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**Committee on the Peaceful
Uses of Outer Space**
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Draft report

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. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 7, entitled “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”, as a regular item of its agenda.
2. The representatives of Canada, Ecuador, Indonesia, Libya, the Russian Federation, Saudi Arabia, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 7. During the general exchange of views, statements relating to that item were made by the representatives of other member States, the representative of Ecuador on behalf of the Group of Latin American and Caribbean States and the representative of Kenya on behalf of the Group of African States.
3. At its 839th meeting, on 19 March, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.

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4. The Working Group held [...] meetings. The Subcommittee, at its [...] meeting, on [...] March, endorsed the report of the Working Group, contained in annex [...] to the present report.
5. For its consideration of the item, the Subcommittee had before it the following:
 - (a) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865 and Add.11);
 - (b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.10).
6. Some delegates expressed the view that scientific and technological progress, the commercialization of outer space, the participation of the private sector, 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.
7. Some delegates expressed 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 airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.
8. The view was expressed that the definition and delimitation of outer space was important in relation to the issue of the liability of States and other entities engaging in space activities. That issue had become particularly topical in the light of the current intensification and diversification of space activities.
9. The view was expressed that current and foreseeable civil aviation operations would not exceed altitudes of 100-130 kilometres, where there was a potential danger of collision with numerous spacecraft. The delegate expressing that view proposed that the boundary between airspace and outer space be established in that range.
10. The view was expressed that the issue of definition and delimitation of outer space required further careful analysis and that the advantages of defining and delimiting outer space should first be clearly defined, in order to ensure that such actions did not hamper technical progress in outer space.
11. Some delegations were of the view that States should continue to operate under the current framework, which presented no practical difficulties, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space.
12. The view was expressed that it would be preferable to focus on the function and purpose of an object rather than on its location in order to determine if and when space law would govern its activities. The delegate expressing that view was also of the view that, when the distinction between aircraft and spacecraft was less certain, owing to the unique function and operation of an object, the Subcommittee could address regime mechanisms which might or might not be necessary to ensure safe and secure transition between the respective legal domains governing airspace and outer space.

13. The view was expressed that matters relating to the definition and delimitation of outer space could be resolved within the context of the possible development of a universal comprehensive convention governing the activities of States in the exploration and use of outer space.
14. The view was expressed that progress in the matter of the definition and delimitation of outer space could be achieved through the establishment of cooperation between the Committee and ICAO.
15. The view was expressed that the diversity of views of States on the matter of the definition and delimitation of outer space made it difficult to develop a position which would be satisfactory to all and that it was therefore necessary to retain the item and analyse it, with a view to reaching a consensus so that in the future States might have legal instruments that would provide certainty with regard to sovereignty in air space while guaranteeing the freedom to access outer space based on those instruments.
16. Some delegations were of the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — must be used rationally and should be made available to all States, irrespective of their current technical capacities. That would provide States with the possibility of having access to the orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical position of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.
17. Some delegations were of the view that, as the geostationary orbit was a limited resource at risk of becoming saturated, its use should be streamlined, giving priority to activities with a long-term perspective, leading to the achievement of the Millennium Development Goals (A/56/326, annex), while taking into account the conditions of equality of all countries irrespective of their current space capacities.
18. Some delegations were of the view that the geostationary orbit was part of outer space, that it was not subject to national appropriation by claim of sovereignty, by means of use or occupation or by any other means, including by means of use or repeated use, and that its utilization was governed by the Outer Space Treaty and ITU treaties.
19. The view was expressed that the unique characteristics of the geostationary orbit justified the requirement of a special legal regime for its use and definition.
20. Some delegations were of the view that the utilization by States of the geostationary orbit on the basis of “first come, first served” was unacceptable and that therefore the Subcommittee should develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of peaceful use and non-appropriation of outer space.
21. The view was expressed that, in order to avoid an abuse of the use of geostationary orbit by some States and international organizations, the Subcommittee should cooperate with ITU and coordinate the application of international treaties.
22. The view was expressed that special attention should be given to equitable access for all States to orbit-spectrum resources in geostationary orbit while

recognizing its potential with respect to social programmes that benefited the most underserved communities, making educational and medical projects possible, guaranteeing access to information and communication technology and improving links to necessary sources of information in order to strengthen social organization, as well as promoting knowledge and the exchange thereof without commercial interests acting as intermediaries.

