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**Committee on the Peaceful
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Draft report

Chapter II

Addendum

D. Report of the Legal Subcommittee on its forty-seventh session

1. The Committee took note with appreciation of the report of the Legal Subcommittee on its forty-seventh session (A/AC.105/917), which contained the results of its deliberations on the items assigned to it by the General Assembly in its resolution 62/217.

2. The Committee expressed its appreciation to Vladimír Kopal (Czech Republic) for his able leadership and contributions during the forty-seventh session of the Subcommittee.

3. The representatives of Brazil, Chile, China, Colombia, the Czech Republic, Germany, India, Indonesia, Italy, Japan, Nigeria, the Russian Federation and the United States made statements under the item. During the general exchange of views, statements relating to this item were also made by representatives of other member States.

4. The Committee heard a presentation entitled “Presentation of the draft treaty on the prevention of the placement of weapons in outer space and of the threat or use of force against outer space objects”, by D. Gonchar (Russian Federation).

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

5. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had considered, as a regular item of its agenda, the status and application of the five United Nations treaties on outer space.



The Committee took note of the discussion of the Subcommittee under that agenda item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 31-45).

6. The Committee noted that the Subcommittee had reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, under the chairmanship of Vassilios Cassapoglou (Greece), and that the mandate of the Working Group included the status of the United Nations treaties on outer space, review of their implementation and obstacles to their universal acceptance, as well as the promotion of space law, especially through the United Nations Programme on Space Applications (A/AC.105/763 and Corr.1, para. 118) and any new, similar issues that might be raised in discussions in the Working Group, provided that those issues fell within its existing mandate (A/AC.105/787, paras. 138 and 140).

7. The Committee approved the endorsement by the Subcommittee of the report of the Working Group (A/AC.105/917, para. 43 and annex I) and of the recommendation by the Working Group to extend the mandate of the Working Group by one additional year, to 2009. The Committee noted that the Subcommittee had agreed that, at its forty-eighth session, it would review the need to extend the mandate of the Working Group beyond that period.

8. The Committee welcomed the information provided by delegations on the current status of the five United Nations treaties on outer space in their respective States and on the further action that those States intended to take in order to accede to or ratify those treaties. The Committee noted with satisfaction the reports on the progress made by member States in developing their national space law.

9. Some delegations expressed the view that the United Nations treaties on outer space had established a comprehensive legal framework that encouraged the exploration of outer space and supported increasingly complex activities in outer space by both governmental and private entities, with benefits for both spacefaring and non-spacefaring countries. Those delegations advocated further adherence to the outer space treaties and, to that end, welcomed the regular publication by the Secretariat of revised versions of the *United Nations Treaties and Principles on Outer Space and Related General Assembly Resolutions*, which provided the most current status of parties to the United Nations treaties on outer space. Those delegations were also of the view that any consideration of the negotiation of a new, comprehensive space law instrument might undermine the existing space law regime and its underlying principles.

10. Other delegations expressed the view that a new, comprehensive convention on space law to further strengthen the international legal regime governing outer space activities was needed to take account of developments in space activities, such as the commercialization of space and the involvement of the private sector, and in order to prevent the militarization of outer space. Those delegations were of the view that a single, comprehensive convention could regulate all aspects of outer space activities. Those delegations welcomed the continuation, at the forty-eighth session of the Legal Subcommittee, of the discussion on the current state of international space law and possible options for its future development, as necessary.

11. The view was expressed that the Subcommittee should encourage States that had accepted the core United Nations treaties on outer space to examine their legislative framework to ensure compliance.

12. Some delegations expressed the view that the joint statement on the benefits of adherence to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies by States parties to the Agreement (A/AC.105/C.2/L.272, annex) provided a good analysis of the benefits and guarantees offered by participation in the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.¹ Those delegations expressed the view that the thorough consideration of the joint statement by the Legal Subcommittee at its forty-eighth session might assist in finding a mutually acceptable approach on legal issues relating to the exploration of and the use of the resources of the Moon and other celestial bodies.

