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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Forty-fourth session
Vienna, 4-15 April 2005

Draft report

I. Introduction

A. Opening of the session

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-fourth session at the United Nations Office at Vienna from 4 to 15 April 2005 under the chairmanship of Sergio Marchisio (Italy).
2. At the opening (711th) meeting, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-fourth session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.711).

B. Adoption of the agenda

3. At its opening meeting, the Legal Subcommittee adopted the following agenda:
 1. Opening of the session and adoption of the agenda.
 2. Statement by the Chairman.
 3. General exchange of views.
 4. Status and application of the five United Nations treaties on outer space.
 5. Information on the activities of international organizations relating to space law.
 6. 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.
- 7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
- 8. Examination of the preliminary draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment, opened for signature at Cape Town, South Africa, on 16 November 2001:
 - (a) Considerations relating to the possibility of the United Nations serving as supervisory authority under the future protocol;
 - (b) Considerations relating to the relationship between the terms of the future protocol and the rights and obligations of States under the legal regime applicable to outer space.
- 9. Practice of States and international organizations in registering space objects.
- 10. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-fifth session.

C. Attendance

- 4. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kazakhstan, Libyan Arab Jamahiriya, Malaysia, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam and [...].
- 5. At the 711th meeting, on 4 April, and [...], the Chairman informed the Subcommittee that requests had been received from the permanent representatives of Azerbaijan, Bolivia, Israel, Tunisia, Yemen and [...] to attend the session as observers. The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, it could take no formal decision on the matter, but that the representatives of those States might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.
- 6. The following United Nations entities were represented at the session by observers: International Civil Aviation Organization (ICAO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and International Atomic Energy Agency (IAEA).

7. The following international organizations were also represented by observers: European Space Agency (ESA), International Astronautical Federation (IAF), International Law Association (ILA), International Mobile Satellite Organization (IMSO), International Organization of Space Communications (INTERSPUTNIK), Space Generation Advisory Council (SGAC) and [...].

8. A list of the representatives of States members and non-members of the Subcommittee, entities of the United Nations system, intergovernmental organizations and other bodies attending the session and of members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.37.

D. Organization of work

9. In accordance with decisions taken at its opening meeting, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee reconvened its Working Group on agenda item 4, "Status and application of the five United Nations treaties on outer space", open to all members of the Subcommittee, pending a decision regarding its chairmanship. At its 714th meeting, on 5 April, the Subcommittee agreed to suspend the Working Group for the current session and to reconvene it at the forty-fifth session, in 2006. At that time, the Subcommittee should review the need to extend the mandate of the Working Group beyond that session of the Subcommittee;

(b) The Subcommittee reconvened its Working Group on agenda item 6 (a), "The definition and delimitation of outer space", open to all members of the Subcommittee, and agreed that José Monserrat Filho (Brazil) should serve as its Chairperson;

(c) The Subcommittee reconvened its Working Group on agenda item 8, "Examination of the preliminary draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment, opened for signature at Cape Town, South Africa, on 16 November 2001", open to all members of the Subcommittee, and agreed that Vladimír Kopal (Czech Republic) should serve as its Chairperson;

(d) The Subcommittee established a Working Group on agenda item 9, "Practice of States and international organizations in registering space objects", open to all members of the Subcommittee, and agreed that Niklas Hedman (Sweden) should serve as its Chairperson;

(e) The Subcommittee began its work each day with a plenary meeting to hear delegations wishing to address it. It subsequently adjourned and, when appropriate, convened a working group.

10. At the opening meeting, the Chairman proposed and the Subcommittee agreed that its work should continue to be organized flexibly with a view to making the best use of the available conference services.

11. The Subcommittee noted with satisfaction that a symposium entitled "Recent developments in remote sensing and the desirability of reviewing the 1986 United Nations Principles Relating to Remote Sensing of the Earth from Outer Space", sponsored by the International Institute of Space Law (IISL) of IAF in cooperation

with the European Centre for Space Law (ECSL) of ESA, had been held during the current session of the Subcommittee, on 4 April. The symposium was coordinated by Tanja Masson-Zwaan of IISL and chaired by Peter Jankowitsch (Austria). Presentations were made by Mahulena Hofmann on the “International legal framework of remote sensing in the year 2005: changed conditions and changed needs?”; Joanne Gabrynowicz on “The 1986 United Nations Principles and current state practice in North America”; Rajeev Lochan on “The 1986 United Nations Principles: on the necessity of a revisit”; and Marco Ferrazzani on “The 1986 United Nations Principles and current state practice in Europe”. The Subcommittee agreed that IISL and ECSL should be invited to hold a further symposium on space law at its forty-fifth session.

12. The Legal Subcommittee recommended that its forty-fifth session should be held from [...] to [...] 2006.

E. Adoption of the report of the Legal Subcommittee

13. The Subcommittee held a total of [...] meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.711-...).

14. At its [...] meeting, on [...] April 2005, the Subcommittee adopted the present report and concluded the work of its forty-fourth session.

