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

Addendum

V. Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

1. Pursuant to General Assembly resolution [77/121](#), the Subcommittee considered, as a regular item on its agenda, agenda item 6, which read as follows:

“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.”

2. The representatives of Argentina, China, Colombia, France, Indonesia, Mexico, the Russian Federation, Ukraine, the United Kingdom, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 6. Statements were also made by the representative of Pakistan on behalf of the Group of 77 and China. During the general exchange of views, statements relating to the item were made by representatives of other member States.

3. The Subcommittee had before it the following:

(a) Note by the Secretariat containing information received from States members of the Committee on national legislation and practice relating to the definition and delimitation of outer space ([A/AC.105/865/Add.27](#) and [A/AC.105/865/Add.28](#));

(b) Note by the Secretariat containing replies from States Members of the United Nations and permanent observers of the Committee to questions on suborbital



flights for scientific missions and/or for human transportation ([A/AC.105/1039/Add.18](#) and [A/AC.105/1039/Add.19](#));

(c) Note by the Secretariat containing views of States members and permanent observers of the Committee on the definition and delimitation of outer space ([A/AC.105/1112/Add.11](#) and [A/AC.105/1112/Add.12](#));

(d) Note by the Secretariat containing information received from States Members of the United Nations and permanent observers of the Committee relating to any practical case known that would warrant the definition and delimitation of outer space ([A/AC.105/1226/Add.2](#) and [A/AC.105/1226/Add.3](#));

(e) Conference room paper containing information provided by Tunisia ([A/AC.105/C.2/2023/CRP.34](#)).

4. At its 1034th meeting, on 20 March, the Legal Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space, with Ian Grosner (Brazil) as its new Chair.

5. The Subcommittee, at its [...] meeting, on [...] March, endorsed the report of the Chair of the Working Group, contained in annex [...] to the present report.

6. The view was expressed that determining the boundary between airspace and outer space was a priority, as uncertainty in the matter increased risks to the conduct of space activities and made it difficult for States to exercise their sovereign rights over national territory, of which airspace was a part.

7. The view was expressed that the absence of a definition and delimitation of outer space would lead to legal uncertainty and that matters concerning State sovereignty over airspace and the scope of application of the legal regimes governing airspace and outer space needed to be clarified to reduce the possibility of disputes among States.

8. The view was expressed that discussions on the definition and delimitation of outer space should be balanced, as the legal status of outer space and airspace were fundamentally different, and that work on the topic should promote the free exploration and use of outer space while fully respecting the principle of sovereignty over airspace and ensuring that the rules of air law were not prejudiced.

9. The view was expressed that the boundary between outer space and airspace should be established by agreement between States at an altitude not exceeding 110 km above sea level and should be legally fixed by the conclusion of a binding international legal instrument. In that connection, the delegation expressing that view recalled the approach contained in document [A/AC.105/C.2/L.139](#).

10. The view was expressed that the determination of the delimitation of outer space as being between 100 and 110 km above sea level was based on comprehensive aspects, including scientific, technical and physical characteristics, namely, atmospheric layers, the maximum altitude aircraft can reach, the perigee of orbiting spacecraft and the Karman line.

11. The view was expressed that space law needed to be harmonized with air law, because the suborbital space industry could otherwise face limitations. The delegation expressing that view was also of the view that the development of a space traffic management regime necessitated the definition and delimitation of outer space.

12. The view was expressed that the functionalist approach to space law had been the norm since the inception of space activities, that the absence of a definition and delimitation of outer space did not create uncertainty as to the respective applicability of legal regimes and that it was not appropriate, in the current state of space activities, to define and delimit outer space.

13. The view was expressed that an attempt to define and delimit outer space would be an unnecessary theoretical exercise that could unintentionally complicate existing activities and that might not be adaptable to future technological developments. The delegation expressing that view was also of the view that as the current framework

had served everyone well, the international community should continue to operate under it until there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space.

