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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Forty-seventh session
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Draft report

Addendum

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

1. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee at its forty-seventh session, taking into account the concerns of all countries, in particular those of developing countries, should consider, as regular agenda items, 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).

2. The Subcommittee had before it the following:

(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.1-16, Add.7/Corr.1 and Add.11/Corr.1);

(b) Note by the Secretariat entitled "National legislation and practice relating to definition and delimitation of outer space" (A/AC.105/865 and Add.1-3);



(c) 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);

(d) Conference room paper entitled “Questionnaire on possible legal issues with regard to aerospace objects: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.4);

(e) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.5);

(f) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Brazil” (A/AC.105/C.2/2008/CRP.10).

3. Some delegations were of 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.

4. Some delegations were of the view that the lack of a definition or delimitation of outer space created legal uncertainty concerning the applicability of space law and air law and that matters concerning State sovereignty and the boundary between air space and outer space needed to be clarified in order to reduce the possibility of disputes among States.

5. The view was expressed that progress in the definition and delimitation of outer space could be achieved through cooperation with the International Civil Aviation Organization.

6. The view was expressed that, because of the absence of a definition and delimitation of outer space in international law, States might be inclined to establish the definition and delimitation of outer space in their national legislations, which could possibly lead to the creation of different legal norms in that regard. That delegation was of the view that, in the absence of any positive results emanating from the Committee, there was a potential risk that the issue might be dealt with by other international bodies for their own purposes, thus prejudicing a legal solution.

7. The view was expressed that the definition and delimitation of outer space could be necessary for determining the scope of application of air law and space law. That delegation was of the view that certainty in the application of space law would encourage Member States to accede to the United Nations treaties on outer space.

8. The view was expressed that the establishment of a definition and delimitation of outer space would create certainty in the sovereignty of States over their air space and would also enable the effective application of the principles of the freedom of use of outer space and of non-appropriation of outer space. That delegation was of the view that the definition and delimitation of outer space was linked to the definition of space objects.

9. The view was expressed that there was no need to seek a legal definition or delimitation of outer space, as the current framework presented no practical difficulties to space activities.

10. The view was expressed that there was no need for a definition and delimitation of outer space from a legal perspective and that the delimitation of outer space had already been defined from the perspective of natural sciences.
11. The view was expressed that if member States failed to give clear-cut criteria for delimitation, a special regime or zone between airspace and outer space should be explored.
12. The view was expressed that the question of the definition and delimitation of outer space was linked to the issues of the management of space resources, the protection of the environment, the use of frequencies and the monitoring of the purposeful destruction of satellites.
13. At its 765th meeting, the Legal Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space and elected José Monserrat Filho (Brazil) as Chairman 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 was convened to consider only matters relating to the definition and delimitation of outer space.
14. The Working Group on the Definition and Delimitation of Outer Space held three meetings. At its [...] meeting, on [10] April, the Subcommittee endorsed the report of the Working Group, contained in annex [II] to the present report.
15. The view was expressed that the geostationary orbit, as a limited natural resource clearly in danger of saturation, must be used rationally, efficiently, economically and equitably. That principle was deemed fundamental to safeguarding the interests of developing countries and countries with a certain geographical position, as set out in article 44, paragraph 196.2, of the Constitution of the International Telecommunication Union, as amended by the Plenipotentiary Conference held in Minneapolis, United States of America, in 1998.
16. The view was expressed that the evident saturation of the geostationary orbit required that the social, political and legal interests and concerns of States be adequately addressed in order to avoid discriminatory practices safeguarding solely the interests of technologically advanced countries and to ensure consistency with the United Nations Millennium Declaration and its objectives.
17. Some delegations expressed the view that the geostationary orbit was a limited natural resource with sui generis characteristics that risked saturation and that equitable access to it should therefore be guaranteed for all States, taking into account in particular the needs of developing countries and the geographical position of certain countries.
18. Some delegations were of the view that access to the geostationary orbit should be provided to States on equitable conditions, taking into account, in particular, the needs and interests of developing countries.
19. Some delegations were of the view that the geostationary orbit was an integral part of outer space and that, therefore, its use should be governed by the provisions of the United Nations treaties on outer space and the ITU regulations.
20. 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 outer

space or any part thereof, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, even repeated use, or by any other means.

21. The view was expressed that outer space should be viewed as the province of all humankind, that all States should be able to benefit from its use and, in that context, that the rational and equitable use of the geostationary orbit should be ensured for all States.

22. The Subcommittee noted the information provided by the United States on its actions to further the use of the geostationary orbit and other uniquely situated orbits, such as the free provision of the signal from the Global Positioning System (GPS), information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration (NOAA) of the United States and data from the Geostationary Operational Environmental Satellites (GOES). The Subcommittee also noted the cooperation of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).

23. Some delegations expressed their satisfaction with the recommendation made by the Subcommittee at its thirty-ninth session that, where coordination was required among countries with a view to the utilization of the geostationary orbit the countries concerned should take into account the fact that access to that orbit must take place, *inter alia*, in an equitable manner and according to the ITU Radio Regulations (A/AC.105/738, annex III, para. 8 (a)).

24. The Subcommittee noted with satisfaction that the ITU World Radiocommunication Conference held in 2007 had decided, in accordance with the principle of due diligence, to revise the application of the basic principles of article 44 of the ITU Constitution in the light of the recommendations made by the Legal Subcommittee at its thirty-ninth session and, pursuant to article 12 of the ITU Constitution, to conduct studies on ways to quantify and analyse the application of those principles.

25. The view was expressed that the Subcommittee should continue its debate on the use of the geostationary orbit with a view to identifying further common ground and mindful of the unique nature of that limited natural resource. In that connection, the view was also expressed that ITU should participate more in the activities of the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies.

