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**Report of the Legal Subcommittee on its forty-ninth session,
held in Vienna from 22 March to 1 April 2010**

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I. Introduction

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-ninth session at the United Nations Office at Vienna from 22 March to 1 April 2010. At the 803rd meeting, on 22 March, Ahmad Talebzadeh (Islamic Republic of Iran) was elected Chair for a two-year term of office.
2. The Subcommittee held a total of 17 meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.803-819).

A. Adoption of the agenda

3. At its 803rd meeting, on 22 March, the Subcommittee adopted the following agenda:
 1. Adoption of the agenda.
 2. Election of the Chair.
 3. Statement by the Chair.
 4. General exchange of views.
 5. Status and application of the five United Nations treaties on outer space.
 6. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
 7. 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.
 8. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
 9. 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.
 10. Capacity-building in space law.
 11. General exchange of information on national mechanisms relating to space debris mitigation measures.
 12. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
 13. 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.

B. Attendance

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

5. At the 803rd meeting, on 22 March, the Chair informed the Subcommittee that requests had been received from Azerbaijan, Costa Rica, the Dominican Republic, Israel, Tunisia and the United Arab Emirates to attend the session as observers. Following past practice, those States were invited to send delegations to attend the current session of the Subcommittee and address it, as appropriate, without prejudice to further requests of that nature; that action did not involve any decision of the Subcommittee concerning status but was a courtesy that the Subcommittee extended to those delegations.

6. The Subcommittee took note of the application of Tunisia for membership in the Committee on the Peaceful Uses of Outer Space (A/AC.105/C.2/2010/CRP.6). Some delegations made statements expressing their support for the candidacy of Tunisia.

7. The session was attended by observers for the following intergovernmental organizations having permanent observer status with the Committee: Asia-Pacific Space Cooperation Organization, European Telecommunications Satellite Organization (EUTELSAT-IGO), European Organisation for the Exploration of Meteorological Satellites, European Space Agency (ESA), International Mobile Satellite Organization (IMSO), International Institute for the Unification of Private Law (Unidroit), International Organization of Space Communications (Intersputnik) and Regional Centre for Remote Sensing of the North African States. The session was attended by observers for the following non-governmental organizations having permanent observer status with the Committee: European Space Policy Institute, International Law Association (ILA), International Institute of Space Law (IISL), Secure World Foundation and Space Generation Advisory Council.

8. A list of the representatives of States, United Nations entities and other international organizations attending the session is contained in document A/AC.105/C.2/2010/INF/42.

C. Symposium

9. On 22 March, IISL and the European Centre for Space Law (ECSL) held a symposium on the theme “National space legislation: crafting legal engines for the growth of space activities”, which was chaired by Tanja Masson-Zwaan of IISL and Sergio Marchisio of ECSL. The Subcommittee heard the following presentations during the symposium: “The need to implement the Outer Space Treaty in national

law in the light of current and foreseeable space activities”, by Armel Kerrest; “Space legislation as enhancer of space activities and policies”, by Henry Hertzfeld; “Matching detail with practice: what are the essential elements that need to be specified in national space legislation?”, by Steven Freeland; “Considerations on space liability insurance”, by Phillippe Montpert; “Economic impacts of national space legislation and the establishment of fair conditions for commercial activities”, by Matxalen Sánchez Aranzamendi; and “Accompanying space regulations: ensuring safe in-orbit operation and interoperability”, by Heike Wieland. Concluding remarks were made by the Chair of the Subcommittee and by the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space. The papers and presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (www.unoosa.org/oosa/COPUOS/Legal/2010/symposium.html).

10. The Subcommittee noted with appreciation that the symposium had constituted a valuable contribution to its work.

D. Adoption of the report of the Legal Subcommittee

11. At its 819th meeting, on 1 April, the Subcommittee adopted the present report and concluded the work of its forty-ninth session.

II. General exchange of views

12. Statements were made by representatives of the following States members of the Subcommittee during the general exchange of views: Algeria, Austria, Belgium, Brazil, Burkina Faso, Canada, China, Colombia, Costa Rica (on behalf of the States members of the Subcommittee that are members of the Group of Latin American and Caribbean States), Cuba, Czech Republic, Ecuador, Egypt, France, Germany, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Libyan Arab Jamahiriya, Morocco, Nigeria, Poland, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Thailand, Ukraine, United Kingdom, United States and Venezuela (Bolivarian Republic of). The observer for Tunisia also made a statement. The observers for EUTELSAT-IGO, IISL and Intersputnik also made statements.

13. The Subcommittee welcomed the election of Ahmad Talebzadeh (Islamic Republic of Iran) as its new Chair for the period 2010-2011.

14. The Subcommittee expressed its appreciation to the outgoing Chair, Vladimír Kopal (Czech Republic), for his leadership in conducting the work of the Subcommittee and his tireless efforts in promoting the study of the international legal regime governing outer space activities.

15. At the 803rd meeting, on 22 March, the Chair made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-ninth session. The Chair’s statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.803).

16. The Subcommittee expressed its condolences to and solidarity with the Governments of Chile and Haiti in the wake of the recent natural disasters that had taken so many human lives and caused so much damage.

