



Permanent Mission of the Federative Republic of Brazil

Item 9: *General exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources.*

[*Check against delivery*]

Mr. Chairperson,

During the sixty-first session, the Legal Subcommittee (LSC) created a Working Group on the Legal Aspects of Space Resource Activity and gave it a five-year mandate to gather information, study the current legal framework, and “*assess the benefits of further development of a framework for such activities, including by way of additional international governance instruments.*” The replies to the survey sent to States and official observers are indicative of the extensive discussions within the legal community that the possibility to exploit the natural resources of the Moon and other celestial bodies has generated. Such discussions have focused on the modes, forms and purposes of extra-terrestrial exploitative activities.

Largely, they point to the fact that the existing international space law still leave a great deal of uncertainty as to the legal status of celestial bodies’ resources. In fact, at the time that the UN treaties on the outer space were negotiated, the primary concern was to clarify the legal nature of celestial bodies, rather than that of their resources, probably because the extraction and use of extraterrestrial resources was not a feasible option in the late 1960s. That is why Brazil believes that the establishment of the aforementioned working group is significant. It represents a consensus acknowledgement that the Outer Space Treaty does not adequately address space resource activity and how the benefits of outer space are to be shared.

The ‘fulcrum’ of the problem, to use Dworkin’s expression, is that states are not allowed to extend their sovereignty rights over outer space and any of its parts in accordance with Article II of the treaty. However, Article I, paragraph 1, of the agreement confers on states parties the right to freely explore and use outer space. These two Articles attribute outer

space the status of an area open to all states but not capable of being appropriated by any of them.

Article I, paragraph 1, goes on and declares that ‘the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries’. The interpretation of this clause offers opportunities to clarify some terms and to untangle the phenomena of ‘shared benefits’. In general terms this provision means that the exploration and use of outer space, being the ‘province of all mankind’, is not aimed at serving only the interests of those states that have the technological capability to explore and utilize outer space, but those of all states, no matter what their degree of economic and scientific development. This is an idea that has permeated space activities since their inception.

In pursuing this objective, the existing rules dealing with the management and use of limited resources in international areas, such as in the context of Antarctica, the ocean floor and Earth orbits, provide valid examples to be taken into account. They stipulate terms of equity, rules on access to technology, be on the open market, at a fair and reasonable price, or through joint ventures with industrialized states and they even establish special decision-making mechanisms which give technologically and economically advanced states an impact proportionate to their economic interest and the involvement in space resource activities.

Such agreements provide a broad spectrum of possibilities to guide the negotiation for developing a framework for the exploration, exploitation and utilization of space resources which is equitable, constructive, collaborative and consensus-based. We already have several sources for a future legally binding framework, including the Artemis Accords, of which Brazil is a signatory, the Hague “building blocks”, which counted with the collaboration of Brazilian legal experts, and national regulations which have been approved or are under consideration by various countries. Those efforts and initiatives support, but do not replace the need for a binding legal framework.

With regard to the Working Group created under this agenda item, we support the Chairs’ efforts and believe we should work in a progressive manner prioritizing the items that are most feasible to yield results.

Brazil hopes that such discussions continue to be consensus-based and as inclusive as possible, paying due regard to the needs of all states, regardless of their degree of economic

and scientific development, and including those that do not have the technological capability to independently explore and utilize outer space.

Thank you.