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Committee on the Peaceful Uses of Outer Space

Fiftieth session

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Draft report

Chapter II

Addendum

D. Report of the Legal Subcommittee on its forty-sixth session

1. The Committee took note with appreciation of the report of the Legal Subcommittee on its forty-sixth session (A/AC.105/891), which contained the results of its deliberations on the items assigned to it by the General Assembly in its resolution 61/111.

2. The Committee expressed its appreciation to Raimundo González Aninat (Chile) for his able leadership during the forty-sixth session of the Subcommittee.

3. At the 571st meeting, on 8 June 2007, the Chairman of the Legal Subcommittee made a statement on the work of the Subcommittee at its forty-sixth session.

4. The representatives of China, the Czech Republic, Colombia, Germany, Greece, India, Italy, Japan, Nigeria, the Republic of Korea, the Russian Federation, South Africa, the United States and Venezuela (Bolivarian Republic of) made statements under the item. During the general exchange of views, statements relating to this item were also made by representatives of other member States.

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

5. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had considered, as a regular item of its agenda, the status and application of the five United Nations treaties on outer space. The Committee took note of the discussion of the Subcommittee under that agenda item, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 32-46).



6. The Committee noted that the Subcommittee had 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), and that the mandate of the Working Group included the status of the United Nations treaties on outer space, review of their implementation and obstacles to their universal acceptance, as well as the promotion of space law, especially through the United Nations Programme on Space Applications (A/AC.105/763 and Corr.1, para. 118) and any new, similar issues that might be raised in discussions in the Working Group, provided that those issues fell within its existing mandate (A/AC.105/787, paras. 138 and 140).
7. The Committee approved the endorsement by the Subcommittee of the report of the Working Group (A/AC.105/891, para. 44 and annex I) and of the recommendation by the Working Group to extend the mandate of the Working Group by one additional year, to 2008. The Committee noted that the Subcommittee had agreed that, at its forty-seventh session, it would review the need to extend the mandate of the Working Group beyond that period.
8. The Committee welcomed the information provided by delegations on the current status of the five United Nations treaties on outer space in their respective States and on the further action that those States intended to take in order to accede to or ratify those treaties. The Committee noted with satisfaction the reports on the progress made by member States in developing their national space law.
9. Some delegations expressed the view that the decision by the Working Group to address the low participation of States in the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex, the "Moon Agreement") and to gather information from States parties to the Moon Agreement about the benefits of adherence to the Agreement was a welcome addition to its work.
10. Some delegations expressed the view that the working paper submitted by a number of States entitled "Questionnaire on possible options for future development of international space law", to be discussed by the Working Group during the forty-seventh session of the Legal Subcommittee, continued to be of particular interest and could assist the Subcommittee in reaching constructive conclusions about the future orientation of its work.
11. Some delegations expressed the view that the United Nations treaties on outer space had established a comprehensive legal framework that encouraged the exploration of outer space and supported increasingly complex activities in outer space by both government and private entities, with benefits for both space-faring and non-space-faring countries. Those delegations advocated further adherence to the outer space treaties.
12. Other delegations expressed the view that, owing to developments in space activities, such as the commercialization of space and the involvement of the private sector, there was a need to consider a new, comprehensive convention on space law to further strengthen the international legal regime governing outer space activities. Those delegations were of the view that a single, comprehensive convention could regulate all aspects of outer space activities.

13. The Committee noted with appreciation that a workshop on space law, hosted by the Government of Ukraine and co-sponsored by the National Space Agency of Ukraine and the International Center for Space Law, had been held in Kyiv from 6 to 9 November 2006.

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

14. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had considered information on the activities of international intergovernmental and non-governmental organizations relating to space law as a regular item of its agenda. The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 47-62).

15. The Committee agreed that capacity-building, training and education in space law were of paramount importance to international, regional and national efforts in the further development of space activities and to promoting knowledge of the legal framework within which space activities were carried out. The Committee endorsed the decision of the Subcommittee to request the Office for Outer Space Affairs to further develop and update the directory of education opportunities in space law, available on the website of the Office (www.unoosa.org), including information on the availability of fellowships for participants from developing countries. The Committee also endorsed the decision of the Subcommittee to request the Office for Outer Space Affairs to continue exploring the possibility of developing a curriculum for a basic course on space law that could be used in particular for the benefit of developing countries by initiating space law studies, as appropriate, in the activities of the regional centres for space science and technology education, affiliated to the United Nations.

