

Statement of Ukraine
at the 63-rd session of the LSC COPUOS on
7(a) agenda item: The definition and delimitation of outer space.

a) Definition and Delimitation of Outer Space

This year marks the 57th anniversary of the adoption of the Outer Space Treaty. However, international law still does not contain a legal definition of space as such. All these years, delegations have been discussing the issue and definition of outer space, and its separation from air space. This does not indicate the irrelevance of this issue, on the contrary, it emphasizes with the help of apparent simplicity and comprehensibility the complexity of the legal definition for effective legal regulation. The inability to reach a consensus on these issues leads to the fact that states begin to fix the limit of outer space in national legislation individually at their discretion. This does not indicate a constructive solution to this issue, on the contrary, it leads to even greater confusion, and in the future, it may give rise to disputes that some states, such as Russia, are used to solving exclusively by force.

Ukraine takes a position towards the necessity for a clear definition of the term "outer space", i.e. fixing its definition as a legal term, as well as the term "exploration and use of outer space, including the Moon and other celestial bodies" as a legal category, since legal terminology is integral part of law-making. As you know, the level of legal technology is a reliable indicator of the level of development of the legal culture of society, especially when it comes to the international community and international law in general. The fundamentality of defining these terms as legal categories is emphasized by the fact that they form a specific legal conceptual apparatus of a separate field of international law - space law - and make multiple perception and interpretation impossible.

For its part, the delimitation of outer space also brings indisputable clarity to the issue of the termination of the jurisdiction (sovereignty) of the state in the space above it and the beginning of the outer space, which in itself, as well as the activities in which, are the subject of legal regulation by the UN outer space treaties. Undoubtedly, legal transparency and clarity of legal norms, in particular, regarding the delimitation of outer space will be useful for avoiding or resolving legal disputes and the distribution of responsibility between subjects in their relations regarding the exploration and use of outer space. The issue of space delimitation is becoming more and more relevant in view of the development of space tourism, commercial space flights, commercialization of space activities, and ambitions for the extraction of space resources. That is, delimitation is a key to preventing potential dangers and legal conflicts. In this context, one cannot agree with the idea that the delimitation of air and outer space can negatively affect the development of space technologies and the spread of commercial space flights. Since the physical properties of these two domains in no way depend on the technological development of aircraft, on the

contrary, their legal delimitation will contribute to the clear differentiation of such vehicles, which will positively affect the demilitarized status of outer space. Therefore, Ukraine believes that in order to harmonize international space law with international air law, it is appropriate to establish the upper limit of the jurisdiction of the International Aeronautics Federation at the level of 100 km.

As a conclusion, the practical aspects of space activities require the delimitation of outer space and, as a result, the consolidation of its legal definition and the recognition of its special legal status. International space law, as well as the national legislation of individual states, contains a small number of indications on how outer space can be defined and where the corresponding boundary should be drawn, which separates it from air space. However, the unstoppable development of both space technologies and space activities can most likely lead to conflicts and disputes between subjects of space activities. At the same time, such subjects will refer to national legislation, which will not positively affect the stability of international regulation in this field, but will put the international legal community in front of the fact of the need to provide such a definition and draw the appropriate border between these two domains. For now, we have a chance to avoid this negative scenario and establish proper, reasonable and prudent legal regulation of current and future space legal relations.