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**Committee on the Peaceful
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Legal Subcommittee
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Draft report

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

1. Pursuant to General Assembly resolution 64/86, the Legal Subcommittee considered, as a single issue/item for discussion, agenda item 8, entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”.
2. The Subcommittee noted with satisfaction the adoption of the Safety Framework for Nuclear Power Source Applications in Outer Space (A/AC.105/934) by the Scientific and Technical Subcommittee at its forty-sixth session and its endorsement by the Committee on the Peaceful Uses of Outer Space at its fifty-second session, in 2009. The Legal Subcommittee welcomed the international consensus achieved on the Safety Framework as a significant advance in ensuring the safe use of nuclear power sources (NPS) in outer space.
3. The Subcommittee noted with satisfaction the successful cooperation in the development of the Safety Framework between the Scientific and Technical Subcommittee and the International Atomic Energy Agency (IAEA). The Legal Subcommittee expressed its appreciation to the IAEA secretariat for preparing the joint publication on the Safety Framework in print form and on CD-ROM.
4. The Subcommittee welcomed the agreement on the new multi-year workplan of the Working Group on the Use of Nuclear Power Sources during the forty-seventh session of the Scientific and Technical Subcommittee, in 2010, and noted that the workplan aimed to promote and facilitate the implementation of the Safety Framework.



5. The view was expressed that the exchange of information under the new workplan would be a significant mechanism to enable both space-faring and non-space-faring States to implement the Safety Framework.
6. Some delegations were of the view that it was exclusively States, irrespective of their level of social, economic, scientific or technical development, that had an obligation to engage in regulatory activity associated with the use of NPS in outer space and that the matter concerned all of humanity. Those delegations were also of the view that Governments bore international responsibility for national activities involving the use of NPS in outer space conducted by governmental and non-governmental organizations and that such activities must be beneficial and not detrimental to humanity. In that context, those delegations called on the Legal Subcommittee to undertake a review of the Safety Framework and to promote binding standards with a view to ensuring that any activity conducted in outer space was governed by the principles of preservation of life and maintenance of peace.
7. The view was expressed that all actors involved in the development of NPS systems in outer space should look into ways to implement the Safety Framework in view of the seriousness of the safety concerns and accident implications.
8. The view was expressed that it was important to adhere rigorously to safety standards when using NPS in outer space.
9. The view was expressed that recommendations from the Safety Framework might be considered in further detail in terms of the possibility of their implementation in the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, at any such time as the Principles might be reviewed and revised.
10. The view was expressed that close communication should be maintained between the Scientific and Technical Subcommittee, the Legal Subcommittee and IAEA, and that the Committee could carry out a comprehensive study of the Safety Framework and the Principles with a view to assessing the feasibility and necessity of revising the Principles.
11. Some delegations were of the view that a revision of the Principles was not warranted.
12. The Subcommittee agreed that it was necessary to continue examining the issue and that the item should remain on its agenda.
13. The full text of the statements made during the discussions on agenda item 8 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).

VII. 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

14. Pursuant to General Assembly resolution 64/86, the Subcommittee considered agenda item 9, entitled “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”, as a single issue/item for discussion.

15. At its 813th meeting, on 29 March, the Subcommittee heard a statement by the representative of the International Institute for the Unification of Private Law (Unidroit) on developments concerning the draft space assets protocol.

16. The Subcommittee noted with satisfaction the progress made by the steering committee of Unidroit, established by the General Assembly of Unidroit to build consensus around provisional conclusions reached during intersessional work by government and industry, on identifying appropriate solutions to the key outstanding issues. At its second meeting, held in Paris on 14 and 15 May 2009, the steering committee had achieved, among other things, a broad consensus on the definition of “space assets” under the draft space assets protocol. The results of the work of the steering committee, as well as the results of the meetings of the subcommittees of the steering committee on default remedies in respect of components and public service held in Paris on 13 May 2009 and in Rome on 26 and 27 October 2009, had allowed the steering committee to recommend the reconvening of the Unidroit committee of governmental experts for the preparation of a draft protocol to the Convention on International Interests in Mobile Equipment on matters specific to space assets.

17. The Subcommittee also noted that the third session of the committee of governmental experts had been held in Rome from 7 to 11 December 2009 as a result of the progress made by the steering committee. The committee had reviewed the text of the draft space assets protocol that it had considered at its second session, held in Rome from 15 to 19 December 2003, as well as two alternative texts, and had agreed that all future work would be carried out on the basis of the alternative text proposing technical amendments. The committee had established an informal working group on default remedies in relation to components and tasked it with working informally to develop a proposal that might be presented to the committee at its fourth session. The committee had agreed that, before its fourth session, the Unidroit secretariat should consult representatives of both industry and academia with a view to assessing the economic basis for certain key provisions of the draft space assets protocol. It was noted that the documentation of the third session of the committee was available on the Unidroit website (www.unidroit.org/english/workprogramme/study072/spaceprotocol/study72j-archive-e.htm).

