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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
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Draft report

V. Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

1. Pursuant to General Assembly resolution 64/86, the Subcommittee considered agenda item 7, entitled “Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union”, as a regular item of its agenda.
2. At its 805th meeting, on 23 March, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.
3. The Working Group held four meetings. The Subcommittee, at its [...] meeting, on [...] March, endorsed the report of the Working Group, contained in annex [...] to the present report.
4. For its consideration of the item, the Subcommittee had before it the following:

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(a) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865 and Add.6 and 7);

(b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.5 and 6);

(c) Conference room paper entitled “Concept of suborbital flights: information from the International Civil Aviation Organization” (A/AC.105/C.2/2010/CRP.9);

(d) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of the Netherlands” (A/AC.105/C.2/2010/CRP.10);

(e) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of Tunisia” (A/AC.105/C.2/2010/CRP.13).

5. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, emerging legal questions and the increasing use of outer space in general had made it necessary for the Subcommittee to consider the question of the definition and delimitation of outer space.

6. Some delegations expressed the view that the lack of a definition or delimitation of outer space created legal uncertainty concerning the applicability of space law and air law and that matters concerning State sovereignty and the boundary between airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.

7. The view was expressed that the definition and delimitation of outer space was of paramount importance in relation to the issue of the liability of States and other entities engaging in space activities. That issue had become particularly topical in the light of the current intensification and diversification of space activities.

8. The view was expressed that the absence of a definition and delimitation of outer space in international space law could lead to establishment by States of relevant norms and definitions in their respective national legislation and that could lead to substantial divergence in the positions of States on the matter.

9. The view was expressed that the establishment of a definition and delimitation of outer space would create certainty in the sovereignty of States over their airspace and would also enable the effective application of the principles of the freedom of use of outer space and of non-appropriation of outer space. The delegation expressing that view was also of the view that the definition and delimitation of outer space was linked to the definition of space objects.

10. The view was expressed that States should continue to operate under the current framework, which functioned well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. The delegation expressing that view was also of the view that at the present time any attempt to define and delimit outer space would be a theoretical exercise that could complicate existing activities and that might not be able to anticipate future technological developments.

11. The view was expressed that progress in the definition and delimitation of outer space could be achieved through cooperation with the International Civil Aviation Organization (ICAO).
12. Some delegations were of the view that use of the geostationary orbit, which was a limited natural resource, should not only be rational use but should be made available to all States, irrespective of their current technical capacities. That would provide States with the possibility of having access to the orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical position of certain countries and taking into account the processes of the International Telecommunication Union (ITU) and relevant norms and decisions of the United Nations.
13. The view was expressed that the geostationary orbit, as a limited natural resource clearly in danger of saturation, must be used rationally, efficiently, economically and equitably. That principle was deemed fundamental to safeguarding the interests of developing countries and countries with a certain geographical position, as set out in article 44, paragraph 196.2, of the Constitution of the International Telecommunication Union, as amended by the Plenipotentiary Conference held in Minneapolis, United States, in 1998.
14. Some delegations expressed the view that the geostationary orbit was a limited natural resource with sui generis characteristics that risked saturation and that equitable access to it should therefore be guaranteed for all States, taking into account in particular the needs of developing countries and the geographical position of certain countries.
15. The view was expressed that the provisions of articles I and II of the Outer Space Treaty made it clear that a party to the Treaty could not appropriate any part of outer space, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, including repeated use, or by any other means.
16. Some delegations expressed the view that the geostationary orbit was an integral part of outer space and that, therefore, its use should be governed by the provisions of the United Nations treaties on outer space and the ITU regulations.
17. The Subcommittee noted the information provided by the United States on the actions of that Government to further the use of the geostationary orbit and other uniquely situated orbits, such as the free provision of the signal from the global positioning system, information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration of the United States and data from the geostationary operational environmental satellites (GOES). The Subcommittee also noted the cooperation of the Governments of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).
18. The view was expressed that the principle of “first come, first served” was unacceptable with regard to the utilization by States of orbital positions and therefore the Subcommittee should develop a legal regime that guaranteed equitable access to orbital positions for States.
19. The view was expressed that the Secretariat should be requested to seek from ITU its opinion on the expression “use ... of the parties’ common heritage orbital positions and associated frequency assignments”, contained in the note by the

Secretariat on information on the activities of international intergovernmental and non-governmental organizations relating to space law (A/AC.105/C.2/L.278/Add.1), and to invite ITU to submit its views on the measurements to ensure equitable access to orbital positions for all States.

20. The full text of the statements made during the discussion on agenda item 7 is contained in unedited verbatim transcripts (COPUOS/Legal/T. ...-...).

VIII. Capacity-building in space law

21. Pursuant to General Assembly resolution 64/86, the Subcommittee considered, as a single issue/item for discussion, agenda item 10, entitled “Capacity-building in space law”.

