

Statement Kingdom of the Netherlands Item 8 - General exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources

Mr Chair, I thank you for giving me the floor.

Mr Chair, distinguished delegates. I wish to repeat our condolences regarding the passing of Mr Andrzej Misztal, who will be dearly missed.

To the topic of the regulation of the exploration, exploitation and utilization of space resources, the Kingdom of the Netherlands has contributed actively. The present status of the topic of regulation of space resources activities has benefitted greatly – and I might say will continue to benefit – from discussions within, but also outside of COPUOS. All such discussions may inform COPUOS. In the view of my delegation, the key work has been done in the context of the The Hague International Space Resources Working Group, which has delivered its Building Blocks, and, together with Luxembourg, the Kingdom of the Netherlands actively recommends these to the Members of the Sub-Committee for their consideration.

In addition, the signatories to the Artemis Accords also discuss matters relevant to space resources activities, and the results of these discussions may equally inform the Sub-Committee of relevant views of Member States.

Finally, the States Parties to the Moon Agreement also constitute a group of States that will have to consider how to regulate space resources activities. Instead of rejecting the work of other groups, this Sub-Committee should welcome the consideration of the work of such groups, especially in view of the liquidity crisis, and the impossibility of doing all the work itself.

The regulation of space resources activities in accordance with international law may be achieved through a legally binding instrument, but responsible behaviour may also be achieved through norms and principles, and the consideration of space resources activities in all its aspects. Our work in this Sub-Committee is very conducive to that goal.

My delegation would like to thank the Vice Chair for the initial set of draft recommended principles, which provide a good basis for constructive discussions. It includes important topics. At the same time, we should be aware that much work lies ahead. It is in the interest of the international community as a whole that space resources activities are properly regulated, to ensure that the fundamental principles applicable to the peaceful use of outer space are respected by all, and through all space activities.

We have carefully analysed the Initial Set of Draft Recommended Principles, and welcome most of the suggestions made, but do note that a meaningful regulation of Space Resources Activities would require further detail. In this regard we would recommend the Building blocks for the development of an international framework on space resource activities, submitted to this Sub-Committee by Luxembourg and the Kingdom of the Netherlands in 2020 in document A/AC.105/C.2/L.315.

While we appreciate the cautious approach and hence the separation of principles and potential principles, we need to avoid talking only in potentialities. We are now adding possible principles to recommended principles for a potential legal model. For the Kingdom of the

Netherlands, the issues addressed in the “potential principles” are required to be included if we are to achieve any meaningful regulation. And while we appreciate that the present principles are non-binding, we should not lose sight of those obligations we already have.

As to the specific topics to be included, we should ensure a balanced approach. What is required is, on the one hand, to ensure that States comply with their obligations under international law, exercise the requisite jurisdiction and control, and regulate accordingly. On the other, however, we should ensure that operators are provided with sufficient legal certainty. In that regard, we must consider matters such as priority rights, resources rights and comprehensive registration of resource activities. Adaptive Governance would be the preferred approach.

As to definitions, we would refer colleagues to the Building Blocks, and the way in which the definitional issues have been resolved there.

And we would also recommend the setting up of instruments and procedures for the settlement of disputes, the implementation of the obligation of due regard, the allocation of liability, and the monitoring and redressing of harmful impacts resulting from space resource activities. We hope that this can be achieved in the course of the work of this Sub-Committee and its dedicated Working Group, and, Mr Chair, you may count on the full support of the Kingdom of the Netherlands in this regard.

I thank you for your kind attention.