



# General Assembly

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**Committee on the Peaceful  
Uses of Outer Space**  
Legal Subcommittee  
Fifty-second session  
Vienna, 8-19 April 2013

## 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 67/113, the Subcommittee considered agenda item 6, 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 on its agenda.
2. The representatives of Brazil, Canada, France, Greece, Indonesia, Mexico, the Netherlands, Spain, Ukraine, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 6. A statement was also made under the item by the representative of Chile on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the item were also made by representatives of other member States.
3. At its 859th meeting, on 8 April, 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 at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.

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4. The Working Group held three meetings. The Subcommittee, at its [...] meeting, on [...] April, endorsed the report of the Chair of the Working Group, contained in annex II to the present report.
5. For its consideration of the item, the Subcommittee had before it the following:
  - (a) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865/Add.12-13);
  - (b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.11-12);
  - (c) Conference room paper entitled “Questions on suborbital flights for scientific missions and/or for human transportation” (A/AC.105/1039 and Add.1);
  - (d) Conference room paper entitled “Summary of information on national practices and legislation of States with regard to the definition and delimitation of outer space” (A/AC.105/C.2/2013/CRP.8);
  - (e) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply of Pakistan” (A/AC.105/C.2/2013/CRP.16).
6. The Subcommittee welcomed the establishment of a web page, on the website of the Office for Outer Space Affairs, containing a list of the documentation for the Working Group on the Definition and Delimitation of Outer Space, and the preparation of conference room paper A/AC.105/C.2/2013/CRP.8. The Subcommittee recommended enhancing that conference room paper by arranging the information contained in it by country, and listing countries in alphabetical order. The Subcommittee requested the Secretariat to prepare an updated document for consideration at its fifty-third session, to be held in 2014.
7. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, the participation of the private sector, 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.
8. 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.
9. Some delegations expressed the view that the definition and delimitation of outer space was important 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.
10. Some delegations expressed the view that States should continue to operate under the current framework, which presented no practical difficulties, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space.

11. Some delegations expressed the view that it would be preferable to focus on the function and purpose of an object rather than on its location in order to determine if and when space law would govern its activities.
12. The view was expressed that a mixed approach, based on combining functional and conceptual approaches to the delimitation of outer space, should be employed in order to achieve further progress on the matter.
13. The view was expressed that the physically intangible and imprecise environment of outer space made it difficult to practically define its geographical limits. The delegation expressing that view was also of the view that the elaboration of a set of principles or guidelines for the launching and operation of airspace objects could contribute to meeting the present requirements of clarity and legal security in that field.
14. The view was expressed that even minimal consensus on the issue would facilitate discussion in other international forums, such as the Conference on Disarmament.
15. The view was expressed that the diversity of views of States on the matter of the definition and delimitation of outer space made it difficult to develop a position that would be satisfactory to all and that it was therefore necessary to retain the item on the agenda and analyse it, with a view to reaching a consensus so that, in the future, States might have legal instruments that would provide certainty with regard to sovereignty in airspace while guaranteeing the freedom to access outer space.
16. Some delegations expressed the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — must be used rationally and 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 geostationary 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 ITU and relevant norms and decisions of the United Nations.
17. The view was expressed that Member States should seek alternative ways of using the geostationary orbit that should be more rational and balanced.
18. Some delegations expressed the view that the utilization by States of the geostationary orbit on the basis of “first come, first served” was unacceptable and that the Subcommittee should therefore develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of peaceful use and non-appropriation of outer space.
19. Some delegations expressed the view that, in order to ensure the sustainability of the geostationary orbit, it was necessary to keep that issue on the agenda of the Subcommittee and to explore it further, through the creation of appropriate working groups and intergovernmental panels, as necessary. Those delegations were of the view that working groups or intergovernmental panels with technical and legal expertise should be established to promote equal access to the geostationary orbit.
20. The view was expressed that developing countries should be provided with assistance and technical capacity to increase their access to the geostationary orbit,

which would boost their socioeconomic development and help alleviate the digital divide.

## **VII. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space**

21. Pursuant to General Assembly resolution 67/113, the Subcommittee considered agenda item 8, entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”, as a single issue/item for discussion.

22. The representatives of Canada, Indonesia, Mexico, Saudi Arabia, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 8. A statement was also made under the item by the representative of Chile on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

23. The Legal Subcommittee noted with satisfaction that the adoption of the Safety Framework for Nuclear Power Source Applications in Outer Space (A/AC.105/934) by the Scientific and Technical Subcommittee at its forty-sixth session, in 2009, and the endorsement of the Safety Framework by the Committee at its fifty-second session, in 2009, constituted important steps with regard to the progressive development of international space law and considerably advanced international cooperation in ensuring the safe use of nuclear power sources in outer space.

24. The Legal Subcommittee noted with satisfaction that the Working Group on the Use of Nuclear Power Sources in Outer Space had prepared a summary of information from the workshops it organized during the forty-eighth and forty-ninth sessions of the Scientific and Technical Subcommittee, in 2011 and 2012 (A/AC.105/1038, annex II, appendix).

25. Some delegations expressed the view that it was exclusively States, irrespective of their level of social, economic, scientific or technical development, that had an obligation to engage in regulatory activity associated with the use of nuclear power sources in outer space and that the matter concerned all of humanity. Those delegations were also of the view that Governments bore international responsibility for national activities involving the use of nuclear power sources in outer space conducted by governmental and non-governmental organizations and that such activities must be beneficial and not detrimental to humanity.

26. Some delegations called on the Legal Subcommittee to undertake a review of the Safety Framework and to promote binding standards with a view to ensuring that any activity conducted in outer space was governed by the principles of preservation of life and maintenance of peace.

27. Some delegations expressed the view that there should be greater coordination and interaction between the Scientific and Technical Subcommittee and the Legal Subcommittee in order to promote the development of binding international standards to provide a legal framework for the use of nuclear power sources in outer space.

28. Some delegations expressed the view that more attention should be paid to the legal issues associated with the use of satellite platforms with nuclear power sources in Earth orbits, in the light of reported failures and collisions that posed a high risk to humanity.
29. The view was expressed that it was necessary not only to codify international law, but to strengthen it and to review treaties such as the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (General Assembly resolution 47/68) with a view to adopting a binding instrument.
30. The view was expressed that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space should be modified by deleting, from principle 3 (Guidelines and criteria for safe use), paragraphs 2 (a) (iii) and 3 (a), which refer to the use of nuclear reactors and radioisotope generators in Earth orbits.
31. The view was expressed that the revision of the Safety Framework for Nuclear Power Source Applications in Outer Space was not necessary at present.
32. The view was expressed that countries and intergovernmental organizations that have developed and used nuclear power sources in outer space activities should actively participate in the technical presentations as a means to increase transparency and accountability on the issue.
33. The Subcommittee agreed that it was necessary to continue examining the issue and that the item should remain on its agenda.
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