13. The view was expressed that the new perspectives concerning the colonization of the Moon and the use of the Moon as a base for exploring deep space required a frank discussion of whether the Moon Agreement still held valid solutions on those issues or whether it needed to be revised in order to adapt to the new frontiers of space law, taking into account the precedent-setting value of the United Nations Convention on the Law of the Sea² and other international legal instruments concerning areas beyond national jurisdiction.

14. The view was expressed that the Subcommittee, at its forty-eighth session, in 2009, might reflect on the issues of liability arising from contracts between private parties in which there is no public sector participation.

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

15. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had considered an item on information on the activities of international intergovernmental and non-governmental organizations relating to space law, as a regular item of its agenda. The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 46-56).

16. The Committee noted that the activities of international intergovernmental and non-governmental organizations relating to space law were important and had contributed significantly to the development of space law, and that intergovernmental organizations had an important role to play in strengthening the legal framework applicable to space activities and should therefore consider taking steps to encourage their members to adhere to the outer space treaties. Several of the treaties contained mechanisms permitting intergovernmental organizations conducting space activities to declare their acceptance of the rights and obligations under those treaties.

¹ United Nations, *Treaty Series*, vol. 1363, No. 23002.

² *Ibid.*, vol. 1833, No. 31363.

3. 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

17. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had continued to consider, as a regular item of its agenda, 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 ITU. The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 57-83).

18. The Committee noted the progress made by the Working Group on the Definition and Delimitation of Outer Space, which had been reconvened during the forty-seventh session of the Legal Subcommittee, under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Legal Subcommittee at its thirty-ninth session, endorsed by the Committee at its forty-third session and subsequently endorsed by the General Assembly in its resolution 62/217, the Working Group was reconvened to consider only matters relating to the definition and delimitation of outer space.

19. The Committee welcomed the decision of the Working Group to suspend consideration of the issue of aerospace objects until new events warranted the resumption of its consideration.

20. 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 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.

21. 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.

22. The view was expressed 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 relevant ITU regulations.

23. The view was expressed that the issue of the determination of the legal status of the geostationary orbit was linked to the issue of the definition and delimitation of outer space.

24. The view was expressed that the establishment of a legal regime governing the status and the use of the geostationary orbit would help to overcome the digital divide affecting developing countries.

25. The view was expressed that reaching agreement on the definition and delimitation of outer space would create certainty with respect to the sovereignty of States over their airspace and would enable the effective application of the principles of the freedom of use of outer space and of the non-appropriation of outer space.

26. The view was expressed that given the increasing use of outer space the Subcommittee should reach, as early as possible, a consensus on the issue of the definition and delimitation of outer space urgently, because prolonged legal uncertainty on that issue would create legal complications in determining the jurisdiction and sovereignty of States.

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

27. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had continued its consideration of the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Assembly resolution 47/68) as a single issue/item for discussion.

28. The Committee noted that an exchange of views had taken place in the Legal Subcommittee on the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 84-93), in which reference was made to the work currently being undertaken by the Scientific and Technical Subcommittee under the item entitled "Use of nuclear power sources in outer space".

5. 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

29. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had considered a single issue/item for discussion entitled "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". The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 94-109).

30. The Committee took note of the comprehensive report delivered, on behalf of the International Institute for the Unification of Private Law (Unidroit), by the Chairman of the committee of governmental experts for the preparation of the draft space assets protocol of Unidroit, on developments concerning the draft space assets protocol and noted that completing work on the draft space assets protocol continued to have priority. The Committee also noted that Unidroit was making every effort to reconvene its committee of governmental experts for a third session and that consultations to advance progress on outstanding issues were being undertaken.

31. The Committee was informed that the first meeting of the steering committee for the draft space assets protocol was held in Berlin in May 2008 under the Chairmanship of Sergio Marchisio (Italy), in order to build consensus on

outstanding issues and to map out the remaining steps to be taken in order to finalize the draft space assets protocol. The Committee noted that every effort was being made to convene a third session of the Unidroit committee of governmental experts in Rome in the second quarter of 2009.

