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

Chapter II

Recommendations and decisions

C. Report of the Legal Subcommittee on its fifty-second session

1. The Committee took note with appreciation of the report of the Legal Subcommittee on its fifty-second session (A/AC.105/1045), which contained the results of its deliberations on the items considered by the Subcommittee in accordance with General Assembly resolution 67/113.

2. The Committee expressed its appreciation to Tare Charles Brisibe (Nigeria) for his able leadership during the fifty-second session of the Subcommittee.

3. The representatives of Algeria, Austria, Canada, China, the Czech Republic, France, Germany, Greece, Indonesia, the Russian Federation, South Africa, the United States and Venezuela (Bolivarian Republic of) made statements under the item. A statement was also made under the item by the representative of Chile on behalf of the Group of Latin American and Caribbean States. The observer for Unidroit also made a statement under the item. During the general exchange of views, statements relating to the item were also made by other member States.

4. Under the item, the Committee heard the presentation entitled "The current status of the education and research on space law in China" by the representative of China.

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

5. The Committee took note of the discussion of the Subcommittee under the item on the status and application of the five United Nations treaties on outer space, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 32-50).



6. The Committee endorsed the decisions and recommendations of the Subcommittee and its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, which had been reconvened under the chairmanship of Jean-François Mayence (Belgium) (A/AC.105/1045, para. 34, and annex I, paras. 9, 10, 14 and 15).

7. The Committee noted with satisfaction that at its 38th meeting, held on 15 and 16 May 2013, the Assembly of Parties of EUTELSAT-IGO noted that the majority of the member States of the organization were parties to the Convention on Registration of Objects Launched into Outer Space and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and requested the Executive Secretary of EUTELSAT-IGO to make, on behalf of the organization, and in accordance with article VII of the Registration Convention, a declaration of acceptance of the rights and obligations provided for in that Convention.

8. Some delegations expressed the view that it was necessary to review, update and strengthen the five United Nations treaties on outer space with a view to invigorating the guiding principles that govern the space activities of States, strengthening international cooperation and making space technology available to all people. Those delegations were of the view that such reviewing and updating should not undermine the fundamental principles underlying the existing legal regime, but should enrich and further develop those principles.

9. Some delegations expressed the view that the United Nations treaties on outer space constituted a solid legal structure that was crucial for supporting the increasing scale of space activities and for strengthening international cooperation on the peaceful uses of outer space. Those delegations welcomed further adherence to the treaties and hoped that those States that had not yet ratified or acceded to the treaties would consider becoming parties to them.

10. Some delegations expressed the view that the legal regime governing activities in outer space should ensure that space research and space activities benefit the quality of life and well-being of people and the prosperity of current and future generations.

11. The view was expressed that a universal, comprehensive convention on outer space should be developed with the aim of finding solutions for existing issues, which would allow the international legal regime on outer space to be taken to the next level of its development.

12. Some delegations expressed the view that, given the rapid increase in space activities and the emergence of new space actors, more coordination and synergy between the two Subcommittees were needed in order to promote understanding, acceptance and application of the existing United Nations treaties and to strengthen the responsibility of States in carrying out space activities.

13. The view was expressed that the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies clearly established the interest of all States in the peaceful exploration and use of outer space, based on the concepts of equality and cooperation, and that discussions on the Moon Agreement should not be conducted from the viewpoint of commercial interests.

14. The view was expressed that international law regulating the conduct of space activities should not restrict access to space technologies for States, especially developing countries, wishing to develop their own space capacities in a sustainable manner.

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

15. The Committee took note of the discussion of the Subcommittee under the item on information on the activities of international intergovernmental and non-governmental organizations relating to space law, as reflected in the report of the Subcommittee (A/AC.105/1054, paras. 51-59).

16. The Committee noted the important role of international intergovernmental and non-governmental organizations and their contribution to its endeavours to promote the development of space law and endorsed the recommendation of the Subcommittee that such organizations should again be invited to report to the Subcommittee at its fifty-third session on their activities relating to space law.

17. The Committee noted with appreciation that APSCO would host the Space Law and Policy Forum in Beijing from 26 to 28 June 2013.

