
Economic and Social Council

7 July 2016

Committee of Experts on Global Geospatial Information Management

Sixth session

New York, 3-5 August 2016

Item 7 of the provisional agenda*

Legal and policy frameworks, including issues related to authoritative data

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Note by the Secretariat

Summary

The present paper contains the report of the Secretariat on the legal and policy issues to be considered in developing a framework to support global geospatial information management in the public and private sectors, including issues related to authoritative data, for consideration by the Committee of Experts on Global Geospatial Information Management.

At its fifth session, held in New York from 5 to 7 August 2015, the Committee of Experts adopted decision 5/107, in which it welcomed the report on legal and policy frameworks, including issues related to authoritative data, noted the updates on recent developments and increased focus that could have an impact on legal and policy frameworks supporting geospatial information, and that the geospatial community now needed to be more proactively engaged with issues relating to the collection, use, provenance and accessibility of data, such as privacy, licensing, quality and national security, as well as issues related to new disruptive technologies, such as unmanned aircraft systems (commonly known as drones). The Committee also recognized the growing need for geospatial professionals to understand the legislative and regulatory processes and their implications for the entire geospatial community, and for the legal profession and legislators to understand the wider use and benefits of geospatial information, and agreed that a plan of action and strategy should be prepared in consultation with the Centre for Spatial Law and Policy, relevant Member States and other experts, in order to begin the advocacy and engagement process among relevant parties. The report, prepared with the assistance of the Centre for Spatial Law and Policy, updates the Committee of Experts on the issues that have an impact on the requisite legal and policy frameworks globally and outlines a proposed international forum on legal and policy issues and frameworks, to be convened in Kuala Lumpur in October 2016, in order to facilitate a more informed dialogue on the identified issues, including national policies.

I. Introduction

1. At its fifth session, held in August 2015, the Committee of Experts noted the updates on recent developments and increased focus that could have an impact on legal and policy frameworks supporting geospatial information, and also noted that the geospatial community now needed to be more proactively engaged with issues relating to the collection, use, privacy, provenance and, accessibility of data, as well as issues related to the use of unmanned aircraft systems (drones) and other potentially intrusive devices.

2. With the continually growing relevance of geospatial information and related acquisition and dissemination devices, the Committee has recognised the need for increased two-way public education and awareness on the topic across professional communities. In this respect, geospatial professionals have a greater requirement to understand the legislative processes and the creation of laws and their implications on geospatial information, while the legal profession and legislators need to understand the wider use and benefits of geospatial information.

3. The Committee agreed that a plan of action and strategy should be prepared in consultation with the Centre for Spatial Law and Policy, relevant Member States and other experts, in order to begin the advocacy and engagement process among relevant parties. However, the Committee acknowledged that an initial global dialogue was required for the global geospatial information community to discuss and understand the legislative and regulatory processes, and their implications, pertaining to geospatial data.

4. In making decision 5/107 at its fifth session, the Committee of Experts supported the convening of an international forum on legal and policy issues and frameworks at an appropriate time in 2016, and with suitable advance notice for Member States, with a view to intensifying, taking a more proactive role in and facilitating a more informed dialogue on the identified issues, including national policies. The Committee encouraged contributions from Member States, and appropriate international professional associations and academia on the planning, content and conduct of the legal and policy forum.

5. This report, prepared with the assistance of the Centre for Spatial Law and Policy, updates the Committee of Experts on the issues that have an impact on the requisite legal and policy frameworks globally and outlines a proposed international forum on legal and policy issues and frameworks, to be convened in Kuala Lumpur in October 2016, in order to facilitate a more informed dialogue on the identified issues, including national policies. The Committee of Experts is invited to take note of the present report.

II. Developments impacting existing legal and policy frameworks

6. The adoption of geospatial technology, and applications that use geospatial information, has continued to advance across the globe. As a result, government agencies, businesses and non-governmental organizations are increasingly becoming both consumers and producers of geospatial information. Due to its versatility geospatial information can be collected for one purpose (i.e.

governmental use) and subsequently used for many other purposes (i.e. business intelligence). This is creating a geospatial ecosystem that goes beyond relationships between traditional geospatial organizations and across national boundaries. As discussed further below, it also raises a new legal and policy that will challenge the current geospatial community.

7. Advancements in technology have led to the proliferation of sensors that collect geospatial information on smaller platforms, such as unmanned aerial vehicles (UAVs), commonly known as drones, small satellites and small, mobile devices. These relatively inexpensive platforms have reduced the cost of collecting data, making it much easier for non-traditional geospatial organizations to have an important role in the future development of the technology and the accompanying legal and regulatory framework. This trend is expected to continue with the growth of technology such as autonomous vehicles, smart cities, smart grids and the internet of things.