6. Capacity-building in space law

32. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had considered, as a new single issue/item for discussion, capacity-building in space law. The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 110-130).

33. The Committee welcomed the agreement of the Subcommittee to include this item on the agenda at its forty-eighth session (A/AC.105/917, para. 151).

34. The Committee agreed that research, training and education in space law were of paramount importance to national, regional, and international efforts to further develop space activities and to increase knowledge of the legal framework within which space activities were carried out.

35. The Committee emphasized the important role that the Subcommittee played in building capacity in space law.

36. The Committee noted with appreciation that a number of national, regional and international efforts were being undertaken to build capacity in space law, including efforts by the African Leadership Conference on Space Science and Technology for Sustainable Development, the Asia-Pacific Space Cooperation Organization and the Space Conferences of the Americas.

37. The Committee expressed its appreciation to the Government of Thailand for its decision to organize, jointly with the Office for Outer Space Affairs, the next United Nations workshop on space law for participants from the region of Asia and the Pacific and would be held in Bangkok from 24 to 27 November 2008. The Committee also extended its gratitude to ESA for agreeing to co-sponsor that workshop.

38. The Committee noted that the series of workshops on space law organized by the Office for Outer Space Affairs served as a useful forum in which experts and authorities could share views, knowledge and experiences related to the further development of both national and international space law.

39. The Committee noted with satisfaction that the Office for Outer Space Affairs had organized in Vienna in December 2007, an expert meeting on promoting education in space law at the regional centres for space science and technology education, affiliated to the United Nations, and welcomed the recommendations and conclusions contained in the report of that meeting (A/AC.105/908, paras. 8-11). The Committee also expressed its appreciation to the educators and the representatives of the regional centres, who were continuing to develop a draft curriculum for a basic course on space law, communicating by electronic means and, when possible, meeting on the margins of international space-related meetings.

40. The view was expressed that the Office for Outer Space Affairs and the regional centres for space science and technology education, affiliated to the United

Nations, as well as various regional space cooperation organizations and research institutions had an important role to play in further developing a draft curriculum for a basic course on space law.

41. The view was expressed that improving education in space law was a prerequisite for furthering space activities and ensuring that they were carried out in conformity with international space law.

42. The Committee invited its Chairman to contact the United Nations University to explore the possibility of including in the educational curricula of the University subjects related to international space law.

43. The Committee noted with satisfaction the consideration by the Subcommittee of specific measures to strengthen capacity in space law, particularly in developing countries (A/AC.105/917, para. 128), and encouraged member States, permanent observers of the Committee and the Office for Outer Space Affairs to consider those initiatives and to inform the Subcommittee, at its forty-eighth session, on any actions taken or planned at the national, regional or international level.

7. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space

44. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had, in accordance with the multi-year workplan adopted by the Committee at its fiftieth session,³ considered the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space, as a new agenda item. The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 131-147).

45. The Committee noted that the discussion by the Subcommittee of this agenda item would provide it with a broad picture of how States regulated their national space activities and enable the Subcommittee to examine the main developments taking place at the national level, in order to identify common principles, norms and procedures. The Committee also noted that such information would be of value to States involved in space activities in their efforts to establish a domestic regulatory framework.

46. The Committee noted with satisfaction that a number of member States were continuing to develop national norms related to the regulation of the peaceful exploration and use of outer space and encouraged States to continue to submit information on their respective national legislation and regulatory frameworks.

47. The view was expressed that national space legislation was of paramount importance for the implementation of international legal norms and principles. That delegation was of the view that international space law remained the primary source of regulations on space activities and that it could not be substituted by norms of national space laws.

48. The Committee noted that the Subcommittee would establish a working group under this agenda item at its forty-eighth session, in 2009, and welcomed the

³ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, para. 219.

decision by the Subcommittee to elect Irmgard Marboe (Austria) as Chairperson of the working group.

