



# General Assembly

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**Committee on the Peaceful  
Uses of Outer Space**  
**Legal Subcommittee**  
**Fifty-sixth session**  
Vienna, 27 March-7 April 2017

## **Draft report**

### **I. Introduction**

#### **A. Opening of the session**

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its fifty-sixth session at the United Nations Office at Vienna from 27 March to 7 April 2017. From 27 to 29 March, the session was conducted under the acting chairmanship of Laura Jamschon Mac Garry (Argentina), who was elected Acting Chair at the 937th meeting of the Subcommittee. From 30 March to 7 April, the session was conducted under the chairmanship of Hellmut Lagos Koller (Chile).
2. The Subcommittee held [...] meetings.

#### **B. Adoption of the agenda**

3. At its 937th meeting, on 27 March, the Subcommittee adopted the following agenda:
  1. Adoption of the agenda.
  2. Statement by the Chair.
  3. General exchange of views.
  4. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
  5. Status and application of the five United Nations treaties on outer space.
  6. Matters relating to:
    - (a) The definition and delimitation of outer space;
    - (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.



7. National legislation relevant to the peaceful exploration and use of outer space.
8. Capacity-building in space law.
9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
10. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee.
11. General exchange of information on non-legally binding United Nations instruments on outer space.
12. General exchange of views on the legal aspects of space traffic management.
13. General exchange of views on the application of international law to small satellite activities.
14. General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources.
15. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.
16. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-seventh session.

### **C. Attendance**

4. Representatives of the following [...] States members of the Committee attended the session: Albania, Algeria, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Czechia, Ecuador, El Salvador, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Libya, Luxembourg, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Oman, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United States of America and Venezuela (Bolivarian Republic of).
5. The Subcommittee decided to invite, at their request, observers for Cyprus, Denmark, Dominican Republic, Finland, Myanmar, Namibia, Nepal, Norway, Paraguay and Singapore to attend the session and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.
6. The Subcommittee also decided to invite the observer for the European Union, at its request, to attend the session, in accordance with General Assembly resolution 65/276, entitled "Participation of the European Union in the work of the United Nations", and to address it, as appropriate, on the understanding that it would be without prejudice to further requests of that nature and that doing so would not involve any decision of the Committee concerning status.
7. Observers for the Office for Disarmament Affairs of the Secretariat, the Food and Agriculture Organization of the United Nations and the International Telecommunication Union (ITU) attended the session.
8. The session was attended by observers for the following intergovernmental organizations having permanent observer status with the Committee: Asia-Pacific

Space Cooperation Organization (APSCO), Centre for Remote Sensing of the North African States (CRTEAN), Economic Commission for Latin America and the Caribbean (ECLAC), European Space Agency (ESA), European Telecommunications Satellite Organization (EUTELSAT-IGO), International Organization of Space Communications (Intersputnik) and International Telecommunications Satellite Organization.

9. The session was also attended by observers for the following non-governmental organizations having permanent observer status with the Committee: African Association for Remote Sensing of the Environment (AARSE), European Space Policy Institute (ESPI), Ibero-American Institute of Aeronautic and Space Law and Commercial Aviation, International Association for the Advancement of Space Safety (IAASS), International Institute of Space Law (IISL), International Law Association (ILA), Secure World Foundation (SWF), Space Generation Advisory Council (SGAC) and World Space Week Association (WSWA).

10. A list of the representatives of States, United Nations entities and other international organizations attending the session is contained in document [...].

## **D. Symposium**

11. On 27 March, IISL and the European Centre for Space Law (ECSL) held a symposium on the theme “Legal models for exploration, exploitation and utilization of space resources 50 years after the adoption of the Outer Space Treaty”, co-chaired by Kai-Uwe Schrogl of IISL and Sergio Marchisio of ECSL. The symposium was opened with a statement of welcome by the Co-Chairs and the Acting Chair of the Subcommittee, and the Subcommittee subsequently heard the following presentations: “Current international legal framework applicability to space resource activities”, presented by Fabio Tronchetti; “Perspectives from the industry in relation to national regulation of space resource activities”, by Rick Tumlinson; “Lunar resource utilization and development of the legal perspective in Japan”, by Takeshi Hakamada; “Report on Title IV of the United States Commercial Space Launch Competitiveness Act”, by Joanne Gabrynowicz; “Considerations about Luxembourg’s draft law on the exploration and use of space resources”, by Mahulena Hofmann; “Developing countries and the exploitation of natural space resources”, by José Monserrat Filho; “National appropriation of outer space”, by Philip De Man and Stephan Hobe; and “The Hague Space Resources Governance Working Group”, by Tanja Masson-Zwaan. Concluding remarks were made by the Co-Chairs of the symposium and the Acting Chair of the Subcommittee. The 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/en/ourwork/copuos/lsc/2017/symposium.html](http://www.unoosa.org/oosa/en/ourwork/copuos/lsc/2017/symposium.html)).