17. At the 803rd meeting, on 22 March, the Director of the Office for Outer Space Affairs made a statement reviewing the role and work of the Office relating to space law and on the development, in all the official languages of the United Nations, of the model registration form for objects launched into outer space (A/AC.105/C.2/2010/CRP.7).
18. The Subcommittee heard the following presentations by the observer for Tunisia on this agenda item: “Tunisia’s space programme: action and vision” and “Tunisian space legislation”.
19. Some delegations expressed the view that there should be greater coordination and interaction between the Scientific and Technical Subcommittee and the Legal Subcommittee with a view to promoting the establishment of binding international norms addressing critical issues such as space debris and the use of nuclear power sources in outer space.
20. Some delegations expressed the view that the proposal presented by the Chair of the Committee on the Peaceful Uses of Outer Space during its fifty-second session, entitled “Towards a United Nations space policy”, would facilitate better coordination between Member States, would allow the United Nations system to be better prepared for the challenges of space cooperation in the coming years, would serve well the development goals of all countries and would strengthen the Committee within the United Nations.
21. The view was expressed that the increased participation of the private sector in space activities, which had been the exclusive domain of Governments half a century earlier, required continued reflection by the Legal Subcommittee to enable continued refinement and strengthening of the legal regime on outer space and to provide an ample and solid platform for international cooperation in the peaceful uses of outer space.
22. Some delegations expressed the view that problems and challenges arising from an arms race in outer space, as well as the current trend of commercial and private space activities in outer space, had made evident the lack of effective international regulatory measures and institutional norms.
23. Some delegations expressed the view that the European Union draft code of conduct for outer space activities required thorough consideration by the Subcommittee and that the code should not serve as an alternative to the existing norms of international space law.
24. The view was expressed that the Subcommittee played a unique role in improving the legal framework of international cooperation in space activities and that its work constituted a meaningful contribution to addressing legal issues arising from the evolving space environment.
25. Some delegations expressed the view that there was a need to rationalize the work of the Subcommittee to make it more efficient and cost-effective by considering, among other measures, the possible shortening of its sessions.
26. The view was expressed that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee had an extraordinary record in advancing the field of space law and developing space law in a manner that promoted, rather than hindered, the exploration and use of outer space and that such success was due to

the Subcommittee's ability to focus on practical problems and to address such problems through a consensus-based, results-oriented process.

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

27. Pursuant to General Assembly resolution 64/86, the Subcommittee considered agenda item 5, 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.

28. At its 805th meeting, on 23 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 Jean François Mayence (Belgium). The Working Group held four meetings. The Subcommittee, at its 4th meeting, on 1 April, endorsed the report of the Working Group, contained in annex I to the present report.

29. The Subcommittee noted with satisfaction that the Secretariat had distributed an updated document containing information, as at 1 January 2010, 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.3). The Subcommittee also noted that, since that date, three 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 Bodies,¹ 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 91 States parties and had been signed by 24 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects³ had 88 States parties and had been signed by 23 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space⁴ had 53 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.

30. The Subcommittee recalled that the Rescue Agreement, the Liability Convention, the Registration Convention and the Moon Agreement contained mechanisms permitting international intergovernmental organizations conducting

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.

space activities to declare their acceptance of the rights and obligations established under those treaties.

31. The Subcommittee agreed that those international intergovernmental organizations that had not yet made such declarations 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.

32. Some delegations were of the view that the United Nations treaties on outer space represented a solid legal structure crucial for supporting the increasing scale of space activities and for strengthening international cooperation in the peaceful uses of outer space. Those delegations welcomed further adherence to the treaties and hoped that those States that had not yet ratified or acceded to the treaties would consider becoming parties to them.

33. Some delegations recognized that, under the legal framework of the United Nations treaties on outer space, the use of space by nations, international organizations and private entities had flourished. As a result, space technology and services were contributing immeasurably to economic growth and improvements in the quality of life throughout the world.

34. Some delegations, while recognizing the important role played thus far by the United Nations treaties, expressed the view that those instruments were no longer sufficient for addressing the rapid development of space activities and emphasized the need to explore the possibility of improving the existing legal regime.

35. Some delegations expressed the view that a universal comprehensive convention governing the activities of States in the exploration and use of outer space should be developed in a balanced manner with the aim of finding solutions for existing issues, giving legal binding status to the United Nations principles on outer space and supplementing provisions of the existing United Nations treaties on outer space.

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

37. Some delegations recalled the joint statement on the benefits of adherence to the Moon Agreement (A/AC.105/C.2/L.272, annex) and recognized it as a useful basis for further discussion.

38. The view was expressed that the placement of conventional weapons in outer space was not sufficiently prohibited by the Outer Space Treaty.

39. The Subcommittee expressed satisfaction at the holding, in conjunction with its session, of an informal seminar on the Moon Agreement, organized by Austria. The main purpose of the seminar was to address the benefits of adherence to the Moon Agreement and the reasons why some States had not adhered to the Agreement with a view to providing valuable input to the discussion of the Subcommittee and the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space.

40. 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 fiftieth session, in 2011, would review the need to extend the mandate of the Working Group beyond that period.

41. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.805-808, 813, 814, 816 and 817).

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

42. Pursuant to General Assembly resolution 64/86, the Subcommittee considered, as a regular item of its agenda, agenda item 6, entitled “Information on the activities of international intergovernmental and non-governmental organizations relating to space law”.

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

(a) Note by the Secretariat containing information on activities relating to space law received from ECSL, IISL, ILA, IMSO, Intersputnik and the International Telecommunications Satellite Organization (ITSO) (A/AC.105/C.2/L.278 and Add.1);

(b) Conference room paper containing information on activities relating to space law received from IMSO and ITSO (A/AC.105/C.2/2010/CRP.3);

(c) Conference room paper containing additional information on the activities of ITSO (A/AC.105/C.2/2010/CRP.15).

