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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Forty-second session
Vienna, 24 March-4 April 2003

Draft report of the Legal Subcommittee on the work of its forty-second session, held in Vienna from 24 March to 4 April 2003

Addendum

IV. Information on the activities of international organizations relating to space law

1. At the 677th meeting of the Legal Subcommittee, on 25 March, the Chairman made an introductory statement on agenda item 5 and drew the attention of the Subcommittee to the fact that it was a regular agenda item agreed upon by the Subcommittee at its forty-first session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-fifth session.
2. The Legal Subcommittee noted with satisfaction that various international organizations had been invited by the Secretariat to report to the Subcommittee on their activities relating to space law and agreed that a similar invitation should be extended by the Secretariat for the forty-third session of the Subcommittee, in 2004.
3. The Legal Subcommittee had before it a document (A/AC.105/C.2/L.239) and two conference room papers (A/AC.105/C.2/2002/CRP.4 and A/AC.105/C.2/2003/CRP.9) containing reports from the following international organizations on their activities relating to space law: Centre régional de télédétection des états de l'Afrique du nord, European Organization for the Exploitation of Meteorological Satellites (EUMETSAT), European Centre for Space Law (ECSL), International Astronautical Federation (IAF) and its International Institute of Space Law (IISL), International Law Association (ILA) and International Organization of Space Communications (INTERSPUTNIK).



4. In the course of the debate, observers for the following international organizations reported to the Legal Subcommittee on their activities relating to space law: ECSL, EUMETSAT, IAF, IISL, ILA and INTERSPUTNIK. The Subcommittee was also informed about the activities of the International Space Law Centre, in Ukraine.
5. The view was expressed that intergovernmental organizations conducting space activities and their member States should consider the possible steps that might be taken to bring the activities of those intergovernmental organizations into the framework of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (resolution 2345 (XXII), annex, the "Rescue Agreement"), the Convention on International Liability for Damage Caused by Space Objects (resolution 2777 (XXVI), annex, the "Liability Convention") and the Convention on Registration of Objects Launched into Outer Space (resolution 3235 (XXIX), annex, the "Registration Convention").
6. The view was expressed that exchange of information in relation to space law could be improved by inviting educational institutions to provide the Subcommittee with information on their programmes and activities relating to space law.
7. The Legal Subcommittee expressed its appreciation to the Government of the Netherlands and the International Institute of Air and Space Law (IIASL) of the University of Leiden for co-sponsoring the first United Nations/International Institute of Air and Space Law Workshop on Capacity-Building in Space Law, held from 18 to 21 November 2002 in The Hague.
8. The Legal Subcommittee welcomed the presentation made by the representative of the Netherlands on the programme and recommendations of the Workshop on Capacity-Building in Space Law and agreed that the Workshop had made a positive contribution to achieving a full understanding and acceptance of the five United Nations treaties on outer space, including providing an impetus to some Member States to consider ratification of those treaties.
9. The Legal Subcommittee noted with appreciation that the Workshop had promoted the further development of space law at the national level and had raised awareness of the need for educational programmes on space law, in particular in developing countries.
10. The Legal Subcommittee noted with appreciation that the next United Nations Workshop on Space Law would be hosted by the Republic of Korea and held in Daejeon from 3 to 6 November 2003.
11. The view was expressed that the promotion of education in space law and the related recommendations of the Workshop on Capacity-Building in Space Law (see A/AC.105/802) were of great importance and could serve as a basis for further deliberation with a view to taking practical steps in that regard.
12. The Legal Subcommittee noted that the Committee on the Peaceful Uses of Outer Space, at its forty-fourth session, in 2001, had agreed to invite interested member States to designate experts to identify which aspects of the report of the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) of UNESCO might need to be studied by the Committee and to draft a report in consultation with other international organizations and in close liaison with

COMEST. That was to be done with a view to making a presentation to the Subcommittee at its forty-second session, in 2003, under the item entitled "Information on the activities of international organizations relating to space law".

13. The Legal Subcommittee had before it the report of the Group of Experts on the Ethics of Outer Space (A/AC.105/C.2/L.240). The Subcommittee also had before it conference papers containing contributions from individual members of the Group of Experts to the report (A/AC.105/C.2/2003/CRP.3 and Add.1) and amendments to the report of the Group of Experts on the Ethics of Outer Space (A/AC.105/C.2/2003/CRP.8).

