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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Fifty-first session
Vienna, 19-30 March 2012

Draft report

I. Introduction

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its fifty-first session at the United Nations Office at Vienna from 19 to 30 March 2012. At its 839th meeting, on 19 March, Tare Charles Brisibe (Nigeria) was elected Chair for a two-year term of office, pursuant to General Assembly resolution 66/71.
2. The Subcommittee held [...] meetings.

A. Adoption of the agenda

3. At its 839th meeting, on 19 March, the Subcommittee adopted the following agenda:
 1. Adoption of the agenda.
 2. Election of the Chair.
 3. Statement by the Chair.
 4. General exchange of views.
 5. Status and application of the five United Nations treaties on outer space.
 6. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.



7. Matters relating to:
 - (a) The definition and delimitation of outer space;
 - (b) 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.
8. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
9. Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment.
10. Capacity-building in space law.
11. General exchange of information on national mechanisms relating to space debris mitigation measures.
12. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
13. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-second session.

B. Attendance

4. Representatives of the following [...] member States of the Committee attended the session: Algeria, Argentina, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kazakhstan, Kenya, Lebanon, Libya, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

5. At its 839th meeting, on 19 March, the Subcommittee decided to invite, at their request, observers for Costa Rica, the Dominican Republic, El Salvador, Israel, Oman and the United Arab Emirates to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

6. At the same meeting, the Subcommittee decided to invite the observer for the European Union, at its request, to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.

7. Observers for the International Civil Aviation Organization (ICAO) and the International Telecommunication Union (ITU) attended the session.
8. The session was attended by observers for the following intergovernmental organizations having permanent observer status with the Committee: Asia-Pacific Space Cooperation Organization (APSCO), European Space Agency (ESA), European Telecommunications Satellite Organization (EUTELSAT-IGO), International Organization of Space Communications (Intersputnik) and Regional Centre for Remote Sensing of the North African States (CRTEAN). The observer for the International Institute for the Unification of Private Law (Unidroit) also attended the session upon the invitation of the Subcommittee.
9. The session was also attended by observers for the following non-governmental organizations having permanent observer status with the Committee: European Space Policy Institute (ESPI), International Institute of Space Law (IISL), International Law Association (ILA) and Space Generation Advisory Council (SGAC).
10. At its 839th meeting, on 19 March, the Subcommittee decided to invite, at their request, the observers for the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation and the Permanent Court of Arbitration to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.
11. The Subcommittee had before it information concerning the applications of Armenia (A/AC.105/C.2/2012/CRP.20), Costa Rica (A/AC.105/C.2/2012/CRP.5) and Jordan (A/AC.105/C.2/2012/CRP.4) for membership in the Committee.
12. The Subcommittee also had before it information concerning the requests of the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation (A/AC.105/C.2/2012/CRP.7) and the Scientific Committee on Solar-Terrestrial Physics (A/AC.105/C.2/2012/CRP.6) for observer status with the Committee.
13. A list of the representatives of States, United Nations entities and other international organizations attending the session is contained in document A/AC.105/C.2/2012/INF/[...].

C. Symposium

14. On 19 March, the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL) held a symposium on the theme “Transfer of ownership of space objects: issues of responsibility, liability and registration”, which was chaired by Tanja Masson-Zwaan of IISL and Sergio Marchisio of ECSL. The Subcommittee heard the following presentations during the symposium: “Legal aspects of transfer of ownership and transfer of activities”, by Armel Kerrest; “Practice of States and international organizations in registering the transfer of ownership of space objects”, by Mildred Trögeler; “Satellite ownership transfers and the liability of the launching States”, by Setsuko Aoki; “Unidroit registration of security interests and the Registration Convention: relevance for the transfer-of-ownership issue”, by Martin Stanford; “Towards ‘flags of convenience’ in space?”, by Frans von der Dunk; and “Regulatory options for dealing with the transfer of

ownership”, by Olavo de Bittencourt Neto. Concluding remarks were made by the Chair of the Subcommittee and by the co-chairs of the symposium. The papers and presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (www.unoosa.org/oosa/COPUOS/Legal/2012/symposium.html).

15. The Subcommittee noted with appreciation that the symposium had constituted a valuable contribution to its work.

D. Adoption of the report of the Legal Subcommittee

16. At its [...] meeting, on [...] March, the Subcommittee adopted the present report and concluded the work of its fifty-first session.