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

## **E. Adoption of the report of the Legal Subcommittee**

13. At its [...] meeting, on [...] April, the Subcommittee adopted the present report and concluded the work of its fifty-sixth session.

## **II. General exchange of views**

14. Statements were made by representatives of the following States members of the Committee during the general exchange of views: Algeria, Argentina, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechia, Ecuador, France, Germany, Greece, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Mexico, Morocco, New Zealand, Pakistan, Poland, Republic of Korea, Russian Federation, South Africa, Sudan, Ukraine, United States of America and Venezuela

(Bolivarian Republic of). Statements were made by the representative of Costa Rica on behalf of the Group of 77 and China and the representative of the Bolivarian Republic of Venezuela on behalf of the Group of Latin American and Caribbean States. The observer for the European Union made a statement on behalf of the European Union and its member States. The observer for Norway made a statement. The observers for APSCO and CRTEAN also made statements.

15. The Subcommittee heard the following presentations:

(a) “Planetary protection in the Emirates Mars Mission”, by the representative of the United Arab Emirates;

(b) “ESPI-GRULAC joint communication on a report of space activities in Latin American countries”, by the observer for ESPI.

16. The Subcommittee welcomed New Zealand as the newest State member of the Committee on the Peaceful Uses of Outer Space, bringing the membership of the Committee to 84 States. The Subcommittee also welcomed the International Air Transport Association, a non-governmental organization, as the newest permanent observer of the Committee.

17. The Subcommittee noted the application of Bahrain for membership in the Committee, contained in conference room paper [A/AC.105/C.2/2017/CRP.3](#) which would be considered by the Committee at its sixtieth session, in June 2017. In that connection, the Subcommittee welcomed the fact that 22 States had become members of the Committee since 2000, increasing its membership from 62 to 84. The Subcommittee commended the Office for Outer Space Affairs for its leadership and tireless efforts in building capacity and disseminating information about the work of the Committee and its Subcommittees, which greatly contributed to the steady increase of the membership of the Committee.

18. The Subcommittee noted that 2017 would be a memorable year for the Committee and the space community, celebrating: (a) the sixtieth anniversary of the launch into outer space of the first artificial Earth satellite, Sputnik I, on 4 October 1957, which marked the advent of the space age; (b) the fiftieth anniversary of the entry into force 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; (c) the fiftieth anniversary of the Landsat programme; (d) the tenth anniversary of General Assembly resolution 62/101, on the recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects; (e) the tenth anniversary of the International Heliophysical Year; and (f) the tenth anniversary of the endorsement by the General Assembly of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space. The Subcommittee welcomed the opportunity presented by those anniversaries to consider the achievements of States with regard to the exploration and use of outer space and international space cooperation and to further consider the Subcommittee’s historic mission as the unique intergovernmental multilateral negotiation forum for developing space law.

19. At the 937th meeting, on 27 March, the Acting Chair made a statement in which she highlighted the programme of work and organizational matters pertaining to the current session of the Subcommittee.

20. At the same meeting, the Director of the Office for Outer Space Affairs made a statement in which she reaffirmed the Office’s commitment to discharging the Secretary-General’s responsibilities under international space law, particularly in connection with transparency and confidence-building to ensure the safety, security and sustainability of outer space activities. She presented an overview of recent activities of the Office, highlighting efforts undertaken to prepare for the fiftieth anniversary of the United Nations Conference on the Exploration and Peaceful Uses of Outer Space in 2018. She also drew the attention of the Subcommittee to the unfavourable financial situation of the Office, the reduction in the level of the Office’s

human resources and the ongoing efforts of the Office to improve its resource framework.

21. The Subcommittee noted with appreciation the information on the activities of the Office aimed at promoting understanding, acceptance and implementation of international space law. The Subcommittee also noted the information conveyed by the Director of the Office on the Office's activities and measures being undertaken in line with the United Nations system-wide policy on gender equality and the empowerment of women. The Director presented a conference room paper entitled "Gender equality and the empowerment of women: contribution by the Office for Outer Space Affairs" (A/AC.105/C.2/2017/CRP.4), which outlined the work and plans of the Office in the field of gender equality and the empowerment of women. The paper also provided information about the International Gender Champions initiative, which had recently been extended to Vienna, and the Space for Women project, which was being prepared in the framework of thematic priority 7 (Capacity-building in the twenty-first century) for approval at UNISPACE+50.

