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**Committee on the Peaceful
Uses of Outer Space
Legal Subcommittee
Forty-eighth session
Vienna, 23 March-3 April 2009**

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-eighth session at the United Nations Office at Vienna from 23 March to 3 April 2009 under the chairmanship of Vladimír Kopal (Czech Republic).

B. Adoption of the agenda

2. At its 783rd 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 intergovernmental and non governmental 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 and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment.
9. Capacity-building in space law.
10. General exchange of information on national mechanisms relating to space debris mitigation measures.
11. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
12. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-ninth session.

C. Attendance

3. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Switzerland, Thailand, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela (Bolivarian Republic of).

4. At the 783rd meeting, on 23 March, the Chairman, Vladimír Kopal (Czech Republic), informed the Subcommittee that requests had been received from the Dominican Republic, Israel, Panama and the United Arab Emirates 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 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.

5. An observer for the International Atomic Energy Agency (IAEA) attended the session. The following organizations were also represented at the session by observers: European Space Agency (ESA), European Space Policy Institute (ESPI), European Telecommunications Satellite Organization (EUTELSAT-IGO), International Academy of Astronautics (IAA), International Institute of Space Law (IISL), International Mobile Satellite Organization (IMSO), International Organization of Space Communications (Intersputnik), International Law Association (ILA), International Institute for the Unification of Private Law (UNIDROIT) and Space Generation Advisory Council (SGAC).

6. The Subcommittee took note of the request by the Asia-Pacific Space Cooperation Organization (APSCO) for permanent observer status with the Committee (A/AC.105/C.2/2009/CRP.10).

7. A list of the representatives of States members of the Subcommittee and observers for States not members of the Subcommittee, intergovernmental organizations and other entities attending the session and members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.[...].

D. Organization of work

8. At the 783rd meeting, on 23 March, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-eighth session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.[...]).

9. In accordance with decisions taken at its 783rd meeting, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, open to all members of the Subcommittee, with Vassilios Cassapoglou (Greece) as its Chairman;

(b) The Subcommittee reconvened its Working Group on Matters Relating to the Definition and Delimitation of Outer Space, open to all members of the Subcommittee, with José Monserrat Filho (Brazil) as its Chairman;

(c) In accordance with paragraph 8 of General Assembly resolution 63/90, the Subcommittee established a Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, open to all members of the Subcommittee, and elected Irmgard Marboe (Austria) as its Chairman;

(d) The Subcommittee began its work each day with a plenary meeting to hear statements. It subsequently adjourned and, when appropriate, convened meetings of working groups.

10. At its 783rd 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 "Thirtieth anniversary of the Moon Agreement: retrospective and prospects", organized by IISL and the European Centre for Space Law (ECSL), had been held during the 784th meeting, on 23 March. The symposium was coordinated by Tanja Masson-Zwaan, Corinne Jorgenson and Kai-Uwe Schrogl of IISL and by Sergio Marchisio of ECSL and was co-chaired by Tanja Masson-Zwaan of IISL and Sergio Marchisio of ECSL.

12. The Subcommittee heard the following presentations during the symposium: "The negotiation of the Moon Agreement", by Corinne Jorgenson on behalf of Helmut Türk, "The Moon Agreement: perspective of developing countries", by José Monserrat Filho, "Status of ratifications and key provisions of the Moon Agreement", by Jean-François Mayence, "The common heritage of mankind principle: the Moon and lunar resources", by Juan Manuel de Faramiñán Gilbert, "Is a new look necessary in the age of exploration and exploitation?", by

Susan Trepczynski, and “A look ahead: planetary exploration, exploitation and protection”, by Mahulena Hofmann.

13. Concluding remarks were made by the Chairman of the Subcommittee. The papers and presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (<http://www.unoosa.org/oosa/COPUOS/Legal/2009/symposium.html>).

14. The Subcommittee recommended that its forty-ninth session should be held from 22 March to 1 April 2010.

E. Adoption of the report of the Legal Subcommittee

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

16. At its [...]th meeting, on 3 April 2009, the Subcommittee adopted the present report and concluded the work of its forty-eighth session.