14. The Legal Subcommittee noted that it was the primary international forum for the development of international space law and that the entire body of law developed by the Subcommittee was founded on ethical principles.

15. The Subcommittee thanked the experts who had contributed to the report of the Group of Experts on the Ethics of Outer Space, as amended, and took note of the report and its annex and recommended that the Committee on the Peaceful Uses of Outer Space might wish to consider it at its forty-sixth session, in June 2003.

16. The Subcommittee also agreed that the Committee might wish to send the report and its annex to the Director-General of UNESCO, asking that UNESCO keep the Committee and its subcommittees informed about the activities relating to outer space of UNESCO, in the framework of their cooperation, taking into due account their respective competencies.

17. Finally, the issue of ethics of activities in outer space could continue to be considered by the Legal Subcommittee under item 5 of its agenda.

18. The full text of the statements made by delegations during the discussion on agenda item 5 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).

V. 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 Legal Subcommittee recalled that the General Assembly, in its resolution 57/116 of 11 December 2002, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-second session, taking into account the concerns of all countries, in particular those of developing countries, consider matters relating to the definition and delimitation of outer space and to 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 (ITU).

20. The Legal Subcommittee had before it the following documents:

(a) 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.1-8);

(b) Report of the Legal Subcommittee on its forty-first session (A/AC.105/787);

(c) Report of the Scientific and Technical Subcommittee on its fortieth session (A/AC.105/804).

21. Some delegations expressed the view that the lack of a definition and delimitation of outer space would bring about legal uncertainty with regard to space law, which provided that outer space was the province of all mankind, and air law, which provided for sovereignty over national airspace.

22. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, emerging legal questions and the increasing use of outer space in general had made it necessary for the Subcommittee to consider the question of the definition and delimitation of outer space.

23. The view was expressed that, before a definition and delimitation of outer space could be developed, it would be necessary to analyse the technical aspects of air and outer space transport systems and the means of delivery of objects into outer space, prospects for the development of aerospace objects capable of missions in air and outer space, as well as data on the use of the only existing prototype of such an aerospace object, namely, the Space Shuttle. That delegation was also of the view that States should examine the practical experience accumulated by States relating to the use of airspace and outer space and the activities of international organizations relating to the definition and delimitation of outer space.

24. The view was expressed that the Subcommittee should cooperate with ITU and the International Civil Aviation Organization to define special zones in airspace that could be used by aerospace objects capable of manoeuvring in air and outer space for that part of their mission which passed through airspace.

25. Some delegations expressed the view that it was not necessary to develop any definition or delimitation of outer space as the absence of such a definition had not resulted in any legal or practical problems.

26. The view was expressed that States should continue to operate under the current framework, which functioned well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space.

27. The Subcommittee welcomed the replies received from member States to the revised questionnaire on possible legal issues with regard to aerospace objects.

28. Some delegations expressed the view that the replies to the questionnaire on possible legal issues with regard to aerospace objects should be examined carefully by the Legal Subcommittee as they could constitute a good basis for discussions with a view to adopting standards on the matter.

29. The view was expressed that the questionnaire, in its current form, should be considered final and that all replies received from member States should be summarized by the Subcommittee in a report to the Committee on the Peaceful Uses

of Outer Space. That delegation was of the view that the issue should then be suspended until new events merited the consideration of the status of aerospace objects.

30. Some delegations expressed the view that the exploitation of the geostationary orbit, which was a limited natural resource, should, in addition to being rational, be made available to all countries, irrespective of their current technical capacities, thus providing them with the possibility of having 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 process of ITU. Within that framework, those delegations expressed their satisfaction with the agreement reached by the Subcommittee at its thirty-ninth session (A/AC.105/738, annex III), in the sense that every coordination among countries aimed at the utilization of the orbit should be carried out in an equitable manner and in conformity with the radio regulations of ITU.

31. Some delegations expressed the view that the agreement reached by the Subcommittee at its thirty-ninth session on the question of the character and utilization of the geostationary orbit was an important basis for promoting international cooperation to ensure that the principle of equity would be applied and that all States would have access to the geostationary orbit.