18. The Subcommittee further noted that the fourth session of the Unidroit committee of governmental experts would be held in Rome from 3 to 7 May 2010.

19. The view was expressed that the assessment of the economic basis for certain key provisions of the draft space assets protocol, currently being conducted by the Unidroit secretariat, was important.

20. The view was expressed that it would be inappropriate to provide for the application of the future space assets protocol to debtor’s rights and related rights and that it would be sufficient to impose a duty on a defaulting debtor to cooperate, to the fullest extent possible, in either the transfer of a licence to a creditor or, if not permitted, the termination of its licence and procurement of a new licence for a creditor.

21. The view was expressed that, although established project-based financing instruments already existed, the future space assets protocol would serve new space

applications and interests of developing countries with an alternative asset-based financing instrument.

22. The view was expressed that the draft space assets protocol provided an opportunity to facilitate the expansion of the commercial space sector and to enable a broader range of States and companies to benefit from that expansion. The delegation expressing that view was also of the view that those objectives would be met if the provisions of the draft space assets protocol could be upgraded in order to produce economic benefits and gain sufficient support among users.

23. The view was expressed that the future space assets protocol was intended to address only the distinct and important issue of financing for commercial space activities and was not intended to affect the rights and obligations of parties to the United Nations treaties on outer space or the rights and obligations of States members of ITU under the Constitution, Convention and Radio Regulations of ITU and that that principle would be explicit in the text of the future space assets protocol. The delegations expressing that view also stated that, while the draft space assets protocol would ultimately be negotiated by States members of Unidroit through the Unidroit process, that process had already included the participation of many States members of the Subcommittee and the consideration of requests from States not members of Unidroit that wished to participate.

24. The view was expressed that the future space assets protocol was intended not only to regulate the financing of space assets but also to bring space law in line with developing trends in space activities without undermining the current legal regime governing outer space. In that connection, the delegation expressing that view was also of the view that the draft space assets protocol should balance the future registration system for commercial interests with the existing system of registering objects launched into outer space and that the draft space assets protocol should contain provisions on the liability and responsibility of private operators and their States of nationality, in compliance with the existing regime of liability for damage caused by space objects.

25. The view was expressed that the future space assets protocol should ensure uninterrupted access by developing countries to the public services provided by satellites and should balance the interests of lenders with the interests of developing countries.

26. The view was expressed that, as space assets were involved in numerous public-service tasks, it was important to ensure the protection of States, in particular developing countries. For instance, if the use of an asset controlled by a private operator was wilfully changed and the provision of a public service was thus interrupted, that might seriously jeopardize national interests and public security.

27. The Subcommittee expressed its satisfaction with the participation of the Office for Outer Space Affairs as an observer in the negotiating sessions of Unidroit and agreed that the Office should continue participating in those sessions.

28. The Subcommittee agreed that this item should remain on its agenda.

29. The full text of the statements made during the discussion on agenda item 9 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).

X. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space

30. Pursuant to General Assembly resolution 64/86, agenda item 12, entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”, was considered in accordance with the multi-year workplan for the period 2008-2011 adopted by the Committee on the Peaceful Uses of Outer Space at its fiftieth session.¹

31. At its 805th meeting, on 23 March, the Subcommittee reconvened the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space under the chairmanship of Irmgard Marboe (Austria). The Working Group held [...] meetings. The Subcommittee, at its [...] meeting, on [...], endorsed the report of the Working Group contained in annex [...] to the present report.

32. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing replies received from Austria, Estonia, Germany, Iraq, Japan, Serbia, Thailand and the United Kingdom of Great Britain and Northern Ireland (A/AC.105/957);

(b) Conference room paper entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing a reply received from the Netherlands (A/AC.105/C.2/2010/CRP.11);

(c) Conference room paper entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing a reply received from Tunisia (A/AC.105/C.2/2010/CRP.14).

33. The Subcommittee also had before it a conference room paper containing a schematic overview of national regulatory frameworks for space activities (A/AC.105/C.2/2010/CRP.12) and a conference room paper containing a proposal by the Chair of the Working Group on a tentative structure for the final report of the Working Group (A/AC.105/C.2/2010/CRP.16).

34. The Subcommittee heard the following presentations:

(a) “Japanese space law: legislation on space activities”, by the representative of Japan;

(b) “German national data security policy for space-based Earth remote sensing systems”, by the representative of Germany;

(c) “Regulatory role of the Federal Aviation Administration”, by the representative of the United States;

(d) “The law, decrees and technical regulations on space operations of France”, by the representative of France.

¹ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20), para. 219.*

35. The Subcommittee noted with satisfaction that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space provided States with a comprehensive overview of the current status of national space laws and regulations.