26. The view was expressed that in view of the rapid evolution of satellite technologies the Subcommittee could also consider the use of other Earth orbits.

27. 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.[...-...]).

VIII. Capacity-building in space law

28. The Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-seventh

session, should consider capacity-building in space law as a single issue/item for discussion.

29. The Subcommittee had before it the following:

(a) Report on the United Nations Expert Meeting on Promoting Education in Space Law, held in Vienna on 3 and 4 December 2007 (A/AC.105/908);

(b) Conference room paper entitled "Education opportunities in space law: a directory" (A/AC.105/C.2/2008/CRP.3).

30. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to international, regional and national efforts to further develop space activities and to increase knowledge of the legal framework within which space activities were carried out.

31. The Subcommittee emphasized its important role in building capacity in space law. It was noted that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space, the subject of deliberations under agenda item 12, enabled representatives participating in the session to enhance their knowledge of the various legal frameworks at the national level for conducting activities in outer space.

32. The Subcommittee noted that in order to successfully build capacity in space law, it was necessary to address the following matters: education; research and development; and dissemination of information. Addressing those matters would enable Member States to put in place the foundation necessary for the universal and informed application of the existing international legal regime governing the activities of States in outer space and on the further development of the regime.

33. The Subcommittee noted with appreciation that a number of national, regional and international efforts were being undertaken to build capacity in space law, including efforts by the African Leadership Conference on Space Science and Technology for Sustainable Development, the Space Conference of the Americas, the Asia-Pacific Space Cooperation Organization and the regional centres on space science and technology education, affiliated to the United Nations.

34. The Subcommittee also noted with appreciation the contribution made by governmental and non-governmental entities and institutions to existing initiatives to promote capacity-building in space law.

35. The Subcommittee noted that several international non-governmental organizations were playing an important role in building capacity and promoting knowledge in space law.

36. The Subcommittee noted with satisfaction that the next United Nations workshop on space law, to be organized by the Office for Outer Space Affairs for the benefit of countries in Asia and the Pacific and co-sponsored by the Government of Thailand and ESA, would be held in Thailand from 24 to 27 November 2008.

37. In that regard, the Subcommittee noted that the series of workshops on space law organized by the Office for Outer Space Affairs served as a useful forum in which experts and authorities could share views, knowledge and experiences related to the further development of both international and national space law.

38. The Subcommittee noted with appreciation that, in response to its request at its forty-sixth session, the Office for Outer Space Affairs had organized in Vienna in December 2007 an expert meeting on promoting education in space law (A/AC.105/908).

39. The Subcommittee took note of the recommendations and conclusions contained in the report of the Expert Meeting on Promoting Education in Space Law (A/AC.105/908, paras. 8-11) and expressed its appreciation to the educators and the representatives of the regional centres on space science and technology education, who were continuing to develop a draft curriculum for a basic course on space law by electronic means and, when possible, by meeting at the sidelines of other international space-related meetings.

40. The Subcommittee recommended that, in developing the curriculum for a basic course on space law, consideration should be given to its usefulness to other educational institutions and training initiatives. The Subcommittee also noted that the draft curriculum would be widely circulated for comment prior to its finalization.

41. The view was expressed that additional resources would be needed if the regional centres on space science and technology education were to serve as a conduit for capacity-building in space law.

42. The Subcommittee noted with satisfaction that, in response to its request at its forty-sixth session, the Office for Outer Space Affairs had updated the directory of education opportunities in space law (A/AC.105/C.2/2008/CRP.3), including information on available fellowships and scholarships. The Subcommittee noted with appreciation that three new educational institutions had submitted information on their courses in space law. The Subcommittee welcomed the fact that the Office would continue to explore ways and means of improving the directory.

43. The Subcommittee noted with appreciation the continued role of the Office for Outer Space Affairs in providing legal advisory services on space law and legal issues relating to activities in outer space, as well as the efforts of the Office to strengthen cooperation with space law entities and organizations with a view to contributing to international and regional efforts to promote understanding and the development of space law.

44. The Subcommittee also noted with appreciation that the Office for Outer Space Affairs had participated in other initiatives to build capacity in space law, including the Sixteenth ECSL Summer Course on Space Law and Policy, held in Noordwijk, the Netherlands, from 3 to 15 September 2007, and the workshop on space law, organized by the Iranian Space Agency in Tehran on 17 and 18 November 2007.

45. The Subcommittee noted that capacity in space law, particularly in developing countries, could be strengthened further by:

(a) The introduction of air and space law modules in the general international law courses of national educational institutions;

(b) The creation of regional and international space law information networks and partnerships;

(c) The creation of a database of experts working in the field of space law;

(d) The dissemination, through the Internet, of reports, studies, papers, articles, reviews and other reference resources relating to space law that are in the public domain;

(e) The updating of the publication *International agreements and other available legal documents relevant to space-related activities*, prepared by the Office for Outer Space Affairs;

(f) The development of a short online course on space law;

(g) The establishment of a fellowship programme providing financial support to enable young professionals to pursue further education in space law;

(h) The establishment of training opportunities with organizations and institutions working in space-related areas to enhance the capabilities and increase the experience of young professionals, particularly from developing countries, in the field of space law;

(i) The creation of programmes for exchanges between educational institutions to facilitate training in other countries while reducing the costs associated with international travel;

(j) The development of a strategy to help developing countries to build their capacity in space law, including through the provision of targeted assistance that would take advantage of the training capabilities of other institutions;

(k) The establishment of a regional centre on space science and technology education for countries with economies in transition in Eastern Europe;

(l) The dissemination of information on space law through special activities and events, such as the World Space Week.

46. The full text of the statements made by delegations during the discussion on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...-...]).