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

45. The Subcommittee welcomed the information provided by the observer for ESA on the activities of ESA and ECSL relating to space law, including participation in international legal studies, lectures at various forums on a broad range of subjects, maintenance of the network of national focal points for space law, the annual summer course on space law and policy, the European regional rounds of the Manfred Lachs Space Law Moot Court Competition, the Practitioners’ Forum, other meetings and symposiums that had been supported and organized, and documents, newsletters and publications that had been made available.

46. The Subcommittee welcomed the information provided on the activities of EUTELSAT-IGO relating to space law, including the monitoring of relevant regulatory changes and developments that might impact the operations of Eutelsat S.A. and the organization of tripartite meetings among ITSO, IMSO and EUTELSAT-IGO.

47. The Subcommittee was informed about the efforts being undertaken by EUTELSAT-IGO to address the repeated interference being experienced on several radio and television channels broadcast via Eutelsat satellites and about the decision taken by the Radio Regulations Board of the International Telecommunication

Union (ITU) on 26 March 2010. Some delegations expressed serious concern about the interference with satellite signals and referred to the relevance of this subject to item 5 of the agenda of the Subcommittee.

48. The Subcommittee welcomed the information provided by the observer for IMSO on the activities of IMSO relating to space law, including the amendments to the IMSO Convention, the participation of IMSO in the testing and implementation of the long-range identification and tracking (LRIT) system as part of its functions as the LRIT Coordinator and the integration of the data centres established by Governments into the system, among other matters.

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, the assistance provided to telecommunications administrations and satellite operators worldwide and information on the new notifying administration of Intersputnik.

50. 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 53rd IISL colloquium, other meetings and symposiums supported or organized, IISL publications and reports and the special activities planned for the commemoration of the fiftieth anniversary of the Institute.

51. The Subcommittee welcomed the information provided by the observer for ILA on the activities of ILA relating to space law, including participation in United Nations events promoting capacity-building in space law, the work undertaken by its Space Law Committee relating to, inter alia, the legal aspects of remote sensing with special reference to satellite data in international litigation, national space legislation, registration issues, new developments on space debris, dispute settlement related to space activities, the legal aspects of near-Earth objects, the development of a model law and the efforts undertaken to promote awareness of legal aspects of space activities in Spanish-speaking countries.

52. The Subcommittee welcomed the information provided on the activities of the Secure World Foundation relating to space law, including the organization of events that promoted space law knowledge.

53. The Subcommittee welcomed the information provided on the activities of the International Centre for Space Law of the Ukrainian National Academy of Sciences relating to research, analysis, education and promotion of space law, including the provision of legal expertise, support for the development of national legislation, promotion of international cooperation and the preparation of dedicated publications.

54. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.805-808).

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

55. Pursuant to General Assembly resolution 64/86, 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.

56. At its 805th meeting, on 23 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 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.

57. The Working Group held four meetings. The Subcommittee, at its 817th meeting, on 30 March, endorsed the report of the Working Group, contained in annex II to the present report.

58. 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.6 and 7);

(b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.5 and 6);

(c) Conference room paper entitled “Concept of suborbital flights: information from the International Civil Aviation Organization” (A/AC.105/C.2/2010/CRP.9);

(d) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of the Netherlands” (A/AC.105/C.2/2010/CRP.10);

(e) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of Tunisia” (A/AC.105/C.2/2010/CRP.13).

59. Some delegations expressed 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.

60. Some delegations 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.

61. The view was expressed that the definition and delimitation of outer space was of paramount importance 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.

62. The view was expressed that the absence of a definition and delimitation of outer space in international space law could lead to the establishment by States of relevant norms and definitions in their respective national legislation and that that could lead to substantial divergence in the positions of States on the matter.

63. 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 airspace 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. The delegation expressing that view was also of the view that the definition and delimitation of outer space was linked to the definition of space objects.

64. The view was expressed that States should continue to operate under the current framework, which functioned well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. The delegation expressing that view was also of the view that at the present time any attempt to define and delimit outer space would be a theoretical exercise that could complicate existing activities and that might not be able to anticipate future technological developments.

65. 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.

66. The view was expressed that the Subcommittee, when considering matters relating to the definition and delimitation of outer space, should take into account recent and future technological developments, and that the Scientific and Technical Subcommittee should also consider this subject.

67. Some delegations were of the view that use of the geostationary orbit, which was a limited natural resource, should not only be rational but 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.

68. 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 ITU, as amended by the Plenipotentiary Conference held in Minneapolis, United States, in 1998.

69. 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 and interests of developing countries and the geographical position of certain countries.

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

71. Some delegations expressed 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.

72. The Legal Subcommittee noted the information provided by the United States on the actions of that Government 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, information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration of the United States and data from the geostationary operational environmental satellites (GOES). The Subcommittee also noted the cooperation of the Governments of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).

73. The view was expressed that the principle of “first come, first served” was unacceptable with regard to the utilization by States of orbital positions and therefore the Subcommittee should develop a legal regime that guaranteed equitable access to orbital positions for States.

74. Some delegations expressed the view that the Secretariat should be requested to seek from ITU its opinion on the expression “use ... of the parties’ common heritage orbital positions and associated frequency assignments”, contained in the note by the Secretariat on information on the activities of international intergovernmental and non-governmental organizations relating to space law (A/AC.105/C.2/L.278/Add.1), and to invite ITU to submit its views on the measurements to ensure equitable access to orbital positions for all States.

75. The full text of the statements made during the discussion on agenda item 7 is contained in unedited verbatim transcripts (COPUOS/Legal/T.809-812 and 817).

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

76. Pursuant to General Assembly resolution 64/86, the 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”.

77. 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 session⁶ and the endorsement of the Safety Framework by the Committee on the Peaceful Uses of Outer Space at its fifty-second session,⁷ 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. 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.

