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Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

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Agenda item 7 (a)

**Matters relating to the definition and delimitation
of outer space**

Draft report of the Working Group on the Definition and Delimitation of Outer Space

1. At its 839th meeting, on 19 March 2012, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil).
2. The Chair drew the attention of the Working Group to the fact that, pursuant to General Assembly resolution 66/71, the Working Group had been convened to consider only matters relating to the definition and delimitation of outer space.
3. The Working Group 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 and Add.11);
 - (b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.10).
4. 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 to define and delimit airspace and outer space.
5. The view was expressed that States should continue to operate under the current framework, which had functioned well, and that, at the present time, any attempt to define or delimit outer space would be a theoretical and academic exercise that could complicate existing activities and that might not be able to anticipate future technological developments.



6. The Working Group noted that paragraphs 3 and 4 of article II of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets established that the Protocol “does not apply to objects falling within the definition of ‘aircraft objects’ under the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment except where such objects are primarily designed for use in space, in which case this Protocol applies even while such objects are not in space” and that the Protocol “does not apply to an aircraft object merely because it is designed to be temporarily in space”.
7. The Working Group noted a proposal by the Chair to begin to consider matters relating to the legal definition of suborbital flights, which would be without prejudice to the definition and delimitation of outer space.
8. Some delegations were of the view that the definition with regard to suborbital flights did not fall within the mandate of the Working Group.
9. Some delegations were of the view that consideration of legal issues relating to suborbital flights might help the Working Group in its work under matters relating to the definition and delimitation of outer space.
10. On the basis of its discussions, the Working Group agreed:
 - (a) To continue to invite States members of the Committee on the Peaceful Uses of Outer Space to submit information on national legislation or any national practices that might exist or were being developed that related directly or indirectly to the definition and/or delimitation of outer space and airspace, taking into account the current and foreseeable level of development of space and aviation technologies;
 - (b) To continue to address to the Governments of Member States, through the Secretariat, the following questions:
 - (i) Does your Government consider it necessary to define outer space and/or to delimit airspace and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies? Please provide a justification for the answer;
 - (ii) Does your Government consider another approach to solving this issue? Please provide a justification for the answer;
 - (iii) Does your Government give consideration to the possibility of defining a lower limit of outer space and/or an upper limit of airspace, recognizing at the same time the possibility of enacting special international or national legislation relating to a mission carried out by an object in both airspace and outer space?
11. The Working Group also agreed to invite Member States of the United Nations and permanent observers of the Committee to provide their replies to the following questions:
 - (a) Is there a relationship between suborbital flights for scientific missions and/or for human transportation and the definition and delimitation of outer space?
 - (b) Will the legal definition of suborbital flights for scientific missions and/or for human transportation be practically useful for States and other actors with regard to space activities?

(c) How could suborbital flights for scientific missions and/or for human transportation be defined?

(d) Which legislation applies or could be applied to suborbital flights for scientific missions and/or for human transportation?

(e) How will the legal definition of suborbital flights for scientific missions and/or for human transportation impact the progressive development of space law?

(f) Please propose other questions to be considered in the framework of the legal definition of suborbital flights for scientific missions and/or for human transportation.

12. The Working Group requested the Secretariat:

(a) To establish a web page within the website of the Office for Outer Space Affairs specially dedicated to the work of the Working Group on matters relating to the definition and delimitation of outer space and to upload to that page the following documents:

(i) Note by the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from Member States" (A/AC.105/635 and Add. 1-17);

(ii) Note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.204);

(iii) Report of the Secretariat entitled "Historical summary on the consideration of the question on the definition and delimitation of outer space" (A/AC.105/769 and Corr.1);

(iv) Note by the Secretariat entitled "Analytical summary of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.249 and Corr.1 and Add.1 and 2);

(v) Note by the Secretariat entitled "Analytical summary of the replies to the questionnaire on possible legal issues with regard to aerospace objects: preferences of member States" (A/AC.105/849);

(vi) Note by the Secretariat entitled "Proposals of Member States concerning criteria for analysing the replies to the questionnaire on aerospace objects" (A/AC.105/C.2/L.267);

(vii) Note by the Secretariat entitled "National legislation and practice relating to definition and delimitation of outer space" (A/AC.105/865 and Add.1-11);

(viii) Note by the Secretariat entitled "Questions on the definition and delimitation of outer space: replies from Member States" (A/AC.105/889 and Add.1-10);

(ix) Submissions related to all of the above documents, which were reproduced by the Secretariat in conference room papers;

(b) To prepare, for consideration by the Working Group during the fifty-second session of the Subcommittee, in 2013, a conference room paper, which

would be continually updated in the future and would summarize information on national practices and legislation of States with regard to the definition and delimitation of outer space, as contained in documents A/AC.105/635 and Add.1-17, A/AC.105/865 and Add.1-11 and A/AC.105/889 and Add.1-10, as well as in future addenda to those documents.