32. The view was expressed that, while ITU was undertaking work relating to the utilization of the geostationary orbit, the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee continued to be the competent bodies to discuss the legal and political aspects of the geostationary orbit.

33. The view was expressed that the current constitution, convention and radio regulations of ITU, as well as the current procedures under those treaties for international cooperation among countries and groups of countries with respect to the geostationary orbit and other orbits, fully took into account the interest of States in the use of the geostationary orbit and the radio frequency spectrum.

34. Some delegations expressed the view that the geostationary orbit was a limited natural resource with sui generis characteristics that risked saturation and that, therefore, equitable access to it should be guaranteed for all States, taking particular account of the needs of developing countries. Some of those delegations expressed the view that such a regime should take into account the needs and interests of developing countries, as well as the geographical position of certain countries.

35. Some delegations expressed the view that the geostationary orbit was an integral part of outer space and that its use was governed by the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (resolution 2222 (XXI), annex, the "Outer Space Treaty") and the treaties of ITU.

36. The view was expressed that the provisions of articles I and II of the Outer Space Treaty made it clear that a party to the Treaty could not appropriate any part of outer space, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, or even repeated use.

37. The view was expressed that the division of agenda item 6 into sub-items 6 (a) and 6 (b) was practical from a thematic point of view and that it also drew attention

to the continued importance of each of the two issues considered under that agenda item.

38. As mentioned in paragraph [...] above, at its 674th meeting, on 24 March, the Legal Subcommittee re-established its Working Group on agenda item 6 (a) and elected Taous Feroukhi (Algeria) Chairperson of the Working Group. In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, the Working Group convened to consider only matters relating to the definition and delimitation of outer space.

39. The Working Group on agenda item 6 (a) held [...] meetings. At its [...] meeting, on [...] April, the Legal Subcommittee endorsed the report of the Working Group, which is contained in annex [...] to the present report.

40. The full text of the statements made by delegations during the discussion on agenda item 6 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).

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

41. The Legal Subcommittee noted that the General Assembly, in its resolution 57/116, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee continue its consideration of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Assembly resolution 47/68 of 14 December 1992) as a single issue and item for discussion.

42. The Legal Subcommittee noted that, at its fortieth session, the Scientific and Technical Subcommittee had concluded a four-year work plan on the use of nuclear power sources in outer space. Under that work plan, the Working Group on the Use of Nuclear Power Sources in Outer Space of the Scientific and Technical Subcommittee had finalized, in 2002, a report entitled "A review of international documents and national processes potentially relevant to the peaceful uses of nuclear power sources in outer space" (A/AC.105/781).

43. The Legal Subcommittee also noted that, at its fortieth session, in 2003, the Scientific and Technical Subcommittee had agreed to follow another multi-year work plan, for the period 2003-2006, to establish the objectives, scope and attributes for an international technically based framework of goals and recommendations for the safety of planned and currently foreseeable applications of nuclear power sources in outer space.

44. In view of the work being conducted by the Scientific and Technical Subcommittee, the Legal Subcommittee agreed that, at the present time, opening a discussion on revision of the Principles was not warranted.

45. The view was expressed that the report of the Working Group on the Use of Nuclear Power Sources in Outer Space (A/AC.105/804, annex IV), which reviewed international documents and national processes potentially relevant to the peaceful uses of nuclear power sources in outer space, provided a solid basis for future

consideration of ways to maximize the efficiency and safety of the use of nuclear power sources in outer space. That delegation was of the view that the continued work being undertaken by the Scientific and Technical Subcommittee was important for developing an international consensus on a technically based framework for applications of nuclear power sources in outer space.

46. The view was expressed that the safe use of nuclear power sources required both appropriate design and adequate operational measures to protect the peoples and environment of the Earth. That delegation noted that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as adopted by the General Assembly, provided the guidelines and criteria necessary for ensuring the safe use of nuclear power sources in outer space.

47. Some delegations expressed the view that it was necessary to continue discussing the issue and that it should remain on the agenda of the Legal Subcommittee.

48. The full text of the statements made during the discussion on agenda item 7 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).