83. The view was expressed that it was important to adhere rigorously to safety standards when using NPS in outer space.

84. 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 (General Assembly resolution 47/68), at any such time as the Principles might be reviewed and revised.

⁶ A/AC.105/933, para. 130.

⁷ *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 20 (A/64/20)*, para. 138.

85. The view was expressed that close communication should be maintained among the Scientific and Technical Subcommittee, the Legal Subcommittee and IAEA, and that the Committee on the Peaceful Uses of Outer Space 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.

86. Some delegations were of the view that a revision of the Principles was not warranted.

87. The Legal Subcommittee agreed that it was necessary to continue examining the issue and that the item should remain on its agenda.

88. The full text of the statements made during the discussions on agenda item 8 is contained in unedited verbatim transcripts (COPUOS/Legal/T.813-816).

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

89. 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.

90. At its 813th meeting, on 29 March, the Subcommittee heard a statement by the representative of Unidroit on developments concerning the draft space assets protocol.

91. 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 on matters specific to space assets to the Convention on International Interests in Mobile Equipment.

92. The Subcommittee also noted that the third session of the Unidroit 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 resulting from 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).

93. 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.

94. 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.

95. 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.

96. 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.

97. 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.

98. 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.

99. 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.

100. 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.

101. 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.

102. Some delegations were of the view that it was necessary to establish clear definitions with regard to the provision of space-based services; those definitions could be reflected in the drafting of binding legislation.

103. Some delegations were of the view that other international bodies that deal with legal issues, such as the United Nations Commission on International Trade Law and the World Trade Organization, should contribute to the work of Unidroit in this and other areas relating to outer space.

104. 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.

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

106. The full text of the statements made during the discussion on agenda item 9 is contained in unedited verbatim transcripts (COPUOS/Legal/T.813-816).

VIII. Capacity-building in space law

107. Pursuant to General Assembly resolution 64/86, the Subcommittee considered, as a single issue/item for discussion, agenda item 10, entitled "Capacity-building in space law".

108. The Subcommittee had before it the following:

(a) Report of the Secretariat on the implementation of recommendations to build capacity in space law (A/AC.105/954);

(b) Report on the United Nations/Islamic Republic of Iran Workshop on Space Law on the theme "Role of international space law in the development and strengthening of international and regional cooperation in the peaceful exploration and use of outer space" (A/AC.105/956);

(c) Report on the second United Nations Expert Meeting on Promoting Education in Space Law (A/AC.105/972);

(d) Conference room paper containing a directory of education opportunities in space law (A/AC.105/C.2/2010/CRP.4);

(e) Conference room paper containing information submitted by Austria, the Czech Republic, Germany, Iraq, Japan, the Netherlands, Thailand, Ukraine and the United Kingdom on actions and initiatives to build capacity in space law (A/AC.105/C.2/2010/CRP.8 and Add.1);

(f) Proceedings of the United Nations/Islamic Republic of Iran Workshop on Space Law (ST/SPACE/47).

109. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology and to increase knowledge of the legal framework within which space activities were carried out. The Subcommittee emphasized its important role in that regard.

110. The Subcommittee noted with appreciation that a number of national, regional and international efforts to build capacity in space law were being undertaken by governmental and non-governmental entities. Those efforts included encouraging universities to offer modules on space law as part of existing international law courses or as specialized programmes; providing fellowships for graduate and postgraduate education in space law; assisting the development of national space legislation and policy frameworks; organizing workshops, seminars and other specialized activities to promote greater understanding of space law; providing financial and technical support for legal research; preparing dedicated studies, papers and publications on space law; supporting space law moot court competitions; supporting the participation of young professionals in regional and international meetings relating to space law; providing for training and other opportunities to build experience; and supporting entities dedicated to the study of and research relating to space law.

111. The Subcommittee welcomed the fact that the Third African Leadership Conference on Space Science and Technology for Sustainable Development, held in Algiers from 7 to 9 December 2009, had addressed space law. The Subcommittee noted that the Conference had recommended the establishment of a common regional/subregional platform to enable dialogue and the exchange of information on space policy and space law to strengthen education policy on space law at African universities, to encourage increased participation in the Committee by African States and to promote adherence to the United Nations treaties on outer space.

112. The Subcommittee noted with appreciation that the Office for Outer Space Affairs was assisting in regional efforts to build capacity in space law, including providing support to the Third African Leadership Conference.

113. The Subcommittee welcomed the fact that space law was among the matters to be addressed by the Sixth Space Conference of the Americas, to be hosted by the Government of Mexico in November 2010, and noted with satisfaction that a regional conference on space law would be held in Quito on 24 and 25 May 2010, in conjunction with the meeting of the International Group of Experts of the Space Conference of the Americas, to be organized by the Government of Ecuador and held on 26 and 27 May 2010.

114. The Subcommittee also welcomed the fact that the Royal Centre for Remote Sensing of Morocco, together with ECSL and in cooperation with the African

Regional Centre for Space Science and Technology — in French language, affiliated to the United Nations, would hold, in Rabat in 2010, a two-day course on international law relevant to space technology for the students of the nine-month postgraduate course on satellite meteorology and global climate.

115. The Subcommittee noted that the scholarship programmes of the German Academic Exchange Service and the Alexander von Humboldt Foundation of Germany offered numerous study and research opportunities in all areas of study and that those programmes were open to students, graduates and academics from developing countries.