3. 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

16. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had continued to consider, as a regular item of its agenda, matters relating to: (a) the definition and delimitation of outer space; and (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 (ITU). The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 63-90).

17. The Committee noted the progress made by the Working Group on the Definition and Delimitation of Outer Space, which had been reconvened during the forty-sixth session of the Legal Subcommittee, under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Legal Subcommittee at its thirty-ninth session, endorsed by the Committee at its forty-third session and subsequently endorsed by the General Assembly in its

resolution 61/111, the Working Group was reconvened to consider only matters relating to the definition and delimitation of outer space.

18. The view was expressed that, despite the difficulties in reaching consensus on the question of the definition and delimitation of outer space, member States should continue consultations on the item with a view to maintaining peace and security in outer space and promoting the peaceful use of outer space.

19. The view was expressed that the use of the geostationary orbit, which was a limited natural resource, should, in addition to being rational, be made available to all countries, irrespective of their current technical capacities, thereby providing them 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 process of ITU.

20. 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.

21. The view was expressed that the geostationary orbit was an integral part of outer space and that its use should be governed by the provisions of the United Nations treaties on outer space.

22. Some delegations expressed their satisfaction with the agreement reached by the Subcommittee at its thirty-ninth session (see A/AC.105/738, annex III) to the effect that coordination among countries aimed at the utilization of the geostationary orbit should be carried out in an equitable manner and in conformity with the ITU Radio Regulations.

23. The Committee endorsed the decision of the Subcommittee to request the Secretariat to include in future editions of the publication entitled *United Nations Treaties and Principles on Outer Space and Other Related General Assembly Resolutions*¹ both the text of paragraph 4 of General Assembly resolution 55/122 of 8 December 2000, in which the Assembly had endorsed the agreement reached by the Subcommittee at its thirty-ninth session, in 2000, on the question of the character and utilization of the geostationary orbit, and the paper entitled "Some aspects concerning the use of the geostationary orbit", annexed to the report of the Subcommittee on its thirty-ninth session (A/AC.105/738, annex III). The Committee also endorsed the decision of the Subcommittee to request the Secretariat to include Assembly resolution 1721 A (XVI) of 20 December 1961 in that publication.

24. Some delegations expressed the view that, as the issue of the definition and delimitation of outer space and the character and utilization of the geostationary orbit was of crucial importance, the item should be retained on the agenda of the Subcommittee.

¹ United Nations publication, Sales No. E.05.I.90.

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

25. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had continued its consideration of the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Assembly resolution 47/68) as a single issue/item for discussion.

26. The view was expressed that a revision of the Principles was not warranted.

27. The Committee noted that an exchange of views had taken place in the Legal Subcommittee on the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 91-100), in which reference was made to the work currently being undertaken by the Scientific and Technical Subcommittee under the item entitled "Use of nuclear power sources in outer space".

5. 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

28. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had considered a single issue/item for discussion 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". The Committee took note of the discussion of the Subcommittee under that item, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 101-118).

29. The Committee noted the comprehensive report made by the observer for the International Institute for the Unification of Private Law (Unidroit) on developments concerning the draft space assets protocol and the priority status that had been given to completing the work on the draft space assets protocol. The Committee further noted that every effort was being made by Unidroit to reconvene the Unidroit committee of governmental experts for its third session by the end of 2007 and that consultations to advance progress on outstanding issues would continue on 19 and 20 June 2007 in New York.

30. Some delegations expressed their support for the progress being made on the protocols to the Convention on International Interests in Mobile Equipment and looked forward with great interest to the continuation and successful completion of the work on the draft space assets protocol. Those delegations welcomed the agreement by the Legal Subcommittee to continue examination of this agenda item at its forty-seventh session, in 2008.

31. The view was expressed that the complex issues that remained outstanding needed to be addressed in a balanced manner. That delegation further expressed the view that the established international legal regime governing outer space, as well as national legislation on space assets and activities, should constitute the mandatory framework within which private transactions should develop and flourish.

32. The view was expressed that a thorough analysis needed to be undertaken of the compatibility between the private law and the public international law implications of the future protocol, paying careful attention to the possible contradictions and conflicts that might arise in practice. That delegation further expressed the view that, with regard to the relationship between the future protocol and the legal regime governing outer space, the principles of public international law contained in the outer space treaties should prevail.

6. Practice of States and international organizations in registering space objects

33. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had considered the practice of States and international organizations in registering space objects in accordance with the workplan adopted by the Committee at its forty-sixth session. The Committee took note of the discussion of the Subcommittee under that agenda item, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 119-132).