18. The Committee noted that the Sofia Guidelines for a Model Law on National Space Legislation had been adopted by ILA at the 75th ILA Conference, held on 30 August 2012.

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

19. The Committee took note of the discussion of the Subcommittee under the agenda item on 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, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 60-80).

20. The Committee endorsed the recommendations of the Subcommittee and its Working Group on the Definition and Delimitation of Outer Space, reconvened under the chairmanship of José Monserrat Filho (Brazil) (A/AC.105/1045, paras. 62 and 63, and annex II, para. 8).

21. 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 made it necessary for the Subcommittee to intensify its work on the question of the definition and delimitation of outer space.

22. The view was expressed that the development of territorial arrangements, space technology and space activities required clear definition in order to provide a basis for territorial sovereignty arrangements and that even a minimum consensus could facilitate progress in other related multilateral forums.

23. 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.

24. 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.

25. 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 give States the possibility of 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 ITU and relevant norms and decisions of the United Nations.

26. Some delegations expressed the view that the geostationary orbit was part of outer space, that it was not subject to national appropriation by claim of sovereignty, by means of use or occupation or by any other means, including by means of use or repeated use, and that its utilization was governed by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and ITU treaties.

27. The view was expressed that Member States should seek alternative ways of using the geostationary orbit that were more rational and balanced.

28. 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.

29. 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, with technical and legal expertise in order to promote equal access to the geostationary orbit.

4. National legislation relevant to the peaceful exploration and use of outer space

30. The Committee took note of the discussion of the Legal Subcommittee under the item on national legislation relevant to the peaceful exploration and use of outer space as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 81-93).

31. The Committee endorsed the recommendation of the Subcommittee that the set of recommendations on legislation relevant to the peaceful exploration and use of outer space, contained in annex III to the report of the Subcommittee, be submitted as a separate draft resolution for consideration by the General Assembly at its sixty-eighth session.

32. The Committee noted with satisfaction that States continued to undertake efforts aimed at the development of national space-related regulatory frameworks, in accordance with the United Nations treaties on outer space.

33. The Committee agreed that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space provided States with a comprehensive overview of the current status of national space laws and regulations and assisted States in understanding the different approaches taken at the national level with regard to the development of national space-related regulatory frameworks.

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

34. The Committee took note of the discussion of the Subcommittee under the item 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.105/1045, paras. 94-106).

35. The Committee endorsed the recommendation of the Subcommittee on the item (A/AC.105/1045, para. 106).

36. 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.

37. Some delegations stressed 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.

38. 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 greater understanding, acceptance and implementation of the legal instruments and the development of new legal instruments related to the use of nuclear power sources in outer space.

39. Some delegations expressed the view that the Legal Subcommittee should undertake a review of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space with the view to developing binding standards.

40. Some delegations expressed the view that the Legal Subcommittee should undertake a review of the Safety Framework for Nuclear Power Source Applications in Outer Space and promote binding standards with the view to ensuring that any activity conducted in outer space was governed by the principles of preservation of life and maintenance of peace.

41. The view was expressed that further international and national efforts should be exerted to minimize risks of the use of satellite platforms with nuclear power

sources in outer space, in particular in the geostationary orbit and low-Earth orbits, and to tackle legal problems related to collisions of such objects and other accidents and emergencies.

6. Examination and review of the developments concerning the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets

42. The Committee took note of the discussion of the Subcommittee under the item on the examination and review of the developments concerning the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 107-114).

43. The Committee noted the efforts made by Unidroit to promote the early entry into force of the Protocol.

44. The Committee noted that, since its adoption on 9 March 2012, the Protocol had been signed by Burkina Faso, Germany, Saudi Arabia and Zimbabwe and that, in order for it to enter into force, 10 ratifications, acceptances, approvals or accessions were needed, as well as certification by the supervisory authority confirming that the international registry for space assets was fully operational.