22. The Subcommittee welcomed with appreciation the designation of Scott Kelly, former astronaut of the National Aeronautics and Space Administration (NASA), as United Nations Champion for Space. His role would involve supporting the Office for Outer Space Affairs in promoting space as a tool for achieving the Sustainable Development Goals, and in raising awareness of the Office's activities, including activities related to UNISPACE+50.

23. The Subcommittee noted with appreciation the events held on the margins of the current session, namely a lunch-time event entitled "Open Universe initiative: legal aspects", co-organized by the Italian Space Agency (ASI) and the Brazilian Space Agency (AEB), and an evening event dedicated to the recent publication of the book *Seeing Our Planet Whole: A Cultural and Ethical View of Earth Observation*, organized by ESPI.

24. The Subcommittee welcomed the presentation by the delegation of Germany of both the Chinese and Russian versions of volume I of the *Cologne Commentary on Space Law*.

25. The Subcommittee agreed that the existing international legal regime governing outer space provided a sound basis for undertaking space activities and that States should be encouraged to adhere to the existing legal regime in order to strengthen its effect.

26. Some delegations expressed the view that the rapid development of activities in space, the growing number of actors engaged in space activities and the increasing complexity of those activities underscored the need for States to continue working within the Subcommittee on an appropriate regulatory framework that encompassed those topical issues.

27. Some delegations expressed the view that the rapid development of space science and technology and new types of outer space activities gave rise to the need for new rules. In that connection, the Outer Space Treaty should be made adaptive and be further improved in response to the development of science and technology and actual needs of human exploration and use of outer space.

28. Some delegations expressed the view that the heightened pace of activities in outer space and the increased participation of States, international organizations and the non-governmental sector required continued reflection by the Subcommittee in order to enable further strengthening of the legal regime on outer space, including with respect to the need to review and revise the five United Nations treaties on outer space.

29. The view was expressed that the Outer Space Treaty was the foundation of all other United Nations treaties and principles on outer space, contained comprehensive norms dealing with almost all aspects of space activities conducted by States and their juridical and physical persons and enjoyed participation of a wide range of States. The

delegation expressing that view was also of the view that the Treaty should be a basis for consideration of responses to modern challenges emerging in connection with an intensive development of the forms and methods of space activities.

30. The view was expressed that the attempts of some States to conduct their space activities while bypassing their obligations under the Outer Space Treaty were a matter of concern. The delegation expressing that view was also of the view that examples of such practice by States included (a) the legitimization of activities conducted by national non-governmental entities in the exploration of space resources that were in contradiction with the provisions of the Treaty; and (b) the establishment of a register or a flag of convenience for private commercial entities interested in pursuing the exploitation of space resources. In that connection, the Subcommittee should seek clarification of key terms, including “common heritage of mankind”, “common province of mankind”, “national appropriation of outer space” and “exploitation/exploration of space resources”.

31. The view was expressed that States increasingly relied on non-binding agreements in relation to space activities and that that practice was becoming consolidated because a large number of substantive concerns could not be satisfactorily addressed in the current institutional framework, nor settled by binding rules, at least in the short term. The delegation expressing that view was also of the view that non-legally binding agreements could respond to a broad range of regulatory concerns while still committing the participating States to act responsibly with regard to the values and the aspirations of the group that accepted them.

32. The view was expressed that equality among all nations, regardless of their level of space capabilities, could be maintained only if all space actors followed a rule-based approach to the peaceful use of outer space.

33. Some delegations reaffirmed the importance of preventing an arms race in outer space, noting the useful role that transparency and confidence-building measures could play in this regard and stressing that the preservation of outer space for the long term required that the international community ensure that no weapons would ever be placed there.

34. Some delegations expressed concern about an arms race in outer space and reiterated the view that attempts to seek military and strategic superiority in outer space would lead to future weaponization of outer space and endanger global peace and security. Those delegations also expressed the view that present gaps in the legal regime on outer space made necessary a more comprehensive regime, including a binding legal instrument, in order to prevent the militarization of outer space.