14. The view was expressed that while some jurisdictions within a State had adopted or proposed definitions of outer space or related concepts for their own purposes, such as regulatory compliance or tax laws, those actions did not relate to, and were not evidence of, the existence of a definition of outer space under international law.

15. The view was expressed that relevant information on suborbital flights for scientific missions and/or crewed transport should continue to be collected and that in the study of the legal regime applicable to suborbital flights, different rules should be applied, depending on how deep into space the flights extended and whether the flights were undertaken for peaceful purposes.

16. The view was expressed that one approach to regulating orbital and suborbital launches was to look at the purpose and function of the mission. The delegation expressing that view was also of the view that defining where space began was not necessary for regulating those activities and was not required for considering future space traffic management, and that such an approach to space activities allowed the development of a regulatory regime that was more flexible and readily adaptable to innovation in a rapidly evolving sector.

17. The view was expressed that the lack of progress in reaching consensus on the definition and delimitation of outer space should not be viewed as an argument in favour of suspending work on the topic.

18. Some delegations expressed the view that the definition and delimitation of outer space was an important topic that should be kept on the agenda of the Legal Subcommittee and that more work should be done in that regard because the legal regimes governing airspace and outer space were different.

19. Some delegations expressed the view that the geostationary orbit was a limited natural resource in clear danger of saturation and was not to be subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

20. Some delegations expressed the view that the geostationary orbit should be used rationally and should be made available to all States, irrespective of their current technical capacities. That would give States access to the geostationary orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries and the geographical position of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.

21. Some delegations expressed the view that the utilization of the geostationary orbit should be governed by applicable international law and in accordance with the principle of non-appropriation of outer space, in order to ensure guaranteed, efficient, and equitable access to orbital positions in the geostationary orbit according to the needs of all countries, in particular developing countries and countries in certain geographical positions.

22. The view was expressed that the interests and needs of developing countries needed to be taken into account because space activities created opportunities that benefit not only those countries with a stronger technical and financial capacity.

23. The view was expressed that there were existing concerns regarding the distribution of geostationary orbital slots and that inequalities, inefficiencies and bureaucratic congestion in the utilization of the geostationary orbit remained serious challenges that should be treated within the Committee.

24. Some delegations expressed the view that although all Member States could participate in and present contributions to the work of ITU, those activities should not be an obstacle hindering the Committee and its Legal Subcommittee in establishing

synergies and working to adjust practices and technical regulations in cooperation with ITU on topics related to the equitable use of the geostationary orbit and other orbital resources.

25. Some delegations expressed the view that it was the prerogative of ITU to ensure the rational, equitable, efficient and economical use of the radio frequency spectrum and satellite orbit resources.

26. The view was expressed that equitable access to the geostationary orbit involved matters outside the remit of ITU and that access to the geostationary orbit was a critical issue for developing countries and should be treated within the Committee.

27. The view was expressed that equitable access to the geostationary orbit was ensured through the free provision of resources stemming from the Global Positioning System of the United States such as weather and warning data, including information about hurricanes, volcanic eruptions, effluent flooding, droughts and related environmental matters from meteorological and environmental satellites; and the International Cospas-Sarsat Programme, the satellite system for search and rescue that provided a means for ships, aircraft and others in distress to signal their need for help and their location.

28. Some delegations expressed the view that it was necessary to keep the issue on the agenda of the Legal Subcommittee in order to develop adequate mechanisms that could ensure the sustainability of and equitable access to the geostationary orbit.

29. The view was expressed that the topic under examination should remain under permanent discussion within the Committee and its two subcommittees. The delegation expressing that view was also of the view that a dedicated sub-item on the analysis of the situation of the use of the geostationary orbit from the perspective of equitable access could be established, with a view to prioritizing the requirements of projects addressing the needs of countries, in particular developing countries, and facilitating their inclusion in such projects.