II. General exchange of views

15. Statements were made by representatives of the following States members of the Subcommittee during the general exchange of views: Brazil, Burkina Faso, Canada, China, Colombia, France, Germany, India, Indonesia, Italy, Japan, Morocco, Republic of Korea, Romania, Russian Federation, Thailand, Ukraine and United States. The representative of Bolivia made a statement on behalf of the States Members of the United Nations that are members of the Group of Latin American and Caribbean States. The observers for IAF and IISL also made statements. The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.711-714).

16. At the 711th meeting, on 4 April, the Director of the Office for Outer Space Affairs of the Secretariat made a statement reviewing the role and work of the Office relating to space law. The Subcommittee noted with appreciation the information on the activities of the Office aimed at promoting the understanding, acceptance and implementation of international space law.

17. Some delegations expressed the view that the militarization of outer space risked undermining strategic stability and international security and could lead to an arms race. Those delegations were of the view that the Subcommittee should discuss ways to ensure that space technology was used exclusively for peaceful purposes, including by establishing a comprehensive and effective legal mechanism to prevent the militarization and weaponization of, and an arms race in, outer space.

18. The view was expressed that, while outer space could be used for defensive purposes, on the condition of not stationing weapons in outer space, space defence

systems should exist only if used for monitoring compliance with agreements of non-aggression and to avoid military conflict.

19. The view was expressed that outer space must be protected from the threat posed by weapons in outer space. That delegation was of the view that it was time for the partial space-weapons ban enshrined in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the “Outer Space Treaty”, General Assembly resolution 2222 (XXI), annex) to be extended to all weapons.

20. The view was expressed that the success of the Subcommittee in its work could be attributed to its avoidance of debating extraneous political issues and its ability to focus on practical problems and to seek to address any such problems by means of a consensus-based and results-oriented process.

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

21. The Legal Subcommittee recalled that the General Assembly, in its resolution 59/116 of 10 December 2004, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee should consider the agenda item on the status and application of the five United Nations treaties on outer space as a regular item, and had noted that the Subcommittee would reconvene its Working Group on the item at its current session and review the need to extend the mandate of the Working Group beyond that session of the Subcommittee.

22. The Subcommittee noted with satisfaction that the Secretariat had updated and distributed a document containing information, as at 1 January 2005, on States parties and additional signatories to the United Nations treaties and other international agreements relating to activities in outer space (ST/SPACE/11/Add.1/Rev.2).

23. The Subcommittee noted that the status of the five United Nations treaties on outer space, as at 1 January 2005, was as follows:

(a) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the “Outer Space Treaty”, General Assembly resolution 2222 (XXI), annex) had 98 States parties and had been signed by 27 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the “Rescue Agreement”, Assembly resolution 2345 (XXII), annex) had 88 States parties and had been signed by 25 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects (the “Liability Convention”, Assembly resolution 2777 (XXVI), annex) had 82 States parties and had been signed by 25 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space (the “Registration Convention”, Assembly resolution 3235 (XXIX), annex) had 45 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the “Moon Agreement”, Assembly resolution 34/68, annex) had 11 States parties and had been signed by 5 additional States.

24. The Subcommittee welcomed the ratification by Belgium in 2004 of the Moon Agreement, as well as reports from member States regarding their progress towards becoming party to the five United Nations treaties on outer space, in developing national space laws and in concluding bilateral and multilateral agreements on space cooperation. The Subcommittee noted that the activities of the Office for Outer Space Affairs were contributing to that progress.

25. The Subcommittee agreed that it would be premature for the Working Group on agenda item 4 to meet during the current session, as Member States and international organizations needed time to respond to the letters sent to them concerning the five United Nations treaties on outer space and to the recommendation of the General Assembly, in its resolution 59/115 of 10 December 2004, concerning voluntary submission by Member States of information on their current practices regarding on-orbit transfer of ownership of space objects.

26. The Subcommittee therefore agreed, at its 714th meeting, on 5 April, to suspend the Working Group on agenda item 4 and to reconvene the Working Group at the forty-fifth session of the Subcommittee, in 2006. The Subcommittee agreed that it would also review at its forty-fifth session the need to extend the mandate of the Working Group beyond that session.

27. The Subcommittee agreed that Member States should regularly provide the Office for Outer Space Affairs with information on their national space legislation and policy in order for the Office to maintain an up-to-date database on that subject.

28. Some delegations expressed the view that the United Nations treaties on outer space established a coherent and useful framework for increasingly widespread and complex activities in outer space carried out by both governmental and private entities. Those delegations welcomed further adherence to the treaties and hoped that States that had not yet accepted those treaties would consider becoming parties in 2005.

29. Other delegations expressed the view that, although the provisions and principles of the United Nations treaties on outer space constituted the regime to be observed by States and more States should be encouraged to adhere to them, the current legal framework for outer space activities required modification and further development to keep pace with advances in space technology and changes in the nature of space activities. Those delegations expressed the view that the lacunae resulting from the fact that the current legal framework had not kept pace with developments in space activities could be addressed by the development of a universal, comprehensive convention on space law without disrupting the fundamental principles contained in the treaties currently in force.