II. General exchange of views

17. The Legal Subcommittee welcomed Vladimír Kopal (Czech Republic) as its Chairman for the second consecutive year.

18. Statements were made by representatives of the following States members of the Subcommittee during the general exchange of views: Algeria, Austria, Bolivia (on behalf of States members of the Subcommittee that are members of the Group of Latin American and Caribbean States), Brazil, Canada, Chile, China, Cuba, Czech Republic, Ecuador, France, Germany, Greece, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Malaysia, Morocco, Nigeria, Poland, Republic of Korea, Russian Federation, South Africa, Thailand, Ukraine, United States and Venezuela (Bolivarian Republic of). The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).

19. At the 783rd meeting, on 23 March, the Director of the Office for Outer Space Affairs, Mazlan Othman, made a statement reviewing the role and work of the Office relating to space law. The Subcommittee noted with appreciation the work of the Office in maintaining the United Nations Register of Objects Launched into Outer Space and the activities of the Office aimed at promoting understanding of, and adherence to, the international legal regime.

20. The Subcommittee heard a presentation entitled “Findings from Japan’s lunar explorer ‘Kaguya’”, given by the representative of Japan.

21. The Subcommittee noted the important role played by initiatives and mechanisms such as the African Leadership Conference on Space Science and Technology, the Asia-Pacific Regional Space Agency Forum (APRSAF), APSCO and the Space Conference of the Americas in building regional and international partnerships among States and in promoting cooperation and coordination in the use of space technology and its applications.

22. The Subcommittee noted the preparations being undertaken for the Sixth Space Conference of the Americas and that a second meeting with representatives of the pro tempore secretariat of the Fifth Space Conference of the Americas, the International Group of Experts and the Office for Outer Space Affairs had been held in the Galapagos Islands, Ecuador, on 28 and 29 August 2008.
23. Some delegations expressed the view that, in responding to the challenges and opportunities posed by the international community's increased reliance on outer space, links should be strengthened between the Committee on the Peaceful Uses of Outer Space and other United Nations entities having an interest in outer space, including the Conference on Disarmament, the General Assembly, in particular its First and Fourth Committees, and the International Telecommunication Union.
24. Some delegations expressed the view that strengthening the security of the growing number of activities in outer space was an important objective. Such activities should be guided by three main principles: (a) freedom of access to outer space for peaceful purposes; (b) preservation of the security and integrity of space objects; and (c) due consideration for the legitimate defence interests of States.
25. The view was expressed that attempts to militarize outer space and to use outer space for purposes not consistent with United Nations treaties and principles had become cause for concern. That delegation was of the view that the placement of weapons in outer space would have a negative effect on the legal regime governing the peaceful uses of outer space and on the entire system of international security.
26. Some delegations expressed the view that a lacuna relating to the possible introduction of weapons into outer space existed in the current legal regime governing outer space and that new treaties, as well as strengthening the current regime, were needed to maintain the use of outer space for peaceful purposes.
27. The view was expressed that the success of the work of the Subcommittee could be attributed to its ability to focus on practical problems and to seek to address any such problems via a consensus-based and result-oriented process.
28. The Subcommittee noted with concern the limited time being given during the Fourth Committee of the General Assembly to consider the item "International Cooperation in the Peaceful Uses of Outer Space".

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

29. In accordance with General Assembly resolution 63/90, the Legal Subcommittee considered agenda item 4, entitled "Status and application of the five United Nations treaties on outer space", as a regular item of its agenda and reconvened its Working Group on the item.
30. The Subcommittee noted with satisfaction that the Secretariat had distributed an updated document containing information, as at 1 January 2009, on States parties and additional signatories to the United Nations treaties and other international agreements relating to activities in outer space (ST/SPACE/11/Rev.2/Add.2). The Subcommittee also noted that, since that date, two additional accessions had been

recorded, such that the current status of the five United Nations treaties on outer space 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 Bodies¹ had 100 States parties and had been signed by 26 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space² had 90 States parties and had been signed by 24 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects³ had 87 States parties and had been signed by 23 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space⁴ had 52 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies⁵ had 13 States parties and had been signed by 4 additional States.

31. Some delegations expressed the view that the United Nations treaties on outer space constituted a coherent and valuable framework to meet the ever-growing scale of space activities. Those delegations welcomed further adherence to the treaties and hoped that States that had not yet ratified or acceded to those treaties would consider becoming parties to them.

