



## General Assembly

Distr.: Limited  
3 April 2008

Original: English

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**Committee on the Peaceful  
Uses of Outer Space**  
**Legal Subcommittee**  
**Forty-seventh session**  
Vienna, 31 March-11 April 2008  
Agenda item 6  
**Status and application of the five  
United Nations treaties on outer space**

### **Joint statement on the benefits of adherence to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies by States parties to the Agreement**

#### **Note by the Secretariat**

1. At the forty-seventh session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space considered, among other matters, the issue of the low participation of States in the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.<sup>1</sup>
2. At its second meeting, the Working Group was informed that the delegations of Austria, Belgium, Chile, Mexico, the Netherlands, Pakistan and the Philippines would submit a joint statement on the benefits of adherence to the Moon Agreement by States parties to the Agreement.
3. The Working Group requested the Secretariat to issue the joint statement as a document for consideration at its next meeting.
4. The text of the joint statement is contained in the annex to the present document.

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1363, No. 23002.



## Annex

### **Joint statement on the benefits of adherence to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies by States parties to the Agreement**

#### **1. Background**

1. At its forty-sixth session, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space endorsed the report of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space (A/AC.105/891, annex I).

2. At that session, some representatives expressed the view that consideration should be given to the reasons for the low participation of States in the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies<sup>a</sup> and that efforts should be made to resolve any identified obstacles to participation.

3. Also at that session, the Working Group agreed that during the forty-seventh session of the Legal Subcommittee, in 2008, member States, in addressing the low participation of States in the Moon Agreement, in the framework of the Working Group, could, inter alia:

(a) Address activities currently being carried out or to be carried out on the Moon and other celestial bodies in the near future;

(b) Identify the international and national rules governing activities on the Moon and other celestial bodies;

(c) Assess whether existing international rules adequately addressed activities on the Moon and other celestial bodies.

4. The Working Group also agreed that the Secretariat should prepare a background paper that included information from States parties to the Moon Agreement about the benefits of adherence to the Agreement.

#### **2. Nature of the joint statement**

5. The present joint statement is based on the experience of States parties to the Moon Agreement and does not, in any manner, constitute a joint position or an authoritative interpretation of the provisions of the treaties or resolutions mentioned in it. Its sole purpose is to provide the Committee on the Peaceful Uses of Outer Space with elements for reflection in the framework of its activities aimed at the development and wider application of outer space law.

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<sup>a</sup> United Nations, *Treaty Series*, vol. 1363, No. 23002.

### 3. Rationale and joint statement on the benefits of adherence to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies

6. In response to the agreement reached by the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space at the forty-sixth session of the Legal Subcommittee with regard to information received from States parties to the Moon Agreement on the benefits of adherence to the Agreement, the delegations of Austria, Belgium, Chile, Mexico, the Netherlands, Pakistan and the Philippines submit the present joint statement, which was drafted taking into consideration the following:

(a) The relatively low participation in the Moon Agreement and the fact that some States regularly question whether the Agreement is part of international law or should be considered to be on the same level as the other four United Nations treaties on outer space;

(b) The fact that the text of the Moon Agreement was commended by the General Assembly in its resolution 34/68 of 5 December 1979, in which the Assembly expressed its hope for the widest possible adherence to the Agreement;

(c) The fact that the Moon Agreement has been registered with the Secretariat in accordance with article 102 of the Charter of the United Nations, that it entered into force on 11 July 1984 and that, since then, it has been part of international law;

(d) The growing interest among space-faring countries worldwide in new projects, activities and missions aimed at exploring and using the Moon and other celestial bodies in the Solar System and their resources;

(e) The fact that the Moon Agreement offers a specific international legal framework commended by the General Assembly and accepted by the international community.

7. The delegations of Austria, Belgium, Chile, Mexico, the Netherlands, Pakistan and the Philippines, States parties to the Moon Agreement, jointly emphasize the following aspects and considerations with regard to the benefits of the Agreement and of being a party to it:

(a) Although the Moon Agreement contains provisions that reiterate or develop the principles set out 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,<sup>b</sup> some of which are specifically applicable to the Moon and other celestial bodies in the Solar System, other provisions contained are unique to the Moon Agreement and constitute its real added value with respect to the other outer space treaties;

(b) Some of the provisions unique to the Moon Agreement are of particular interest for the implementation of projects, activities and missions for one of the following two reasons:

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<sup>b</sup> United Nations, *Treaty Series*, vol. 610, No. 8843.