22. The Subcommittee had before it the following:

(a) Report of the Secretariat on the implementation of recommendations to build capacity in space law (A/AC.105/954);

(b) Report on the United Nations/Islamic Republic of Iran Workshop on Space Law on the theme “Role of international space law in the development and strengthening of international and regional cooperation in the peaceful exploration and use of outer space” (A/AC.105/956);

(c) Report on the second United Nations Expert Meeting on Promoting Education in Space Law (A/AC.105/972);

(d) Conference room paper containing a directory of education opportunities in space law (A/AC.105/C.2/2010/CRP.4);

(e) Conference room paper containing information submitted by Austria, the Czech Republic, Germany, Iraq, Japan, Thailand, Ukraine and the United Kingdom of Great Britain and Northern Ireland on actions and initiatives to build capacity in space law (A/AC.105/C.2/2010/CRP.8);

(f) Proceedings of the United Nations/Islamic Republic of Iran Workshop on Space Law (ST/SPACE/47).

23. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology and to increase knowledge of the legal framework within which space activities were carried out. The Subcommittee emphasized its important role in that regard.

24. The Subcommittee noted with appreciation that a number of national, regional and international efforts to build capacity in space law were being undertaken by governmental and non-governmental entities. Those efforts included encouraging universities to offer modules on space law as part of existing international law courses or as specialized programmes; providing fellowships for graduate and postgraduate education in space law; assisting the development of national space legislation and policy frameworks; organizing workshops, seminars and other specialized activities to promote greater understanding of space law; providing financial and technical support for legal research; preparing dedicated studies, papers and publications on space law; supporting space law moot court

competitions; supporting the participation of young professionals in regional and international meetings relating to space law; providing for training and other opportunities to build experience; and supporting entities dedicated to the study of and research relating to space law.

25. The Subcommittee welcomed the fact that the Third African Leadership Conference on Space Science and Technology for Sustainable Development, held in Algiers, from 7 to 9 December 2009, had addressed space law. The Subcommittee noted that the Conference had recommended the establishment of a common regional/subregional platform to enable dialogue and the exchange of information on space policy and space law to strengthen education policy on space law at African universities, to encourage increased participation in the Committee by African States and to promote adherence to the United Nations treaties on outer space.

26. The Subcommittee noted with appreciation that the Office for Outer Space Affairs was assisting in regional efforts to build capacity in space law, including providing support to the Third African Leadership Conference.

27. The Subcommittee welcomed the fact that space law was among the matters to be addressed by the Sixth Space Conference of the Americas, to be hosted by the Government of Mexico in November 2010, and noted with satisfaction that a regional conference on space law would be held in Quito on 24 and 25 May 2010, in conjunction with the meeting of the International Group of Experts of the Space Conference of the Americas, to be organized by the Government of Ecuador and held on 26 and 27 May 2010.

28. The Subcommittee also welcomed the fact that the Royal Centre for Remote Sensing (CRTS) of Morocco, together with ECSL and in cooperation with the African Regional Centre for Space Science and Technology Education — in French language, affiliated to the United Nations, would hold, in Rabat in 2010, a two-day course on international law relevant to space technology for the students of the nine-month postgraduate course on satellite meteorology and global climate.

29. The Subcommittee noted that the scholarship programmes of the German Academic Exchange Service and the Alexander von Humboldt Foundation of Germany offered numerous study and research opportunities in all areas of study and that those programmes were open to students, graduates and academics from developing countries.

30. The Subcommittee recommended that member States and permanent observers of the Committee on the Peaceful Uses of Outer Space inform the Subcommittee, at its fiftieth session, of any action taken or planned at the national, regional or international level to build capacity in space law.

31. The Subcommittee noted with appreciation the holding of the sixth United Nations workshop on space law, entitled “Role of international space law in the development and strengthening of international and regional cooperation in the peaceful exploration and use of outer space”. The workshop, held in Tehran from 8 to 11 November 2009, had been hosted by the Government of the Islamic Republic of Iran and jointly organized by the Office for Outer Space Affairs and the Iranian Space Agency, with support from the Asia-Pacific Space Cooperation Organization (APSCO).

32. The Subcommittee also noted with appreciation that the Office for Outer Space Affairs, together with the Government of Thailand and the Geo-Informatics and Space Technology Development Agency (GISTDA) of Thailand, had begun the preparations for the seventh United Nations workshop on space law, to be held in Bangkok from 16 to 19 November 2010. The Subcommittee further noted with appreciation that ESA was a co-sponsor of the workshop.

33. The Subcommittee noted that the workshops organized by the Office for Outer Space Affairs in cooperation with host countries were a valuable contribution to capacity-building in space law and international cooperation in the peaceful uses of outer space.

34. The Subcommittee welcomed the fact that the Office for Outer Space Affairs had continued to work with space law educators and representatives of the regional centres for space science and technology education, affiliated to the United Nations, to further develop the curriculum on space law and noted with appreciation that the second United Nations Expert Meeting on Promoting Education in Space Law had been held in Tehran on 12 and 13 November 2009.