116. The Subcommittee noted the financial support provided by the Japan Aerospace Exploration Agency (JAXA) to students from the Asia-Pacific region attending the International Astronautical Congress, as well as other opportunities offered by JAXA, in particular in the framework of the Asia-Pacific Regional Space Agency Forum.

117. The Subcommittee recommended that member States and permanent observers of the Committee on the Peaceful Uses of Outer Space inform the Subcommittee, at its fiftieth session, of any action taken or planned at the national, regional or international level to build capacity in space law.

118. The Subcommittee noted with appreciation the holding of the sixth United Nations workshop on space law, entitled “Role of international space law in the development and strengthening of international and regional cooperation in the peaceful exploration and use of outer space”. The workshop, held in Tehran from 8 to 11 November 2009, had been hosted by the Government of the Islamic Republic of Iran and jointly organized by the Office for Outer Space Affairs and the Iranian Space Agency, with support from the Asia-Pacific Space Cooperation Organization.

119. The Subcommittee also noted with appreciation that the Office for Outer Space Affairs, together with the Government of Thailand and the Geo-Informatics and Space Technology Development Agency of Thailand, had begun the preparations for the seventh United Nations workshop on space law, to be held in Bangkok from 16 to 19 November 2010. The Subcommittee further noted with appreciation that ESA was a co-sponsor of the workshop.

120. The Subcommittee noted that the workshops organized by the Office for Outer Space Affairs in cooperation with host countries were a valuable contribution to capacity-building in space law and international cooperation in the peaceful uses of outer space.

121. The Subcommittee welcomed the fact that the Office for Outer Space Affairs had continued to work with space law educators and representatives of the regional centres for space science and technology education, affiliated to the United Nations, to further develop the curriculum on space law and noted with appreciation that the second United Nations Expert Meeting on Promoting Education in Space Law had been held in Tehran on 12 and 13 November 2009.

122. The Subcommittee noted that the work to finalize the curriculum would continue and expressed its appreciation to the educators and representatives of the regional centres for their work.

123. The Subcommittee noted with satisfaction that the Office for Outer Space Affairs had updated the directory of education opportunities in space law, including information on available fellowships and scholarships, and agreed that the Office should continue to update the directory (A/AC.105/C.2/2010/CRP.4).

124. The Subcommittee also noted that the Office for Outer Space Affairs had continued to provide technical and legal advisory support to member States on issues relating to space law and had participated in other initiatives to build capacity in space law, including the Eighteenth ECSL Summer Course on Space Law and Policy, held in Lisbon from 31 August to 11 September 2009.

125. The view was expressed that a regional centre for space science and technology education in Arabic, affiliated to the United Nations, should be established.

126. The full text of the statements made by delegations during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T.809-812).

IX. General exchange of information on national mechanisms relating to space debris mitigation measures

127. Pursuant to General Assembly resolution 64/86, the Subcommittee considered agenda item 11, entitled “General exchange of information on national mechanisms relating to space debris mitigation measures”, as a single issue/item for discussion.

128. The Subcommittee noted that agenda item 11 would assist States in understanding the different measures, including development of national regulatory frameworks, that States had taken to mitigate and prevent the increase in space debris.

129. The Subcommittee noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space⁸ was a key step in providing space-faring nations with guidance on how to mitigate the problem of space debris.

130. The Subcommittee noted with appreciation that at its current session the Secretariat had made available the text of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space in the form of a publication (ST/SPACE/49).

131. The Subcommittee noted that the adoption by the Committee of the Space Debris Mitigation Guidelines was an important step after the adoption by the Scientific and Technical Subcommittee, in 1999, of the report entitled “Technical report on space debris” (A/AC.105/720).

132. The delegations of the following States presented information on their national mechanisms governing space debris mitigation and the ways in which they were implementing the Space Debris Mitigation Guidelines of the Inter-Agency Space Debris Coordination Committee (IADC) and the Space Debris Mitigation

⁸ Ibid., *Sixty-second Session, Supplement No. 20* (A/62/20), annex.

Guidelines of the Committee on the Peaceful Uses of Outer Space: Canada, China, France, India, Italy, Japan, Russian Federation and United States.

133. The Subcommittee noted with satisfaction that some States were implementing space debris mitigation measures consistent with the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space and/or the IADC Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines. The Subcommittee also noted that other States were using the IADC Guidelines and the European Code of Conduct for Space Debris Mitigation as references in the regulatory framework established for national space activities.

134. The view was expressed that the orderly conduct of exploration and use of outer space in the future would be largely dependent on the observance of the Space Debris Mitigation Guidelines of the Committee by all States.

135. The view was expressed that States without the capability and expertise to fully implement the Space Debris Mitigation Guidelines of the Committee should benefit from the best practices of and training provided by States with relevant experience.

136. The view was expressed that the Space Debris Mitigation Guidelines of the Committee required legal review and analysis.

137. Some delegations were of the view that the Space Debris Mitigation Guidelines of the Committee should be further developed and that the Scientific and Technical Subcommittee and the Legal Subcommittee should cooperate with the aim of developing legally binding rules relating to space debris.

138. The Legal Subcommittee noted that some States had strengthened their national mechanisms governing space debris mitigation through the nomination of governmental supervisory authorities, the involvement of academia and industry and the development of new legislative norms, instructions, standards and frameworks.

139. The view was expressed that States conducting space activities should consider the preservation of the space environment, and that it therefore was important to promote research for a better understanding of space debris distribution, the minimization of debris generation and the active disposal from orbits of large space debris.

140. The view was expressed that, as the reliance on space-based assets and the number of space assets increased, the global community would have to be diligent in actively pursuing solutions to limit the amount of space debris produced in order to sustain the space environment for the long term.

