**Draft Plan for Scheduled Informal Consultations**

**on the issue of**

**Exploration, Exploitation and Utilization of Space Resources**

At its 58th Session held from 1-12 April 2019, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space agreed to convene “scheduled informal consultations” on the issue of the exploration, exploitation and utilization of space resources.

The report of the Legal Subcommittee to the Committee provides:

“278. The Subcommittee agreed that, under the item on its agenda entitled “General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources”, scheduled informal consultations were to be held at the fifty-ninth session of the Subcommittee, in 2020. Those scheduled informal consultations were to be conducted with interpretation services from and into all official languages of the United Nations and be coordinated by a moderator assisted by the Secretariat. The moderator was to be nominated by Belgium and Greece at the sixty-second session of the Committee on the Peaceful Uses of Outer Space, in 2019.

279. The Subcommittee also agreed that the aim of those consultations was to have a broad and inclusive exchange of views on the future deliberations concerning the exploration, exploitation and utilization of space resources, including the possible establishment of a working group under the relevant agenda item, taking into account possible future coordination with the Scientific and Technical Subcommittee, as appropriate.”

During the 62nd session of the Committee held from 12-21 June 2019, “[t]he Committee endorsed the nomination by Belgium and Greece of Andrzej Misztal (Poland) as Moderator and Steven Freeland (Australia) as Vice-Moderator to lead the scheduled informal consultations during the fifty-ninth session of the Legal Subcommittee (A/AC.105/1203, para. 278)” (A/74/20 para. 258). Following on from that,

“[t]he Committee noted that the Moderator and Vice-Moderator would present to States members of the Committee, in the intersessional period, a draft plan for the scheduled informal consultations containing proposed substantive topics for discussion and their rationale. States members of the Committee would be invited to provide comments accordingly. The Secretariat would send out the note by the Moderator and Vice-Moderator containing the draft plan, and any responses from States members should be sent directly by electronic means to the Moderator and Vice-Moderator for their consideration”. (A/74/20 para. 259)

At the outset, Moderator and Vice-Moderator (the ‘co-Moderators’) would like to express their appreciation to the Committee for its endorsement of their nominations and to the delegations for the confidence they have shown. The co-Moderators also wish to emphasize that these scheduled informal discussions are intended to be inclusive, impartial, comprehensive and transparent, without prejudice to any final decisions to be made by all delegations, and are to be carried out in the spirit of multilateralism.

In accordance with the wishes of the Committee, the co-Moderators hereby provide the following draft plan for the scheduled informal consultations containing procedural and proposed substantive topics for discussion and their rationale:

I. Procedural topics:

1. Clarification as to the process to be utilized during the scheduled informal discussions (as proposed by the co-Moderators, in consultation with the Secretariat)
   1. Introduction – clarification of the ‘mandate’ for the discussions
   2. Summary of inputs received from Member States during the intersessional period
   3. Summary of additional communications circulated by the co-Moderators during the intersessional period
   4. Modalities / Conduct of discussions

Rationale:

The Legal Subcommittee has rarely utilized the tool of scheduled informal consultations in the past, so the discussion will begin by clarifying the process for carrying out the work, including reviewing the mandate, providing an overview of inputs and communications received by States members of the Committee, and establishing the modalities for the conduct of discussion. Participants in the discussions should have full discretion and capacity to discuss and to choose the modalities of the discussions. In this way, it is hoped that this discussion, preceded by general wrap-up of the results of preparatory work during the intersessional period, should bring greater clarity to the methods of work.

II. Proposed substantive topics:

1. Formulation of substantive issues / topics to be addressed
   1. Brief summary of the main elements raised under each substantive issue / topic
2. Additional indications by States members of the Committee as to the issues to be addressed
   1. Further synthesis of these inputs
3. Relevant legal issues under applicable international law
   1. The principles contained in the Outer Space Treaty and their interpretation
   2. Other relevant international space law regimes / treaty arrangements
   3. Relevant ‘Soft Law’ guidelines / principles
   4. Relevant principles of general international law
4. The role of domestic legislation
5. Relevance of work by experts, other entities, universities, space agencies and industry stakeholders
6. Input from other groups (including from The Hague International Space Resources Governance Working Group)
7. Other relevant policy issues

Rationale:

The previous sessions of the Legal Subcommittee have clearly indicated that the agenda item devoted to space resources has produced a very rich discussion on a broad range of complicated issues relating to the interpretation of applicable international space law. In order to achieve a common understanding of problems to be dealt with at a later stage, it is necessary to identify the major fields of possible agreement and major issues regarding which delegations continue to fundamentally disagree. The discussions will be guided with a view toward arriving at legal certainty and predictability for all public and private actors intending to explore, exploit and/or utilize space resources, and to ensure the consistency thereof with applicable international law.

III. Way forward

1. Further develop an understanding as to the necessity to continue a consideration of the general issues and coordination with the single agenda item relating to the discussions on exploration, exploitation and utilization of space resources
2. Report to the Legal Subcommittee by the co-Moderators dealing with issues under their mandate
3. Next Steps

Rationale:

The full sovereignty of participants at the scheduled informal consultations over the process to be followed includes *inter alia* the ways of moving forward the results of the deliberations. Some clarity will be required as to the method of forwarding the results of the scheduled informal consultations to the Legal Subcommittee for its consideration and decision.

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The Legal Subcommittee has a unique ability as the appropriate forum for developing an appropriate regulatory framework that meets the interests of all delegations, and every effort should be made to achieve that outcome. Through these scheduled informal discussions, it is hoped that a proper and substantial debate is initiated on the issue of the exploration, exploitation and utilization of space resources within the Committee, in particular within the Legal Subcommittee, since that Subcommittee is the primary forum for intergovernmental discussions and negotiations on a future legal framework for the exploration, exploitation and utilization of space resources.

The views of civil society and industry are also to be included in the discussion, as this aspect was stressed by some delegations expressing their views in the last sessions of the Legal Subcommittee. For any resulting regime to be successful, it is essential that views from all stakeholders are taken into account. We hope that States members of the Committee will work to resolve what may appear to be contradictions and to reconcile their visions as to the mechanisms to be used for the discussion of a legal framework governing the exploration, exploitation and utilization of space resources.

To that end, the purpose of this note is for the co-Moderators to reach out to all delegations from States members of the Committee and seek their views regarding those items presented in the above plan and to include any additional considerations they feel should be addressed during the scheduled informal discussions, as well as any other matters that may be of relevance. This will allow the co-Moderators to better prepare and facilitate the discussions as effectively as possible, so as to cover all issues that delegations believe to be relevant and important to this issue.

All delegations are encouraged to actively contribute and share their views so that the scheduled informal consultations achieve the goal formulated by the Legal Subcommittee, that is, “…to have a broad and inclusive exchange of views on the future deliberations concerning the exploration, exploitation and utilization of space resources, including the possible establishment of a working group under the relevant agenda item.” (A/AC.105/1203, para 279).

The co-Moderators therefore would be grateful if delegations could forward any comments and suggestions directly to them via email – [andrzej.misztal@msz.gov.pl](mailto:andrzej.misztal@msz.gov.pl) and [s.freeland@westernsydney.edu.au](mailto:s.freeland@westernsydney.edu.au) no later than 31 January 2020.

Andrzej Misztal and Steven Freeland