35. The Subcommittee noted that the work to finalize the curriculum would continue and expressed its appreciation to the educators and representatives of the regional centres for their work.

36. The Subcommittee noted with satisfaction that the Office for Outer Space Affairs had updated the directory of education opportunities in space law, including information on available fellowships and scholarships, and agreed that the Office should continue to update the directory (A/AC.105/C.2/2010/CRP.4).

37. The Subcommittee also noted that the Office for Outer Space Affairs had continued to provide technical and legal advisory support to member States on issues relating to space law and had participated in other initiatives to build capacity in space law, including the Eighteenth ECSL Summer Course on Space Law and Policy, held in Lisbon from 31 August to 11 September 2009.

38. The full text of the statements made by delegations during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T. ...-...).

IX. General exchange of information on national mechanisms relating to space debris mitigation measures

39. Pursuant to General Assembly resolution 64/86, the Subcommittee considered agenda item 11, entitled “General exchange of information on national mechanisms relating to space debris mitigation measures”, as a single issue/item for discussion.

40. The Subcommittee noted that agenda item 11 would assist States in understanding the different measures, including development of national regulatory frameworks, that States had taken to mitigate and prevent the increase in space debris.

41. The Subcommittee noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the

Committee on the Peaceful Uses of Outer Space¹ was a key step in providing space-faring nations with guidance on how to mitigate the problem of space debris.

42. The Subcommittee noted with appreciation that at its current session the Secretariat had made available the text of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space in the form of a publication (ST/SPACE/49).

43. The Subcommittee noted that the adoption by the Committee of the Space Debris Mitigation Guidelines was an important step after the adoption by the Scientific and Technical Subcommittee, in 1999, of the report entitled “Technical report on space debris” (A/AC.105/720).

44. The delegations of the following States presented information on their national mechanisms governing space debris mitigation and the ways in which they were implementing the Space Debris Mitigation Guidelines of the Inter-Agency Space Debris Coordination Committee (IADC) and the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space: Canada, China, France, India, Italy, Japan, Russian Federation and United States.

45. The Subcommittee noted with satisfaction that some States were implementing space debris mitigation measures consistent with the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space and/or the IADC Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines. The Subcommittee also noted that other States were using the IADC Guidelines and the European Code of Conduct for Space Debris Mitigation as references in the regulatory framework established for national space activities.

46. The view was expressed that the orderly conduct of exploration and use of outer space in the future would be largely dependent on the observance of the Space Debris Mitigation Guidelines of the Committee by all States.

47. The view was expressed that States without the capability and expertise to fully implement the Space Debris Mitigation Guidelines of the Committee should benefit from the best practices of and training provided by States with relevant experience.

48. The view was expressed that the Space Debris Mitigation Guidelines of the Committee required legal review and analysis.

49. Some delegations were of the view that the Space Debris Mitigation Guidelines of the Committee should be further developed and that the Scientific and Technical Subcommittee and the Legal Subcommittee should cooperate with the aim of developing legally binding rules relating to space debris.

50. The Subcommittee noted that some States had strengthened their national mechanisms governing space debris mitigation through the nomination of governmental supervisory authorities, the involvement of academia and industry and the development of new legislative norms, instructions, standards and frameworks.

¹ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20), annex.*

51. The view was expressed that States conducting space activities should consider the preservation of the space environment, and that it therefore was important to promote research for a better understanding of space debris distribution, the minimization of debris generation, and the active disposal from orbits of large space debris.
52. The view was expressed that, as the reliance on space-based assets and the number of space assets increased, the global community would have to be diligent in actively pursuing solutions to limit the amount of space debris produced in order to sustain the space environment for the long-term.
53. The view was expressed that space debris posed a serious threat to countries located along the equatorial line.
54. The view was expressed that the problem of space debris was part of the complex issue of the protection and preservation of the outer space environment.
55. Some delegations were of the view that the development by States of national space debris mitigation standards consistent with the Space Debris Mitigation Guidelines of the Committee was important and that it would be useful to make further progress towards space debris mitigation by analysing relevant national practices.
56. The view was expressed that the Subcommittee should support the development of new guidelines, aimed at ensuring the safety, security and predictability of space activities and at limiting or minimizing harmful interferences in outer space.
57. The view was expressed that further consideration by the Subcommittee of an agenda item on space debris might lead to the elaboration of legal principles on space debris.
58. The Subcommittee noted with satisfaction that the twenty-eighth meeting of IADC had been held in Thiruvananthapuram, India, from 9 to 12 March 2010, and that the meeting had considered current technical issues and updates related to space debris measurement, environment and databases, spacecraft protection, space debris mitigation, as well as long-term evolution of space debris and its relation to the long-term sustainability of space activities.
59. The Subcommittee urged States to continue to implement the Space Debris Mitigation Guidelines of the Committee and to study the experience of States that had already established national mechanisms governing space debris mitigation.
60. The full text of the statements made during the discussion on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T....-...).