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Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

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Agenda item 6 (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 860th meeting, on 8 April 2013, 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 67/113, 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/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) Note by the Secretariat 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).

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4. The Working Group commended the Secretariat for establishing a web page within the website of the Office for Outer Space Affairs dedicated to the work of the Working Group on matters relating to the definition and delimitation of outer space and for uploading relevant documents to that page.

5. 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.

6. Some delegations expressed the view 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.

7. The Working Group noted that approaches to the development of a legal definition and delimitation of outer space could be classified into two broad categories: a conceptual approach, which favoured the identification of a demarcation line between airspace and outer space, and a functional approach, which looked at the nature or purpose of the activity (i.e. space activity), not the location of the activity. In this connection, the Group noted the proposals by the Chair to examine those approaches under the terms of the existing United Nations treaties on outer space, as well as to consider undertaking a mixed approach, based on a synthesis of the two approaches, in the matters relating to the definition and delimitation of outer space.

8. 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?

(c) To continue to invite States Members of the United Nations and permanent observers of the Committee to provide their replies to the following questions:

- (i) Is there a relationship between suborbital flights for scientific missions and/or for human transportation and the definition and delimitation of outer space?
 - (ii) 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?
 - (iii) How could suborbital flights for scientific missions and/or for human transportation be defined?
 - (iv) Which legislation applies or could be applied to suborbital flights for scientific missions and/or for human transportation?
 - (v) How will the legal definition of suborbital flights for scientific missions and/or for human transportation impact the progressive development of space law?
 - (vi) 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.
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