30. The view was expressed that an informal working group should be convened to consider various questions relating to the possible elaboration of such a comprehensive convention.

31. The view was expressed that it was solely a matter for States parties to the treaties on outer space to interpret and implement those treaties.

32. The view was expressed that Member States should envisage the harmonization of the implementation of the provisions of the United Nations treaties on outer space with a view to increasing consistency of national space legislation with international space law.

33. The view was expressed that the low number of parties to the United Nations treaties on outer space among some African countries and their low level of participation in the work of the Committee and its Subcommittees was because of a lack of financial and human resources in those countries, as well as a perception that the topic of outer space was distant from the daily issues of survival faced by the populations in those countries. That delegation was of the view that a higher visibility for the Office for Outer Space Affairs in those member States would certainly contribute to a positive change in that perception.

34. The full text of the statements made by delegations during the discussion on agenda item 4 is contained in unedited verbatim transcripts (COPUOS/Legal/T.712-716).

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

35. In accordance with the agreement reached by the Legal Subcommittee in 2004 at its forty-third session, the Subcommittee invited international organizations to report on their activities and recalled that the General Assembly, in its resolution 59/116, had agreed that the Subcommittee should address the level of participation of the entities having permanent observer status with the Committee on the Peaceful Uses of Outer Space and report to the Committee in June 2005, at its forty-eighth session, on means to enhance their participation in the work of the Subcommittee.

36. The Legal Subcommittee had before it two documents (A/AC.105/C.2/L.254 and Corr.1 and Add.1) and a conference room paper (A/AC.105/C.2/2005/CRP.5) containing reports from the following international organizations on their activities relating to space law: ECSL, ESA, ILA, IISL and Unidroit.

37. In the course of the debate, observers for the following international organizations reported to the Subcommittee on their activities relating to space law: UNESCO, ESA, IAF and ILA.

38. The Legal Subcommittee heard a presentation by the observer for INTERSPUTNIK on that organization's activities.

39. The Subcommittee was also informed on the activities carried out by the International Centre for Space Law in Kyiv, Ukraine, the University of Perugia, Italy, and the Indian Space Research Organization (ISRO) in relation to space law.

40. The Subcommittee noted UNESCO's efforts and progress made in addressing the ethical issues of outer space activities and its decision not to elaborate a declaration of ethical principles on the issue, but rather to emphasize and promote awareness of moral and ethical issues that are raised by space activities in the framework of reinforced international cooperation.

41. The view was expressed that ethical principles relating to outer space activities should be well defined and considered as having a moral force and not be of a binding nature. In that regard, a close interaction between space law and space ethics should be maintained and a close cooperation between UNESCO and the Committee on the Peaceful Uses of Outer Space, particularly its Legal Subcommittee, was necessary to avoid any misunderstanding.

42. The Subcommittee noted that, in response to a request by the Committee, the Inter-Agency Meeting on Outer Space Activities, at its twenty-fifth session, in January 2005, had considered the matter of enhancing the participation of United Nations entities in the work of the Committee and its Subcommittees. The Meeting had agreed that, while financial and staff resource limitations sometimes prevented the United Nations entities from being represented at all meetings of the Committee and its Subcommittees, those entities could enhance their participation by preparing written reports, when requested, on matters related to specific agenda items and could submit information and reports on their activities related to the work of the Committee and its Subcommittees.

43. The view was expressed that intergovernmental organizations conducting space activities and their member States should consider possible steps they could take in order to declare acceptance of the rights and obligations under the Rescue Agreement, the Liability Convention and the Registration Convention.

44. The Subcommittee noted with appreciation the efforts of the Office for Outer Space Affairs to build capacity in space law and commended its work on the Directory of Education Opportunities in Space Law, the publication of the Space Law Update and the organization of its workshops on space law. The Subcommittee also noted that the Office would be undertaking efforts to improve the pages dedicated to space law on its website (www.unoosa.org).

45. The Subcommittee noted with appreciation that the Directory of Education Opportunities in Space Law had been updated and would be made available on the website of the Office for Outer Space Affairs. The Subcommittee expressed its appreciation to the educational institutions that had provided information on their programmes and encouraged those and other educational institutions to continue providing information on that topic.

46. The Subcommittee expressed its appreciation to the Associação Brasileira de Direito Aeronáutico e Espacial (SBDA) and the Government of Brazil for co-sponsoring the United Nations/Brazil Workshop on Space Law “Disseminating and developing international and national space law: the Latin America and Caribbean perspective”, held from 22 to 25 November 2004, in Rio de Janeiro, Brazil.

47. The Subcommittee noted with appreciation that the Workshop had promoted the understanding, acceptance and implementation of the United Nations treaties and principles on outer space, especially in Latin America and the Caribbean. The Subcommittee also noted with appreciation that the Workshop had made a positive contribution to the dissemination and development of international and national space law and to the promotion of the universality of the five United Nations treaties on outer space.

48. The Subcommittee noted with appreciation that the next United Nations Workshop on Space Law would be hosted by Nigeria from 14 to 17 November 2005, in Abuja.

49. 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.713-718).