141. The view was expressed that space debris posed a serious threat to countries located along the equatorial line.

142. The view was expressed that the problem of space debris was part of the complex issue of the protection and preservation of the outer space environment.

143. Some delegations were of the view that the development by States of national space debris mitigation standards consistent with the Space Debris Mitigation Guidelines of the Committee was important and that it would be useful to make

further progress towards space debris mitigation by analysing relevant national practices.

144. The view was expressed that the Subcommittee should support the development of new guidelines aimed at ensuring the safety, security and predictability of space activities and at limiting or minimizing harmful interferences in outer space.

145. The view was expressed that further consideration by the Subcommittee of an agenda item on space debris might lead to the elaboration of legal principles on space debris.

146. The Subcommittee noted with satisfaction that the twenty-eighth meeting of IADC had been held in Thiruvananthapuram, India, from 9 to 12 March 2010, and that the meeting had considered current technical issues and updates related to space debris measurement, environment and databases, spacecraft protection and space debris mitigation, as well as long-term evolution of space debris and its relation to the long-term sustainability of space activities.

147. The Subcommittee urged States to continue to implement the Space Debris Mitigation Guidelines of the Committee and to study the experience of States that had already established national mechanisms governing space debris mitigation.

148. The full text of the statements made during the discussion on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T.808-811).

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

149. 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.⁹

150. 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 six meetings. The Subcommittee, at its 819th meeting, on 1 April, endorsed the report of the Working Group contained in annex III to the present report.

151. 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 (A/AC.105/957);

⁹ Ibid., para. 219.

(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).

152. The Subcommittee also had before it a conference room paper prepared by the Secretariat 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).

153. 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.

154. 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.

155. 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.

156. 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.

157. 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.

158. 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.

159. The full text of the statements made during the discussion on agenda item 12 is contained in unedited verbatim transcripts (COPUOS/Legal/T.809-815 and 819).

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

160. The Subcommittee recalled that the General Assembly, in its resolution 64/86, had agreed 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.

161. The Chair 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).

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

163. 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.

164. 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.

165. 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.

166. 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.

167. 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.

168. 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.

169. 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.

170. 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, Colombia, 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 of 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).

171. The Subcommittee noted that its fiftieth session had been tentatively scheduled to be held from 28 March to 8 April 2011.

172. The full text of the statements made during the discussion on agenda item 13 is contained in unedited verbatim transcripts (COPUOS/Legal/T.815-818).

Annex I

Report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space

1. At its 805th meeting, on 23 March 2010, the Legal Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Jean François Mayence (Belgium).
2. The Working Group held four meetings, from 24 to 31 March 2010. At the opening meeting of the Working Group, on 24 March, the Chair recalled the mandate of the Working Group (see A/AC.105/763 and Corr.1, para. 118; A/AC.105/787, paras. 138 and 140; and A/AC.105/891, annex I, para. 11).
3. The Chair also recalled that the Subcommittee at its forty-eighth session had agreed to review at its current session the need to extend the mandate of the Working Group beyond the current session of the Subcommittee (A/AC.105/935, para. 39).
4. The Working Group discussed the possible evolution of the scope of its work and recognized that the discussion within the Working Group should continue to include but not be limited to issues related to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies,^a and should reflect the actual needs of States vis-à-vis the provisions of the relevant United Nations treaties.
5. The Working Group recommended that the Subcommittee, at its fiftieth session, in 2011, reconvene the Working Group and review the need to extend the mandate of the Working Group beyond that session.
6. The Working Group agreed, in conformity with the mandate reflected in paragraph 2 above, to consider, in 2011, the following specific themes and issues related to the status, application and/or implementation of the United Nations treaties on outer space:
 - (a) Issues relating to the Moon Agreement, including possible points of consensus or of concern among States about the Agreement and its implementation;
 - (b) Issues relating to the implementation of the mechanisms of responsibility and liability of the States parties as provided for by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,^b and by the Convention on International Liability for Damage Caused by Space Objects;^c
 - (c) Issues related to the registration of space objects, notably in the case of transfer of space activities or space objects in orbit, and the related possible legal solutions for the States involved.

^a United Nations, *Treaty Series*, vol. 1363, No. 23002.

^b *Ibid.*, vol. 610, No. 8843.

^c *Ibid.*, vol. 961, No. 13810.

7. The Working Group agreed that the list above was not exhaustive and would be open to further discussion by the Working Group during the fiftieth session of the Subcommittee.
8. The Working Group agreed that it would be useful to discuss the relationship and consistency between some of the principles enshrined in the five United Nations treaties on outer space.
9. Some delegations expressed the view that the Working Group should take a practical rather than a theoretical approach in discussing the provisions of the treaties.
10. Some delegations reiterated the view that, although the Moon Agreement contained provisions that replicated or elaborated on the provisions contained in the Outer Space Treaty, certain provisions of the Moon Agreement were unique and provided more detailed regulations for the implementation of activities on the Moon.
11. Some delegations recalled that the joint statement on the benefits of adherence to the Moon Agreement by States parties to the Agreement (A/AC.105/C.2/L.272, annex) was a useful basis for further discussion.
12. The view was expressed that the Working Group should verify the uniformity of the provisions of the treaties in all the official languages of the United Nations to the extent that that had an impact on their status or application.