35. The view was expressed that the 24 ballistic missile launches in 2016 by the Democratic People’s Republic of Korea should be condemned, as they were in violation of Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016). The delegation expressing that view was also of the view that such violations were also in contravention of the spirit and purpose of the Outer Space Treaty and that the accession of the Democratic People’s Republic of Korea to the Rescue Agreement and Liability Convention could not conceal that country’s true intention of acquiring the means of delivery for weapons of mass destruction.

36. Some delegations reaffirmed the commitment of their countries to the peaceful use and exploration of outer space and emphasized the following principles: universal and equal access to outer space for all countries without discrimination, regardless of their level of scientific, technical and economic development, and the equitable and rational use of outer space for the benefit of all humankind; the non-appropriation of outer space, including the Moon and other celestial bodies, by claim of sovereignty, use, occupation or any other means; the non-militarization of outer space; the prevention of the installation of weapons of any kind in outer space; the strict use of outer space, as the common heritage of humankind, for the improvement of living

conditions and peace among the peoples that inhabit our planet; and international cooperation in the development of space activities.

37. The view was expressed that all space activities should be conducted in compliance with three major principles: freedom of access to space for peaceful uses; the preservation of the security and integrity of satellites in orbit; and the consideration of interests of defence and security of States in outer space.

38. The view was expressed that States should foster the development of space capabilities and facilitate the exchange of expertise, science, knowledge, technology and experience, while observing non-intervention into both the space programmes of other States and their use of space-related technology.

39. Some delegations expressed the view that, over the years, the Committee and its Subcommittees had excelled at delivering practical and useful guidance to the international community on the application of the legal principles enshrined in the core treaties, and that the guidance had taken the form of resolutions, frameworks, guidelines and the wealth of informative materials made available in print or online.

40. Some delegations expressed the view that it was important to ensure the continuous role of the Subcommittee as the main platform for the interpretation, application and preparation of outer space rules and as a forum for discussing and finding solutions for new legal issues arising from the activities of peaceful uses of outer space so that the legal regime for outer space would be continuously improved, providing a robust legal guarantee for long-term development of peaceful uses of outer space.

41. The view was expressed that the Subcommittee remained the unique international forum for the development and adoption of regulatory instruments on space activities and that it was important to seek a significant increase of its effectiveness and to actualize its agenda. The delegation expressing that view was also of the view that, in recent years, there had been an alarming tendency to consider the matters belonging to the Subcommittee's mandate within side forums with uncertain competence and a limited number of States.

42. Some delegations expressed the view that coordination between the Legal Subcommittee and the Scientific and Technical Subcommittee was important and that interaction between the two Subcommittees should be strengthened in order to synchronize the progressive development of space law with major scientific and technical advances, among other things. The delegations expressing that view were also of the view that the coordination and synergies between the two Subcommittees would also promote understanding, acceptance and a real implementation of the existing United Nations legal instruments.

43. The view was expressed that some of the items on the agenda of the Subcommittee were connected with those of the Scientific and Technical Subcommittee and that, in that regard, a more transversal approach of the themes within the Committee and its Subcommittees should be encouraged.

44. Some delegations expressed the view that the Legal Subcommittee should follow the work of the Working Group on the Long-term Sustainability of Outer Space Activities of the Scientific and Technical Subcommittee, stressing that the draft guidelines for the long-term sustainability of outer space activities should be adopted soon.

45. The view was expressed that space resources were accessible to only a very limited number of States and to a handful of enterprises within those States. In that connection, the delegation expressing that view was also of the view that it would be important to assess the impact of a "first come, first served" doctrine on the global economy, with the creation of a de facto monopoly in complete contradiction with the letter and the spirit of the United Nations treaties and resolutions.

46. The view was expressed that there was great promise in private investment in path-breaking new activities to advance the understanding of the solar system and to

enable new space applications that benefited all of humanity, and that it was difficult, if not impossible, to foresee the technological innovations and downstream applications that might arise from efforts to push the limits of exploration. The delegation expressing that view was also of the view that private sector investment had already yielded remarkable results in the advancement of the development of reusable, vertical launch and landing systems; the deployment of increasingly large constellations of small satellites; preparations for sending robotic missions, humans and habitats to low Earth or cislunar orbit in the very near term; and robotic spacecraft to Mars and smaller bodies.

47. Some delegations expressed the view that in the light of current developments in space activities, specifically regarding commercialization, privatization and space safety, the application of the existing treaties on outer space should be constantly analysed and reviewed to ensure the relevance of the current space law regime to the level of development in space activities.

48. The Subcommittee expressed its appreciation for the excellent work, including the preparation of documentation, done by the Secretariat for the current session of the Subcommittee.

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