II. General exchange of views

17. Statements were made by representatives of the following States members of the Committee during the general exchange of views: Algeria, Argentina, Austria, Belgium, Brazil, Canada, China, Cuba, Czech Republic, Ecuador, France, Germany, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Libya, Morocco, Nigeria, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Spain, United States and Venezuela (Bolivarian Republic of). Statements were made by Kenya on behalf of the Group of African States and Ecuador on behalf of the Group of Latin American and Caribbean States. A statement was also made by the observer for APSCO. A general statement was made by the observer for the Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation.

18. At the 839th meeting, on 19 March, the Chair made a statement in which he highlighted the instrumental role of the Subcommittee in the development and further advancement of the international legal regime governing the activities of States in the exploration and use of outer space over the past 50 years, as acknowledged in the Declaration on the Fiftieth Anniversary of Human Space Flight and the Fiftieth Anniversary of the Committee on the Peaceful Uses of Outer Space, adopted by the General Assembly in its resolution 66/71.

19. At the same meeting, the Director of the Office for Outer Space Affairs made a statement in which she reviewed the role of the Office in discharging the responsibilities of the Secretary-General under the United Nations treaties on outer space, including the maintenance of the Register of Objects Launched into Outer Space, as well as the role and work of the Office relating to capacity-building in space law.

20. The Subcommittee welcomed the election of Tare Charles Brisibe (Nigeria) as its Chair for the period 2012-2013 and expressed its appreciation to the outgoing Chair, Ahmad Talebzadeh (Islamic Republic of Iran), for furthering the work of the Subcommittee during his term of office.

21. The Subcommittee paid tribute to the late Gyula Gál of Hungary and the late Carl Q. Christol of the United States, who had made significant contributions to the science of space law and the progressive development of international space law.

22. The Subcommittee noted the broad commitment to further developing international and regional cooperation in the exploration and peaceful use of outer space and to carrying out activities in outer space in accordance with the international legal regime on outer space. The Subcommittee also noted that a growing number of regional and international partnerships had been forged to that end.
23. Some delegates reiterated their Governments' commitment to the peaceful use and exploration of outer space and emphasized the following principles: equal and non-discriminatory access to outer space and equal conditions for all States, irrespective of their level of scientific, technical and economic development, as well as the equitable and rational use of outer space; non-appropriation of outer space, including the Moon and other celestial bodies, by claim of sovereignty, use, occupation or any other means; non-militarization of outer space and its exploitation strictly for peaceful purposes; and regional cooperation to promote space activities as established by the General Assembly and other international forums.
24. Some delegates expressed the view that the heightened pace of activities in outer space and the increased participation of States, international organizations and the non-governmental sector required continued reflection by the Subcommittee to enable further strengthening of the legal regime on outer space, including the need to review and revise the five United Nations treaties on outer space.
25. Some delegates expressed the view that a lacuna existed in the current legal regime governing outer space with regard to the possible introduction of weapons into outer space, requiring both the conclusion of new treaties aimed at eliminating that deficiency and the comprehensive and incremental strengthening of the current legal regime to ensure safety, security and transparency in the conduct of space activities.
26. Some delegates welcomed initiatives that further contributed to the development of international space law to maintain long-term sustainability, safety, stability and security of space by establishing guidelines for the responsible use of space, in particular the development of an international code of conduct for outer space activities.
27. Some delegates expressed the view that a more structured relationship between the Legal Subcommittee and the Working Group on the Long-term Sustainability of Outer Space Activities of the Scientific and Technical Subcommittee and its expert groups, in particular the expert group on regulatory regimes and guidance for actors in the space arena, was needed so as to build synergies for the benefit of the Committee as a whole.
28. Some delegations were of the view that the Legal Subcommittee should cooperate more closely with the Scientific and Technical Subcommittee in order to address legal aspects of the advanced scientific and technological developments in outer space, with a view to promoting the development of binding international norms addressing critical issues such as space debris and the use of nuclear power sources in outer space.
29. Some delegates expressed the view that further development of the international legal regime and the work of the Legal Subcommittee in a manner that allowed all nations, whether advanced spacefaring nations or nations with emerging

space capabilities, to benefit from space activities in an equitable manner would contribute to socio-economic prosperity and sustainable development, in particular in developing countries.