Annex II

Report of the Chair of the Working Group on the Definition and Delimitation of Outer Space

1. At its 805th meeting, on 23 March 2010, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil).
2. The Chair drew the attention of the Working Group to the fact that, pursuant to General Assembly resolution 64/86, the Working Group had been convened to consider only matters relating to the definition and delimitation of outer space.
3. The Working Group 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.6 and 7);
 - (b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.5 and 6);
 - (c) Conference room paper entitled “Concept of suborbital flights: information from the International Civil Aviation Organization” (A/AC.105/C.2/2010/CRP.9);
 - (d) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of the Netherlands” (A/AC.105/C.2/2010/CRP.10);
 - (e) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of Tunisia” (A/AC.105/C.2/2010/CRP.13).
4. Some delegations were of the view that the absence of a definition and delimitation of outer space in international space law could lead to the establishment by States of relevant norms and definitions in their respective national legislation and that that could lead to substantial divergence in the positions of States on the matter.
5. 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 airspace 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.
6. The view was expressed that current and foreseeable civil aviation operations would not exceed altitudes of 100-130 km, where there was a potential danger of collision with numerous spacecraft. In that connection, the delegation expressing that view proposed that the boundary between airspace and outer space be established in that range.
7. Some delegations were of the view that a functional approach would be efficient for determining the scope of application of air law and space law.

8. The view was expressed that zero gravity above a certain altitude over the Earth could not be used as an argument for the establishment of a border, as that condition could also be created under certain circumstances in the Earth's atmosphere.
9. Some delegations were of the view that States should continue to operate under the current framework, which had functioned well, and that, at the present time, any attempt to define or delimit outer space would be a theoretical exercise that could complicate existing activities and that might not be able to anticipate future technological developments.
10. Some delegations were of the view that alternative approaches to the definition and delimitation of outer space should be given serious consideration.
11. On the basis of its discussions, the Working Group agreed:
 - (a) To continue to invite States members of the Committee on the Peaceful Uses of Outer Space to submit information on national legislation or any national practices that might exist or were being developed that related directly or indirectly to the definition and/or delimitation of outer space and airspace, taking into account the current and foreseeable level of development of space and aviation technologies;
 - (b) To continue to address to the Governments of Member States, through the Secretariat, the following questions:
 - (i) Does your Government consider it necessary to define outer space and/or to delimit airspace and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies? Please provide a justification for the answer; or
 - (ii) Does your Government consider another approach to solving this issue? Please provide a justification for the answer;
 - (c) To also address to the Governments of Member States, through the Secretariat, the following question:
 - (i) Does your Government give consideration to the possibility of defining a lower limit of outer space and/or an upper limit of airspace, recognizing at the same time the possibility of enacting special international or national legislation relating to a mission carried out by an object in both airspace and outer space?
12. The view was expressed that the Working Group should take into account recent and future technological developments while considering the matters relating to the definition and delimitation of outer space.
13. Some delegations were of the view that the definition and delimitation of outer space remained a topical and important issue that should continue to be considered by the Working Group.

Annex III

Report of the Chair of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space

1. At its 805th meeting, on 23 March 2010, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space under the chairmanship of Irmgard Marboe (Austria).
2. The Working Group held six meetings, from 26 March to 1 April 2010. At the opening meeting, the Chair recalled that, in accordance with the workplan adopted by the Committee on the Peaceful Uses of Outer Space at its fiftieth session, in 2007, the Working Group, at its current session, would continue to examine responses received and begin drafting its report, including conclusions.
3. The Working Group 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).
4. The Working Group also had before it a conference room paper prepared by the Secretariat 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).
5. The Working Group noted with satisfaction the holding, in conjunction with the forty-ninth session of the Subcommittee, of a symposium entitled “National space legislation: crafting legal engines for the growth of space activities”. The symposium, organized by the International Institute of Space Law and the European Centre for Space Law, had provided information of great relevance to the deliberations of the Working Group.
6. The Working Group recalled that national regulatory frameworks represented different legal systems with either unified acts or a combination of national legal instruments and that States had adapted their national legal frameworks according to their specific needs and practical considerations.

7. The Working Group continued its review of the following main issues for discussion (see A/AC.105/935, annex III, paras. 7 and 18):

- (a) Reasons for States to enact national space legislation or the reasons for the absence of such legislation;
- (b) Scope of space activities targeted by national regulatory frameworks;
- (c) Scope of national jurisdiction over space activities;
- (d) Competence of national authorities in the authorization, registration and supervision of space activities;
- (e) Conditions to be fulfilled for registration and authorization;
- (f) Regulations concerning liability;
- (g) Compliance and monitoring.

8. The Working Group addressed additional issues such as the regulation by States of transfers of ownership of space objects and of transfers of authorized space activities to third parties, the participation of private individuals in space flights and the treatment in service-provider contracts of issues of liability and responsibility for collisions of satellites in outer space (see A/AC.105/935, annex III, para. 17).

9. In considering the reasons for States to enact national space legislation and the reasons for the absence of such legislation, the Working Group noted, in addition to its review conducted in 2009, that in some cases it was difficult to draw a precise line to distinguish governmental activities from non-governmental activities and that that could be a reason for States not to enact national space legislation despite their involvement in space activities that could entail international responsibility and international liability. The Working Group also noted, however, that some States saw a need to regulate space activities of a governmental or public character in order to establish a reliable and organized legal framework for national space activities.

10. The Working Group noted that several States did not regard themselves as space-faring nations and for that reason they had thus far not considered enacting national space legislation. It was observed, however, that the increasing number of private actors carrying out space activities could lead to involvement by such States as well. Furthermore, States taking part in space activities of international organizations needed to take into account the international legal framework of space activities. The Working Group noted that, even if it was up to each State to determine how to assume its international responsibility for national space activities, certain regulations at the national level could be in the interest of the State itself.