49. The Committee agreed that the agenda item of the Subcommittee on the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space and the agenda item on capacity-building in space law were closely linked, since capacity-building efforts were important for promoting understanding of national requirements for space activities.

8. Draft provisional agenda for the forty-eighth session of the Legal Subcommittee

50. The Committee noted that, in accordance with General Assembly resolution 62/217, the Legal Subcommittee had considered an item entitled "Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-eighth session".

51. The Committee noted that an exchange of views had taken place in the Legal Subcommittee on proposals by member States for new items to be included in the agenda of the Subcommittee and that agreement had been reached on a proposal, to be submitted to the Committee, for the draft provisional agenda for the forty-eighth session of the Subcommittee, in 2009, as reflected in the report of the Subcommittee (A/AC.105/917, paras. 148-161).

52. The Committee welcomed the agreement by the Subcommittee to include on the agenda of the Subcommittee at its forty-eighth session, in 2009, the new single issue/item "General exchange of information on national mechanisms relating to space debris mitigation measures", which had been proposed by Italy and Ukraine and supported by several other delegations. The Committee also welcomed the agreement to retain all the single issues/items currently on the agenda of the Subcommittee for consideration at its forty-eighth session.

53. The Committee welcomed the agreement of the Subcommittee to invite the European Centre for Space Law and IISL to hold a symposium on space law at its forty-eighth session.

54. On the basis of the deliberations of the Legal Subcommittee at its forty-seventh session, the Committee agreed on the following draft provisional agenda for the forty-eighth session of the Subcommittee, in 2009:

Regular items

1. Opening of the session, election of the Chairman and adoption of the agenda.
2. Statement by the Chairman.
3. General exchange of views.
4. Status and application of the five United Nations treaties on outer space.
5. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
6. 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.

Single issues/items for discussion

7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
8. 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.
9. Capacity-building in space law.
10. General exchange of information on national mechanisms relating to space debris mitigation measures.

Items considered under workplans

11. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
2009: Examination, in a working group, of the responses received in order to develop an understanding of the manner in which Member States have regulated governmental and non-governmental space activities.

New items

12. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-ninth session.
55. The Committee endorsed the decision of the Subcommittee to reconvene at its forty-eighth session the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space and the Working Group on Matters Relating to the Definition and Delimitation of Outer Space and to establish the working group on agenda item 11 (A/AC.105/917, para. 152).
56. The Committee agreed that the Subcommittee, at its forty-eighth session, should review the need to extend the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space beyond that session of the Subcommittee (A/AC.105/917, para. 153).

E. Spin-off benefits of space technology: review of current status

57. In accordance with paragraph 50 of General Assembly resolution 62/217, the Committee resumed its consideration of the item entitled "Spin-off benefits of space technology: review of current status".
58. The representatives of Burkina Faso, Colombia, Japan and the United States made statements under this item.

59. The Committee heard a presentation entitled “JAXA industrial collaboration programme”, by Nagatomi Tetsuya (Japan).
60. The publication *Spinoff 2007*, submitted by NASA, was made available to the Committee.
61. The Committee agreed that spin-offs of space technology should be promoted because they advanced economies through the production of innovative technologies, thereby contributing to improving the quality of life of human populations.
62. The Committee also agreed that spin-offs of space technology constituted a powerful engine for technological innovation and growth in both the industrial and service sectors and could be beneficially applied to achieve social and humanitarian ends.
63. The view was expressed that space technology and its spin-off benefits must be used for peaceful purposes in order to improve the quality of life of populations, meet the goals of the United Nations Millennium Declaration (General Assembly resolution 55/2),⁴ manage limited natural resources, help solve environmental problems such as global warming and prevent and mitigate natural disasters.
64. The Committee noted that space technologies were successfully utilized for the development of national communications infrastructure and in other projects aimed at reaching the goal of sustainable development.
65. The Committee also noted that Governments had successfully involved the private sector in various projects in the area of the spin-offs of space technology.

⁴ See A/56/326, annex, and A/58/323, annex.