32. Some delegations expressed the view that it was important to continue efforts towards universal acceptance of the international legal regime governing activities in outer space and to take into account the need to identify new areas that might require regulation and that could be addressed by developing complementary instruments.

33. The view was expressed that, while 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, in order to keep pace with advances in space technology the current legal framework for outer space activities required modification in terms of outlining and adopting a set of measures and, where necessary, reviewing key provisions of international space law in a comprehensive, integrated and gradual manner.

34. The view was expressed that the existing legal regime should be strengthened in order to cope with new trends in outer space activities such as those related to the commercialization of outer space and activities being conducted in the private sector, militarization and advances in space technology.

35. The view was expressed that the Outer Space Treaty and the other United Nations treaties on outer space played a positive and effective role in regulating national activities and promoting cooperation in space activities.

¹ United Nations, *Treaty Series*, vol. 610, No. 8843.

² *Ibid.*, vol. 672, No. 9574.

³ *Ibid.*, vol. 961, No. 13810.

⁴ *Ibid.*, vol. 1023, No. 15020.

⁵ *Ibid.*, vol. 1363, No. 23002.

36. The view was expressed that the successful implementation and application of the international legal framework governing space activities depended on understanding and acceptance on the part of policy- and decision makers of the United Nations treaties and principles on outer space.

37. At its 786th meeting, on 24 March, the Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Vassilios Cassapoglou (Greece). The Working Group held [...] meetings. At its [...] meeting, on [...] April, the Subcommittee endorsed the report of the Working Group, contained in annex I to the present report.

38. The Subcommittee endorsed the recommendation that the mandate of the Working Group be extended for one additional year. It was agreed that the Subcommittee, at its forty-ninth session, in 2010, would review the need to extend the mandate of the Working Group beyond that period.

39. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.765-772 and 779).

IV. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

40. In accordance with General Assembly resolution 63/90, the Legal Subcommittee considered, as a regular item of its agenda, agenda item 5, entitled "Information on the activities of international intergovernmental and non-governmental organizations relating to space law".

41. The Subcommittee had before it the following:

(a) Note by the Secretariat containing information on activities of ECSL, IISL, ILA and Intersputnik relating to space law (A/AC.105/C.2/L.275 and Add.1);

(b) A conference room paper containing information on the activities of IMSO relating to space law (A/AC.105/C.2/2009/CRP.3).

42. The Subcommittee noted that the activities of international intergovernmental and non-governmental organizations relating to space law were important and had contributed significantly to the development of space law.

43. The Subcommittee recalled that the Rescue Agreement, the Liability Convention, the Registration Convention and the Moon Agreement contained mechanisms permitting international intergovernmental organizations conducting space activities to declare their acceptance of the rights and obligations established under those treaties.

44. The Subcommittee agreed that international intergovernmental organizations should consider taking steps to encourage their members to adhere to the outer space treaties, thereby enabling their acceptance of the rights and obligations under those treaties.

45. The Subcommittee welcomed the information provided by the observers for ESA and ECSL on the activities of those bodies relating to space law, including the annual summer course on space law and policy, the Manfred Lachs Space Law Moot Court Competition, the Practitioner's Forum, other meetings and symposiums supported and organized, and documents and publications made available.
46. The Subcommittee welcomed the information provided by the observer for IAA on the activities of IAA relating to space law, including the preparation of IAA studies and position papers, international conferences held and regional meetings organized for Africa.
47. The Subcommittee welcomed the information provided by the observer for IISL on the activities of IISL relating to space law, including the Manfred Lachs Space Law Moot Court Competition, the 51st and 52nd IISL colloquiums, other meetings and symposiums supported or organized and IISL publications and reports.
48. The Subcommittee welcomed the information provided by the observer for ILA on the activities of ILA relating to space law, including the work undertaken by its Space Law Committee relating to the legal aspects of remote sensing and space debris, the registration of space objects, national legislation, and cooperation with the International Law Commission on the responsibility of international organizations.
49. The Subcommittee welcomed the information provided by the observer for Intersputnik on the activities of Intersputnik relating to space law, including cooperation with other international organizations and assistance provided to telecommunications administrations and satellite operators worldwide.
50. The Subcommittee agreed that international intergovernmental and non-governmental organizations should again be invited to report to it at its forty-ninth session on their activities relating to space law.
51. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).