11. With regard to the issue of the scope of space activities targeted by national regulatory frameworks, the Working Group noted the differences in how States regulated national space activities to reflect the differences between performing launch operations or mainly operating space objects in outer space. The Working Group also noted the difficulty in defining the term “operation” of a space object. In view of the complex nature of space activities, the Working Group observed the existence of multiple licences, whereby the operator of a space object often needed authorization and a licence from more than one State.

12. As regards the determination of national jurisdiction over space activities, the Working Group noted that most national regulatory regimes required authorization to be obtained for space activities carried out from the national territory. Most regimes also required authorization for space activities in which nationals, both natural and juridical persons, were involved. The respective States considered that to be an important means of ensuring that space activities were in compliance with the respective standards and rules, wherever those activities took place, including on the high seas. Coordination between the States or actors involved would avoid duplication.

13. In considering the competence of national authorities in the authorization, registration and supervision of space activities, the Working Group noted that in most cases different national authorities were involved in those procedures. The Working Group discussed the different roles that national space agencies could have in that regard. With respect to the establishment of a national register, the Working Group noted that some States had more than one register and some States were currently reorganizing their national registries. The Working Group noted that in many cases an authority different from the one responsible for keeping the national registry was in charge of transmitting the relevant information to the United Nations Register of Objects Launched into Outer Space.

14. With regard to the exchange of information on registration practice by States, the Working Group discussed the extent to which non-functional space objects were registered by States. The Working Group noted with appreciation that the Office for Outer Space Affairs of the Secretariat would include on its website an explanatory note to accompany the online index of objects launched into outer space in order to facilitate the research function. In that regard, it was noted that the index was not part of the United Nations Register of Objects Launched into Outer Space, but rather represented a reference tool on functional and formerly functional space objects.

15. In considering the conditions to be fulfilled for registration and authorization, the Working Group noted that ensuring the safety of space activities was an important policy underpinning most national space laws and that most launch-licensing regimes included measures to ensure that the launch did not create a significant risk of personal injury, environmental damage or damage to property. In many States, independent external experts were involved in the process of evaluating the safety of space activities. Space debris mitigation measures developed at the national or international level also played an important role in national authorization procedures.

16. In respect of regulations concerning liability, the Working Group noted the existence of a broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements. Often, the general liability and insurance requirements were laid down in laws complemented by a secondary level of regulations that went into greater detail. The Working Group noted the various approaches taken by States to regulate indemnification of liability incurred by a State, in cases where a State had included in its national legislation defined ceilings for the limitation of liability of space object operators. The Working Group observed that it was in the interest of all States engaging in space activities to protect themselves against international liability. For that reason, national

requirements to that effect should be an incentive for States to establish relevant national regulatory regimes.

17. Regarding the issues referred to in paragraph 8 above, the Working Group considered in particular the issues of transfer of ownership and control of space objects in orbit and of transfer of licences for space activities. Of concern to the Working Group was the effect on international law of changes in the operation of space objects, rather than the private or commercial law aspects of such changes. The issue of change in status of ownership or control of a space object was closely linked to the jurisdiction of the States concerned, in particular where non-governmental actors were involved.

18. The Working Group noted that some States had national regulations governing the activities of private individuals in space flights. The Working Group also noted that some States were preparing regulations concerning liability issues in service-provider contracts, in particular in connection with global positioning and navigation services.

19. After a discussion of the proposal by the Chair on a tentative structure for the final report of the Working Group (A/AC.105/C.2/2010/CRP.16), the Working Group agreed that, upon completion of its multi-year workplan, it should issue a comprehensive report on its work with the following structure:

- I. Summary of the work conducted by the Working Group under its multi-year workplan
- II. Overview of national space legislation
- III. Findings of the Working Group
- IV. Conclusions

Annex I. National space legislation: regulative categories (set of elements for consideration by States in enacting national space legislation)

Annex II. Schematic overview of national space legislation

20. The Working Group agreed that the Secretariat, in consultation with the Chair, should prepare the draft report on the work of the Working Group, for consideration and finalization by the Working Group in 2011. The report should build upon the research and assessments conducted as part of the multi-year work under the agenda items on the launching State and registration practice, respectively. In that sense, the findings of its current multi-year work on national space legislation would be consistent with the findings and recommendations made under those agenda items.

21. After a discussion on the matter, the Working Group concluded that the draft set of main elements for consideration by States enacting national space legislation (A/AC.105/C.2/2010/CRP.16, annex I) should have the following three column headings: "Regulative category", "Examples of corresponding United Nations treaties and principles on outer space, other related General Assembly resolutions and guidelines" and "Elements". The Working Group also agreed that the table should list the following seven regulative categories: "Scope of application", "Authorization and licensing", "Continuing supervision of activities of non-governmental entities", "Registration", "Liability and insurance", "Safety" and "Transfer of ownership or control of space objects in orbit". Within the category of

“Safety”, the following items should be addressed: avoidance of harmful interference with activities in the peaceful exploration and use of outer space, as stipulated in article IX of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies;^a design and technical requirements, safety assessments and risk analysis; and responses to emergency situations.

22. The Working Group discussed the draft schematic overview of national space legislation (A/AC.105/C.2/2010/CRP.12). The main elements for consideration by States in enacting national space legislation should have the same regulative categories as in annex I to the report on the work of the Working Group (see para. 21 above). The Working Group agreed that the schematic overview, when finalized, would serve as an important source of information on how States regulated their space activities. To that end, the Working Group agreed that Member States should be invited during the intersessional period to provide to the Secretariat information for the completion of the schematic overview of national regulatory frameworks for space activities.

^a United Nations, *Treaty Series*, vol. 610, No. 8843.