30. The view was expressed that the Committee and its Legal Subcommittee had an extraordinary record in advancing the field of space law and developing space law in a manner that promoted, rather than hindered, the exploration and use of outer space and that such success was a result of the ability of the Subcommittee to focus on practical problems and to address such problems through a consensus-based, results-oriented process.

31. The view was expressed that the threat of an arms race in outer space necessitated a constructive dialogue between the Committee, in particular its Legal Subcommittee, and the Conference on Disarmament.

32. The Subcommittee noted the screening of a video presented by the representatives of France and Germany on the occasion of the successful launch of the third Automated Transfer Vehicle (ATV-3) of ESA on 23 March 2012 from Kourou, French Guiana.

III. Status and application of the five United Nations treaties on outer space

33. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 5, entitled “Status and application of the five United Nations treaties on outer space”, as a regular item of its agenda.

34. The representatives of Brazil, Germany, Indonesia, Saudi Arabia, South Africa, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 5. During the general exchange of views, statements relating to the item were also made by representatives of other member States, the representative of Ecuador on behalf of the Group of Latin American and Caribbean States and the representative of Kenya on behalf of the Group of African States.

35. At its [...]th meeting, on [...] March, the Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Jean-François Mayence (Belgium). At its [...]th meeting, on [...] March, the Subcommittee endorsed the report of the Working Group, contained in annex I to the present report.

36. The Subcommittee had before it the following:

(a) United Nations Treaties and Principles on Outer Space, related General Assembly resolutions and other documents (ST/SPACE/51);

(b) Conference room paper on the status of international agreements relating to activities in outer space as at 1 January 2012 (A/AC.105/C.2/2012/CRP.3);

(c) An addendum to the note by the Secretariat on activities being carried out or to be carried out on the Moon and other celestial bodies, international and national rules governing those activities and information received from States parties to the Agreement Governing the Activities of States on the Moon and Other

Celestial Bodies about the benefits of adherence to that Agreement (A/AC.105/C.2/L.271/Add.2);

(d) Set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space (A/AC.105/C.2/2012/CRP.10);

(e) Responses to the set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space (A/AC.105/C.2/2012/CRP.11).

37. The Subcommittee heard a presentation entitled “Registration issues: French National Registry (1965-2012)”, by the representative of France.

38. The Subcommittee noted that, as at 1 January 2012, the status of the five United Nations treaties on outer space was as follows:

(a) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, had 101 States parties and had been signed by 26 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space had 91 States parties and had been signed by 24 additional States; two international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Agreement;

(c) The Convention on International Liability for Damage Caused by Space Objects had 88 States parties and had been signed by 23 additional States; three international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Convention;

(d) The Convention on Registration of Objects Launched into Outer Space had 55 States parties and had been signed by 4 additional States; two international intergovernmental organizations had declared their acceptance of the rights and obligations established under the Convention;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies had 13 States parties and had been signed by 4 additional States.

39. The Subcommittee welcomed the fact that Qatar had become a party to the Outer Space Treaty and the Rescue Agreement on 13 March 2012, that South Africa had become a party to the Liability Convention on 9 January 2012 and the Registration Convention on 27 January 2012 and that Turkey had become a party to the Moon Agreement on 29 February 2012.

40. The Subcommittee welcomed reports from Member States regarding their progress towards becoming parties to the five United Nations treaties on outer space, in developing national space laws and in concluding bilateral and multilateral agreements on space cooperation.

41. Some delegations were of the view that the United Nations treaties on outer space represented a solid legal structure, crucial for supporting the increasing scale of space activities and strengthening international cooperation in the peaceful uses of

outer space. Those delegations welcomed further adherence to the treaties and urged those States which had not yet become parties to the treaties to consider doing so.

42. Some delegates expressed the view that States that had already ratified the United Nations treaties on outer space should look at the sufficiency of their respective national laws to implement the treaties.

43. The view was expressed that there was a need to identify challenges in implementing the provisions of the treaties and that the exchange of best practices and the provision of technical assistance could further improve the implementation of the treaties by State parties.

44. The view was expressed that the law-making process undertaken by the Subcommittee should be supported in order to further promote adherence to the United Nations treaties on outer space. The delegate that expressed that view stated that the adoption of non-binding instruments was a realistic solution that would further encourage States to adhere to and comply with the legal regime governing activities in outer space.

45. The view was expressed that a universal comprehensive convention on outer space should be developed, with the aim of finding solutions for existing issues, fully respecting the fundamental principles incorporated in the existing United Nations treaties on outer space.