23. Some delegations were of the view that, in order to ensure sustainability of the geostationary orbit, it was necessary to continue maintaining that issue on the agenda of the Subcommittee and to elaborate it further through the creation of appropriate working groups and intergovernmental panels, as necessary.

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

24. Pursuant to General Assembly resolution 66/71, 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 2008-2012 adopted by the Committee at its fiftieth session (A/62/20, para. 219) and amended at its fifty-fourth session (A/66/20, para. 215).

25. The representatives of Austria, China, Germany, Italy, Kazakhstan, Nigeria and the United States made statements under agenda item 12. During the general exchange of views, statements relating to that item were made by representatives of other member States and by the representative of Kenya on behalf of the Group of African States.

26. At its 839th meeting, on 19 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.

27. The Subcommittee had before it the following:

(a) Working paper submitted by the Chair of the Working Group, entitled “Revised draft set of conclusions of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space” (A/AC.105/C.2/L.286);

(b) Conference room paper containing the draft report of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space (A/AC.105/C.2/2012/CRP.9);

(c) Conference room paper containing a schematic overview of national regulatory frameworks for space activities (A/AC.105/C.2/2012/CRP.8 and Add.1).

28. The Subcommittee, at its [...] meeting, on [...] March, endorsed the final draft report of the Working Group on the work conducted under its multi-year workplan (A/AC.105/C.2/2012/CRP.9/Rev.2), as amended.¹

¹ To be issued as A/AC.105/C.2/101.

29. The Subcommittee, at the same meeting, endorsed the report of the Working Group (see annex III to the present report).
30. The Subcommittee agreed that the appendix to the report of the Working Group contained in annex III should be considered by the Committee at its fifty-fifth session and that the Committee should decide in which form the text should be submitted to the General Assembly, as recommended by the Working Group.
31. The Subcommittee noted that States continued to undertake efforts aimed at the development of new or the improvement of existing national space-related regulatory frameworks. The Subcommittee also noted that, in developing national space-related instruments, States paid attention to their obligations with regard to the United Nations treaties on outer space.
32. The Subcommittee agreed that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space had provided States with a comprehensive overview of the current status of national space laws and regulations and assisted States in understanding the different approaches taken at the national level for the development of national space-related regulatory frameworks.
33. The Subcommittee noted, in that regard, that the discussion of the Working Group under its multi-year workplan had allowed member States to gain an understanding of existing national regulatory frameworks and that the work conducted under agenda item 12 had already yielded concrete results, as the report of the Working Group would become a source of information on the development of national space legislation.
34. The Subcommittee expressed its deep appreciation to Irmgard Marboe, the Chair of the Working Group, for her dedication and professionalism in leading the Working Group. The Subcommittee agreed that its report would constitute an important source of information for States developing national space-related regulatory frameworks.
35. The Subcommittee agreed that an item entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space” should continue to be a regular item on the agenda of the Subcommittee to allow for the exchange, on a regular basis, of information on developments in the area of national space-related regulatory frameworks and that the schematic overview of national space-related regulatory frameworks should continue to be updated and made available to the Subcommittee.
36. The Subcommittee noted with appreciation that the Office for Outer Space Affairs had continued to update the database on national space legislation and multilateral and bilateral agreements related to the peaceful exploration and use of outer space (www.unoosa.org). In that regard, the Subcommittee encouraged States to continue to submit to the Office, for inclusion in the database, the texts of laws and regulations, bilateral and multilateral agreements and policy and other legal documents related to space activities.
37. The Subcommittee agreed that the final report of the Working Group on the work conducted under its multi-year workplan, together with the schematic overview of national space-related regulatory frameworks, should be included in the database.