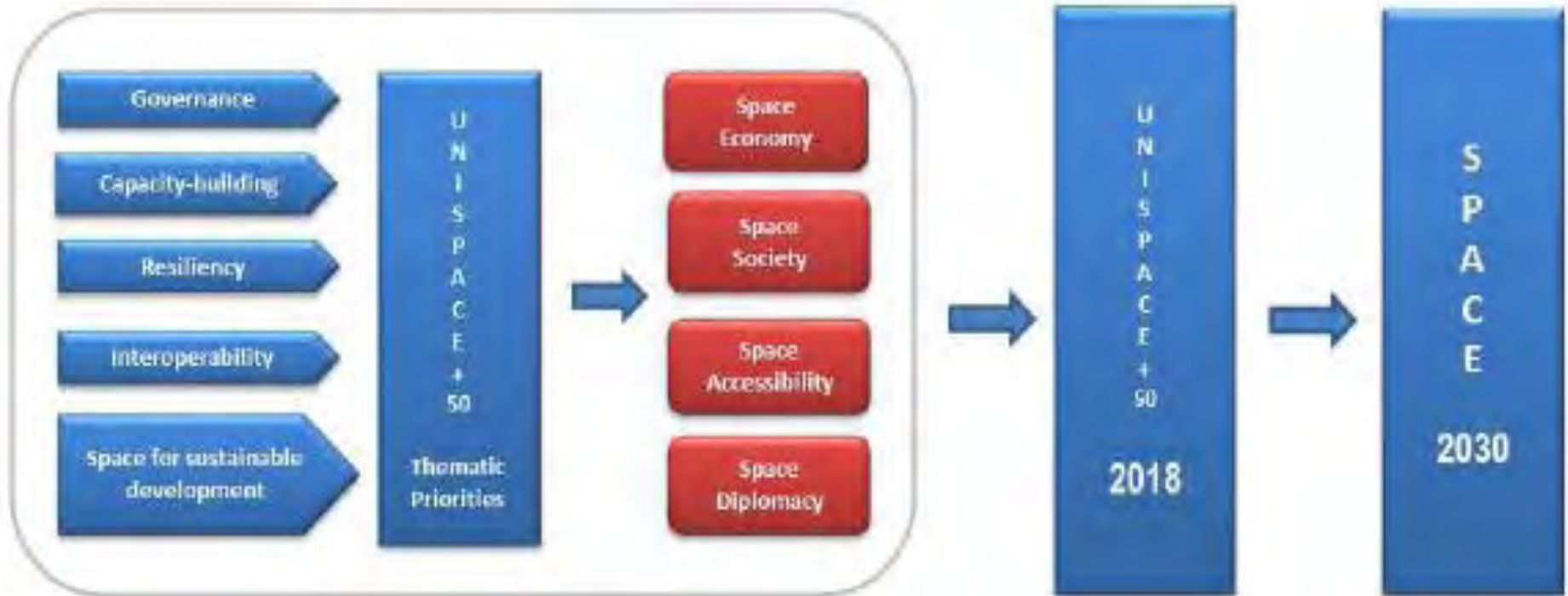
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UNISPACE  
+50 24



# UNISPACE +50 Processes



## SUSTAINABLE DEVELOPMENT GOALS

People

Planet

Prosperity

Peace

Partnership

# THANK YOU !



Parliamentary process 2017-18  
Drafting of regulations 2018  
National Space Policy Review  
2018-2019



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