- (i) They clarify or complement principles, procedures and notions contained in the other outer space treaties that are applicable to the Moon and other celestial bodies (see article 1, paragraphs 1 and 2; article 3, paragraph 4; article 7, paragraphs 1 and 2; article 10; and articles 12-15 of the Moon Agreement);
  - (ii) They facilitate international scientific cooperation (see article 5, paragraphs 1-3; article 6, paragraphs 2 and 3; and article 7, paragraph 3, of the Moon Agreement).
- (c) In particular, the following provisions give the Moon Agreement added value compared with the Outer Space Treaty:
- (i) *Procedures for the establishment of stations (article 9)*. While recognizing, in article 9 of the Moon Agreement, the freedom of States parties to establish stations, States parties recognize that such establishment is subject to reasonable substantive and procedural conditions relating to the location and the installation of the station and the furnishing of information to the Secretary-General;
  - (ii) *Safeguarding of life and health of persons (article 10)*. The designation of any person on the Moon as an astronaut within the meaning of article V of the Outer Space Treaty and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,<sup>c</sup> offers protection to nationals of States parties;
  - (iii) *Prohibition of acquisition of property (article 11, paragraph 3)*. The clarification of article 11, paragraph 2, provided in the subsequent paragraph 3, in conjunction with article II of the Outer Space Treaty, is helpful to States parties in rejecting the idle claims to property rights that have surfaced in recent years, in particular since the difference between the two agreements has been used to support those claims;
  - (iv) *Use of and jurisdiction over vehicles, equipment, facilities, stations and installations (article 12)*. The application of the relevant provisions of the Rescue Agreement offers protection for the vehicles, installations and equipment of States parties. In addition, the Moon Agreement allows States parties to use, in the event of an emergency, the equipment, vehicles, installations, facilities or supplies of other States parties. Moreover, the Moon Agreement clearly states that States parties shall retain jurisdiction over their personnel, space vehicles, equipment, facilities, stations and installations. Such a provision constitutes a fundamental legal element for the implementation of the principles of outer space law;
  - (v) *Compliance (article 15)*. The attribution to States parties of visitation rights to the vehicles, installations and equipment of other States parties in order to ensure the compatibility of the activities of States parties with the Moon Agreement is comparable to those included in the Antarctic Treaty.<sup>d</sup> The procedure outlined in article 15 is conducive to and in accordance with the

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<sup>c</sup> United Nations, *Treaty Series*, vol. 672, No. 9574.

<sup>d</sup> United Nations, *Treaty Series*, vol. 402, No. 5778.

principles of international cooperation that govern activities on the Moon and other celestial bodies;

(d) The most discussed provision of the Moon Agreement is contained in article 11, in which it is noted that the Moon and its natural resources are the common heritage of mankind. That is the only article in the United Nations treaties on outer space that foresees the possibility of exploiting natural resources in outer space. Although such exploitation is not prohibited by international law, it must be considered subject to respect for the principles applicable to outer space, in particular article II of the Outer Space Treaty. By foreseeing the possibility and the feasibility of exploiting natural resources, article 11 of the Moon Agreement offers an obvious legal solution in that respect, subject to respect for article II of the Outer Space Treaty and the other principles of outer space law;

(e) It is remarkable that the Moon Agreement does not propose a closed and complete mechanism. Rather, it adopts an intelligent approach, leaving to the States involved at the time when the exploitation of the natural resources of celestial bodies becomes feasible the responsibility for defining, setting up and implementing such a regime, in accordance with the principle of common heritage of mankind and other principles of outer space law. Such a regime should be established and implemented by taking into account simultaneously the relevant political, legal and technical facts, possibilities and requirements existing at that time. In that respect, the Moon Agreement constitutes a proactive instrument for achieving consensus among all States, taking into account the interests of developing countries. The Moon Agreement does not preclude any modality of exploitation, by public or private entities, or prohibit the commercialization of such resources, provided that such exploitation is compatible with the principle of a common heritage of mankind;

(f) To date, no other solution allowing the possible exploitation of the natural resources of celestial bodies has been proposed under the provisions of the United Nations treaties on outer space;

(g) Finally, the Moon Agreement contributes to preventing the development, placement and use of armament systems and weapons in or from outer space (article 3).

8. Thus, participation in the Moon Agreement offers substantial benefits and guarantees with regard to participation in the other United Nations treaties on outer space. Not only does it offer a better understanding of concepts of international space law and a better description of relevant concepts and procedures, it also, above all, represents a mutual commitment to seeking a multilateral solution for the exploitation of the natural resources of celestial bodies in accordance with the general principles of outer space law.

9. The States parties to the Moon Agreement encourage States that have signed but not yet ratified the Agreement, as well as other States, to become parties to it, in particular considering their possible involvement in forthcoming missions or projects aimed at exploring celestial bodies.