8. While increased adoption of geospatial technology is beneficial for the traditional geospatial community, it also presents a number of challenges. One challenge has been the extent to which the geospatial community is becoming subject to laws, regulations and policies seemingly unrelated to the traditional geospatial mission. For example, Open Data initiatives, in which government agencies from around the world at all levels are making their data more accessible, are often driven by government officials that are not from the geospatial community. However, Open Data initiatives, and the accompanying laws, regulation and policies, have a tremendous impact on government agencies that collect geospatial information because of the number, and value, of the geospatial-enabled datasets.

9. Similarly, drones are viewed as a tremendous geospatial tool to complement and supplement existing geospatial technologies. However, national aviation authorities have been primarily responsible for developing laws and regulations around drones due to the complexity associated with integrating them into the national airspace. As a result, these agencies are having a tremendous impact on the ability of the geospatial community to utilize this potentially valuable tool. While a certain segment of the geospatial community has always had to deal with the national aviation authorities, the significance of these developing laws, regulations and policies will impact the traditional geospatial community much more broadly, as the relatively low cost of entry for this disruptive technology makes it affordable for more organizations to become data collectors. In addition, geospatial organizations (government agencies, businesses and NGO's alike) will also soon have to deal with laws and regulations that are being developed by data protection/privacy regulators to address perceived privacy concerns associated with drones. Unfortunately, in many parts of the world the geospatial community is not actively engaged with aviation authorities or data protection/privacy regulators.

10. The impact of data protection/privacy authorities on the geospatial community will almost certainly go beyond drones. As both government agencies (i.e. law enforcement and security agencies) and businesses recognize the value of location and other types of geospatial information to better understand and even identify individuals, data protection/privacy authorities are increasingly looking to regulate the collection, use and distribution of geospatial information so as to better protect consumers and citizens. A risk to the geospatial community is that laws, regulations

and policies that are intended to protect against the worst abuses of the power of geolocation information, will also impact more benign or even beneficial uses. Alternatively, government officials may impose restrictions on the collection, use and distribution of geospatial information under the auspices of protecting privacy, in an effort to stifle innovation that challenges the status quo.

III. Addressing the legal and policy challenges

11. Addressing these impending legal and policy challenges will require the traditional geospatial community to recognize that it is part of a growing and dynamic ecosystem. This ecosystem is filled with new stakeholders with new objectives. As reflected in decision 5/107 at the fifth session of the Committee of Experts, it is critical for the geospatial community to understand the legislative and regulatory processes and their implications for the entire geospatial community, and to begin directly engaging and interacting with these new stakeholders. Since many of these new stakeholders are not familiar, and may not even identify, with the traditional geospatial community, and in order to begin the advocacy and engagement process among relevant parties, the Committee may wish to consider the following options: 1) Invite non-traditional geospatial organizations to meetings; 2) Include sessions on non-traditional geospatial technologies/applications in meetings; and 3) Staff engage with policymakers from non-geospatial agencies.

IV. International forum on policy and legal frameworks

12. At its fifth session, the Committee of Experts supported the convening of an international forum on legal and policy issues and frameworks in 2016, with a view to taking a more proactive role in and facilitating a more informed dialogue on the identified issues, including national policies. At that time the Government of Malaysia kindly offered to host such an important international forum. Therefore, the Department of Survey and Mapping of Malaysia (JUPEM), in collaboration with the Secretariat of the Committee of Experts and the Secretariat of the Regional Committee of UN-GGIM for Asia and the Pacific, are jointly organising and hosting the UN-GGIM International Forum on Policy and Legal Frameworks for Geospatial Information Management in Kuala Lumpur, Malaysia, from 18-19 October 2016. The International Forum will be combined with the Fifth Plenary Meeting of UN-GGIM-AP, being convened from 17-20 October 2016.

13. The International Forum will provide a platform for the global geospatial information community to discuss and understand the legislative and regulatory processes, and their implications, pertaining to geospatial data. The Forum will provide an opportunity for a more informed dialogue on the issues, leading towards a plan of action and strategy to be prepared in order to begin the advocacy and engagement process among relevant parties, and to be considered by the Committee in more detail at its seventh session in 2017. Member State representatives and other relevant stakeholders are urged to attend and participate in the Forum.

14. The International Forum will consist of a number of themes and sessions that will enable participants to actively engage with leading international experts and lawyers to discuss issues relating to the collection, use, provenance and accessibility of data, and share their experiences and methodologies in the following areas: 1) Open data experiences, approaches and practices; 2) Legal and regulatory frameworks regarding unmanned aircraft systems (UAS); 3) Data

protection and privacy; 4) Licensing of geospatial information; and 5) Data sharing policies. It is expected that up to 100 participants from both the geospatial and legal professional communities will attend. The objective is to bring together lawyers from government, the private sector and NGO's together with geospatial communities to (1) create a common dialogue on the issues of importance to both communities and (2) develop a forum in order to find solutions so as to maximize the benefit of geospatial technologies while addressing key legal, regulatory and policy challenges.

15. The Committee of Experts is invited to take note of the present report.