36. The Subcommittee noted that the discussion of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space had allowed all States to gain an understanding of existing national regulatory frameworks and that the work being conducted under agenda item 12 was already yielding concrete results, including the sharing of valuable insight on the experiences of States in the development of their national space legislation.

37. The Subcommittee noted with appreciation the increasing number of space-related international cooperation programmes and projects. In that connection, the Subcommittee noted the importance of the development of space legislation by States, as that legislation played a significant role in regulating and promoting such cooperation activities.

38. The view was expressed that the involvement of new space-faring countries in outer space activities together with the expansion of outer space activities required universal adherence to the United Nations treaties on outer space in order to preserve, advance and guarantee the exploration and use of outer space for peaceful purposes.

39. The Subcommittee took note with satisfaction of the database on national space legislation and multilateral and bilateral agreements related to the peaceful exploration and use of outer space, which was being maintained by the Office for Outer Space Affairs on its website (www.unoosa.org). States were encouraged to continue to submit to the Office, for inclusion in the database, the texts of laws and regulations, as well as of policy and other legal documents, related to space activities.

40. The full text of the statements made during the discussion on agenda item 12 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]).

XI. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fiftieth session

41. The Subcommittee recalled that the General Assembly, in its resolution 64/86, had noted that the Subcommittee, at its forty-ninth session, would submit its proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Subcommittee at its fiftieth session, in 2011.

42. The Chairman recalled the proposals for new items to be included in the agenda of the Subcommittee that had been considered by the Subcommittee at its forty-eighth session and retained by their sponsors with a view to discussing them at subsequent sessions of the Subcommittee (see A/AC.105/935, para. 194).

43. The Subcommittee agreed to retain all the single issues/items currently on the agenda for consideration at its fiftieth session.

44. The Subcommittee agreed on the following items to be proposed to the Committee on the Peaceful Uses of Outer Space for inclusion in the agenda of the Subcommittee at its fiftieth session:

Regular items

1. Opening of the session and adoption of the agenda.
2. Statement by the Chair.
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.

Single issues/items for discussion

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.

Items considered under workplans

11. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
2011: Finalizing, by a working group, of a report to the Legal Subcommittee.

New items

12. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-first session.
45. The Subcommittee also agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, the Working Group on Matters Relating to the Definition and Delimitation of Outer Space and the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space should be reconvened at its fiftieth session.

46. The Subcommittee further agreed to review, at its fiftieth session, the need to extend beyond that session the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.

47. The Subcommittee further agreed that IISL and ECSL should again be invited to organize a symposium, to be held during the first week of its fiftieth session.

48. The Subcommittee noted the proposal by the Russian Federation to mark the fiftieth anniversary of the first human space flight (12 April 1961) and the fiftieth session of the Subcommittee by holding an exhibition on the first human space flight and by inviting renowned experts to address the Subcommittee and the public in a seminar on the international legal regime on outer space.

49. The view was expressed that the sale or distribution of high-resolution satellite images without restriction or regulation facilitated the exploitation of satellite data for malicious purposes and could have a destabilizing impact on regional security. The delegation expressing that view therefore supported the inclusion of an item on the agenda of the Subcommittee on regulating the sale and distribution of high-resolution satellite data.

50. The view was expressed that the Subcommittee should include on its agenda an item to review the legal aspects of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space with a view to transforming the Guidelines into a set of principles on space debris to be elaborated by the Subcommittee and adopted by the General Assembly. The delegation expressing that view was also of the view that the adoption of such principles would enrich the current body of law governing outer space.

51. The Subcommittee noted that the sponsors of the following proposals for new items to be included on its agenda intended to retain their proposals for possible discussion at its subsequent sessions:

(a) Review of the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting, with a view to transforming the text into a treaty in the future (proposed by Greece);

(b) Review of existing norms of international law applicable to space debris (proposed by the Czech Republic and Greece);

(c) Matters relating to the Principles Relating to Remote Sensing of the Earth from Outer Space (proposed by Chile and Colombia);

(d) Review of the Principles Relating to Remote Sensing of the Earth from Outer Space, with a view to transforming them into a treaty in the future (proposed by Greece);

(e) The appropriateness and desirability of drafting a universal comprehensive convention on international space law (proposed by China, Greece, the Russian Federation and Ukraine);

(f) Legal implications of space applications for global climate change (proposed by Chile);

(g) Regulation of the dissemination of Earth observation satellite images through the World Wide Web (proposed by Saudi Arabia);

(h) Review the legal aspects of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space with a view to transforming the

Guidelines into a set of principles on space debris to be elaborated by the Legal Subcommittee and adopted by the General Assembly (proposed by the Czech Republic).

52. The Subcommittee noted that the fiftieth session of the Legal Subcommittee had been tentatively scheduled to be held from 28 March to 8 April 2011.

53. The full text of the statements made during the discussion on agenda item 13 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).