45. The Committee also noted that pending the entry into force of the Protocol, a Preparatory Commission for the Establishment of the International Registry for Space Assets had been established to act with full authority as the provisional supervisory authority of the future international registry and that the Preparatory Commission operated under the guidance of the Unidroit General Assembly. In this regard, the Committee noted that the first session of the Preparatory Commission was held at the seat of Unidroit in Rome on 6 and 7 May 2013 and that it had established two working groups, one tasked with drafting regulations for the future international registry for space assets and the other with drafting a request for proposals for the selection of the registrar of that registry.

46. The Committee further noted that the representatives of ITU had reported to the Preparatory Commission that, as a follow-up to the diplomatic conference for the adoption of the draft protocol held in Berlin, the ITU Secretary-General continued to express interest in the possibility for ITU to accept the role of supervisory authority, subject to final approval by the ITU governing bodies, and had authorized the participation of ITU representatives in the work of the Preparatory Commission. In this regard, the Committee noted that the Preparatory Commission, at its session in May 2013, also agreed on a strict timetable of future work, with the aim of discussing a finalized version of the registry regulations by early 2014 at the latest, in time for the ITU Council and Plenipotentiary Conference in 2014.

7. Capacity-building in space law

47. The Committee took note of the discussion of the Subcommittee under the item on capacity-building in space law, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 115-133).

48. The Committee endorsed the recommendations of the Subcommittee on the agenda item (A/AC.105/1045, paras. 131 and 133).

49. 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.

50. The Committee noted that the exchange of views on national and international efforts to promote a wider appreciation of space law and endeavours such as the annual workshops on space law and the development of the curriculum on space law played a vital role in building capacity in space law.

51. The Committee noted with appreciation the holding of the eighth United Nations workshop on space law, on the theme “Contribution of space law to economic and social development”. The workshop, held in Buenos Aires from 5 to 8 November 2012, had been hosted by the Government of Argentina and organized jointly by the Office for Outer Space Affairs and the National Commission on Space Activities (CONAE) of Argentina, with the support of ESA.

52. The Committee noted that the Office for Outer Space Affairs planned to organize a session on space law on the margins of the Fifth African Leadership Conference on Space Science and Technology for Sustainable Development, to be held in Ghana in 2013.

53. The Committee noted with satisfaction that the education curriculum on space law would be finalized in 2013 and that it would constitute a dynamic educational tool that could be easily used by educators from different professional backgrounds. The Committee welcomed the fact that the curriculum would also include a web-based compilation of reading materials, to be found on the website of the Office for Outer Space Affairs, which would be updated as new or additional materials were identified.

8. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee

54. The Committee took note of the discussion of the Subcommittee under the item on the general exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee, as reflected in the report of the Legal Subcommittee (A/AC.105/1045, paras. 134-160).

55. The Committee expressed concern over the increasing amount of space debris and 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 Space was a key step in providing all spacefaring nations with guidance on how to mitigate the problem of space debris, and encouraged Member States to consider voluntary implementation of the Guidelines.

56. The Committee noted with satisfaction that some States had taken measures to enforce the implementation of internationally recognized guidelines and standards related to space debris through relevant provisions in their national legislation.

57. Some delegations expressed the view that the Legal Subcommittee should develop legal mechanisms to deal with the issue of space debris and consequences arising from collisions with space debris or their re-entry into the atmosphere.

58. Some delegations expressed the view that the Legal Subcommittee should address legal implications and concerns of space debris removal.

59. 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 greater understanding, acceptance and implementation of the legal instruments — and the development of new legal instruments — related to the issue of space debris.

60. Some delegations expressed the view that the Space Debris Mitigation Guidelines of the Committee should be given a higher legal status, which might help to reinforce the regulatory framework at the global level.

61. The view was expressed that a document compiling national practices and legislation on space debris mitigation guidelines and instruments adopted by Member States and regional organizations would encourage the development of new national measures and practices.

9. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space

62. The Committee noted the discussion of the Legal Subcommittee under the item on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space, in accordance with its five-year workplan, and that in 2013 the Subcommittee had conducted an exchange of information on the range of existing international space cooperation mechanisms, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 161-174).

63. The Committee endorsed the decisions of the Subcommittee as contained in A/AC.105/1045, paras. 163 and 174.

64. The Committee noted with appreciation that the Subcommittee had elected Setsuko Aoki of Japan as Chair of the working group on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space, to be convened in 2014.