46. The view was expressed that, under the legal framework of the United Nations treaties on outer space, the use of space by nations, international organizations and private entities had flourished. As a result, space technology and services were contributing immeasurably to economic growth and improvements in the quality of life throughout the world.

47. The view was expressed that the success of the Subcommittee in advancing the field of space law was a result of its ability to focus on practical problems and to seek to address any such problems via a consensus-based and result-oriented process. The delegate that expressed that view was also of the view that the Subcommittee should, during its deliberations, aim to continue that tradition and to avoid the temptation to focus on theoretical rather than practical issues.

48. Some delegates expressed the view that the Subcommittee should be actively involved in the development of new guidelines to ensure the safety, security and predictability of outer space activities, with the aim of limiting or minimizing harmful interference in outer space.

49. Some delegates expressed the view that the placement of conventional weapons in outer space was not sufficiently prohibited by the Outer Space Treaty and that it was imperative to adopt adequate and efficient measures to prevent any possibility of an arms race in outer space.

50. The view was expressed that the transfer of registration of a space object during its operation in orbit from a launching State to a non-launching State was not permitted by the Outer Space Treaty or the Registration Convention and that the responsibility for space objects rested with the launching State and could not be abandoned. The delegate expressing that view was also of the view that a non-launching State whose operator took over a space object took on an additional responsibility in its own right.

51. The view was expressed that the international legal regime governing outer space did not preclude internal arrangements between the launching State and the State of the current operator.

52. The view was expressed that the Moon Agreement, in all its aspects, should continue to be discussed by the Subcommittee in order for its provisions to be further clarified and understood.

53. The Subcommittee noted that the growing understanding of the provisions of the Moon Agreement, and in particular the concept of “common heritage of mankind”, was prompting a reflection and discussion process by some States on the possibility of becoming parties to the Moon Agreement.

IV. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

54. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 6, entitled “Information on the activities of international intergovernmental and non-governmental organizations relating to space law”, as a regular item of its agenda.

55. Statements were made by the observers for ESA (on the activities of ESA and ECSL), EUTELSAT-IGO, IISL, ILA and Intersputnik under agenda item 6.

56. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat containing information on activities relating to space law received from ILA and Intersputnik (A/AC.105/C.2/100);

(b) Conference room paper containing information on activities relating to space law received from ECSL (A/AC.105/C.2/2012/CRP.16);

(c) Conference room paper containing information on activities relating to space law received from IISL (A/AC.105/C.2/2012/CRP.18).

57. The Subcommittee heard a technical presentation on the website of ECSL by the observer for ESA.

58. The Subcommittee noted with satisfaction that the activities of international intergovernmental and non-governmental organizations relating to space law had continued to contribute significantly to the study, clarification and development of space law and that those organizations had continued to organize numerous conferences and symposiums, prepare publications and reports and organize training seminars for practitioners and students, all of which were intended to broaden and advance the knowledge of space law.

59. The Subcommittee also noted that international intergovernmental organizations had an important role to play in the development, strengthening and furtherance of understanding of international space law.

60. The Subcommittee noted with satisfaction the information provided by the observer for ILA about the activities of that organization in relation to the work of

the advisory group on dispute settlement relating to private activities in outer space of the Permanent Court of Arbitration. In that regard, the Subcommittee had before it a conference room paper on the Optional Rules for Arbitration of Disputes Relating to Outer Space Activities (A/AC.105/C.2/2012/CRP.17), which were adopted on 6 December by the Administrative Council of the Permanent Court. The Subcommittee welcomed the additional information on the adopted legal instrument provided by the observer for the Permanent Court.

61. The Subcommittee was informed by the observer for EUTELSAT-IGO about the outcome of the 2012 World Radiocommunication Conference, the work of the Broadband Commission for Digital Development, established by the Secretary-General of ITU and the Director-General of UNESCO in 2010 with the aim of accelerating the achievement of the Millennium Development Goals in that field, and the agreement of the thirty-seventh meeting of the EUTELSAT Assembly of Parties in 2011 to provide regular reports to the parties on repeated interference on several radio and television channels broadcast via EUTELSAT satellites.

62. The Subcommittee agreed that it was important to continue the exchange of information on recent developments in the area of space law between the Subcommittee and international intergovernmental and non-governmental organizations, and that such organizations should again be invited to report to the Subcommittee at its fifty-second session on their activities relating to space law.