34. The Committee noted that the Subcommittee had reconvened its Working Group on the Practice of States and International Organizations in Registering Space Objects, under the chairmanship of Kai-Uwe Schrogl (Germany). The Committee also noted that the Subcommittee had endorsed the report of the Working Group, which is contained in annex III to its report, including the elements of conclusions of the Working Group, contained in the appendix to annex III.

35. The Committee noted that the Subcommittee had agreed that the appendix to the report of the Working Group, contained in annex III, together with the first six preambular paragraphs contained in paragraph 18 of the working paper submitted by the Chairman of the Working Group (A/AC.105/C.2/L.266), constituted the basis for a draft resolution for submission to the General Assembly, to be agreed upon at the fiftieth session of the Committee.

36. The Committee had before it a compilation of the first six preambular paragraphs and the elements of conclusions of the Working Group (A/AC.105/2007/CRP.5).

37. The Committee endorsed the first six preambular paragraphs and the elements of conclusions of the Working Group and requested the Secretariat to prepare a draft resolution for submission to the General Assembly at its sixty-second session, in 2007.

38. The Committee expressed its satisfaction with the work carried out by the Working Group during the period 2005-2007. In particular, the Committee expressed its appreciation to the Chairman of the Working Group for his productive leadership, which had led to the results achieved by the Working Group.

39. The Committee was of the view that the elements of conclusions of the Working Group provided an important incentive for enhancing adherence to the Registration Convention and for establishing common practices for States and international organizations to follow in registering space objects.

7. Draft provisional agenda for the forty-seventh session of the Legal Subcommittee

40. The Committee noted that, in accordance with General Assembly resolution 61/111, the Legal Subcommittee had considered an item entitled

“Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-seventh session”.

41. The Committee noted that an exchange of views on the basis of informal consultations coordinated by Vladimir Kopal (Czech Republic) had taken place in the Legal Subcommittee on proposals by member States for new items to be included in the agenda of the Subcommittee and that agreement had been reached on a proposal, to be submitted to the Committee, for the draft provisional agenda for the forty-seventh session of the Subcommittee, in 2008, as reflected in the report of the Subcommittee (A/AC.105/891, paras. 133-143).

42. The Committee welcomed the agreement by the Subcommittee to include as a new single issue/item on the agenda of the Subcommittee at its forty-seventh session, in 2008, “Capacity-building in space law”, proposed by South Africa. The Committee noted that the deliberations under that item would be aimed at promoting cooperation with and providing assistance to developing countries and agreed that the Subcommittee should review the possibility of extending that item beyond the forty-seventh session.

43. The Committee welcomed the agreement by the Subcommittee to include “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”, proposed by the United States, as an item under the following four-year workplan:

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| 2008 | Request to Member States for national legislation relating to governmental and non-governmental space activities. Presentations by Member States of reports on their national legislation |
| 2009 | Examination, in a working group, of the responses received in order to develop an understanding of the manner in which Member States have regulated governmental and non-governmental space activities |
| 2010 | Working group continues to examine responses received and begins drafting its report, including conclusions |
| 2011 | Working group finalizes report to the Legal Subcommittee |

The Committee welcomed the agreement by the Subcommittee that a working group should be established to consider that item in 2009, 2010 and 2011.

44. The Committee welcomed the agreement by the Subcommittee to invite the International Institute of Space Law and the European Centre for Space Law of ESA to organize a symposium with the theme “Legal implications of space applications for global climate change”, to be held during the afternoon meetings on the first and second day of its forty-seventh session, in 2008. The Committee noted that the agreement by the Subcommittee was made with the aim of possibly including it as a single issue/item of the agenda of its forty-eighth session, in 2009.

45. On the basis of the deliberations of the Legal Subcommittee at its forty-sixth session, the Committee agreed on the following draft provisional agenda for the forty-seventh session of the Subcommittee, in 2008:

Regular items

1. Opening of the session, election of the Chairman 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.

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.

Items considered under workplans

10. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
2008: Request to Member States for national legislation relating to governmental and non-governmental space activities. Presentations by Member States of reports on their national legislation.

New items

11. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-eighth session.
46. The Committee endorsed the decision of the Subcommittee to reconvene at its forty-seventh session the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space and the Working Group on Matters Relating to the Definition and Delimitation of Outer Space (A/AC.105/891, para. 139).
47. The Committee agreed that the Subcommittee, at its forty-seventh session, should review the need to extend the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space beyond that session of the Subcommittee (A/AC.105/891, para. 140).