65. The Committee noted with satisfaction that the exchange of information under this new agenda item on a broad range of international cooperative mechanisms employed by member States with a view to identifying common principles and procedures was of important significance to member States as they considered relevant mechanisms to facilitate future cooperation in the exploration and peaceful uses of outer space.

66. The Committee noted that the review of the mechanisms for cooperation in space activities would contribute to the further strengthening of international cooperation in the exploration and peaceful uses of outer space. In that regard, the Committee also noted that 2017, the final year of consideration of the agenda item, according to its workplan, coincided with the fiftieth anniversary of the Outer Space Treaty.

10. Draft provisional agenda for the fifty-third session of the Legal Subcommittee

67. The Committee took note of the discussion of the Subcommittee under the item on the draft provisional agenda for the fifty-third session of the Legal Subcommittee, as reflected in the report of the Subcommittee (A/AC.105/1045, paras. 177-194).

68. The Committee agreed to include “General exchange of information on non-legally binding United Nations instruments on outer space”, proposed by Japan and co-sponsored by Austria, Canada, France, Nigeria and the United States, as contained in conference room paper A/AC.105/2013/CRP.6/Rev.3, as an item to be considered on the agenda of the Legal Subcommittee.

69. The Committee noted that the objective of this agenda item was to facilitate exchange of views on non-legally binding United Nations instruments on outer space, such as declarations, principles, resolutions, guidelines and frameworks on outer space, and to share information on specific measures taken by States and international organizations in relation to these instruments, as well as their contribution to the exploration and use of outer space for peaceful purposes and, if necessary, to undertake a study with a view to developing common understanding on how to promote these instruments in order to address contemporary challenges in the exploration and use of outer space.

70. The Committee also noted that this agenda item was not intended to focus on any specific instrument, as long as the Legal Subcommittee or the Scientific and Technical Subcommittee were addressing matters relating to these instruments.

71. The Committee further noted that member States would be firstly encouraged to provide their views and share experiences regarding the objectives of this item and that, once the exchange of views had been completed, the Legal Subcommittee should consider whether a working group would be required for further work.

72. The Committee noted that a working group, if established, should be open to member States and permanent observers of the Committee and should avail itself of the progress made under other relevant agenda items and by other working groups of the Subcommittees, with a view to mutual exchange of views and information as appropriate, and to avoid duplication of work.

73. On the basis of its deliberations and the deliberations of the Legal Subcommittee at its fifty-second session, the Committee agreed that the following substantive items should be considered by the Subcommittee at its fifty-third session:

Regular items

1. Election of the Chair.
2. General exchange of views.
3. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
4. Status and application of the five United Nations treaties on outer space.

5. 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.
6. National legislation relevant to the peaceful exploration and use of outer space.
7. Capacity-building in space law.

Single issues/items for discussion

8. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
9. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee.
10. General exchange of information on non-legally binding United Nations instruments on outer space.

Items considered under workplans

11. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.

(Work for 2014 as reflected in the multi-year workplan in the report of the Legal Subcommittee on its fifty-first session (A/AC.105/1003, para. 179))

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 fifty-fourth session.
74. The Committee agreed that 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 should be reconvened at the fifty-third session of the Legal Subcommittee, and that the Working Group on the Review of International Mechanisms for Cooperation in the Peaceful Exploration and Use of Outer Space would be convened to begin their work at that session.
75. The Committee also agreed that the Subcommittee should review, at its fifty-third session, the need to extend beyond that session the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.

76. The Committee agreed that IISL and the European Centre for Space Law should be invited to organize a symposium on space law at the fifty-third session of the Subcommittee.

77. The view was expressed that a revision of the agenda of the Subcommittee could help to make the work of the Subcommittee more structured and efficient and could encompass a reduced number of items that would incorporate the substance of all existing items on the agenda of the Subcommittee. A division of the sessions of the Subcommittee into two parts could be undertaken, with one week being dedicated to expert group discussions of topics chosen during the previous session and the second week being reserved for the exchange of views between government representatives.
