

GREECE

Submission on the Mandate and Purpose of the Working Group on Legal Aspects of Space Resource Activities

- The type of space resources that fall within the mandate and scope of the Working Group

The Working Group on Legal Aspects of Space Resource Activities was established under the Legal Subcommittee's agenda item "General exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources," at the 60th session of the Legal Subcommittee (2021). The Working Group was renamed as such at the 61st session of the Legal Subcommittee (2022). This agenda item was introduced for the first time at the 56th session of the Legal Subcommittee, on the grounds that « the inclusion of that item would provide an opportunity for a constructive, multilateral exchange of views on such activities, including their economic aspects, among States members and permanent observers of the Committee»¹.

It is generally accepted that the term "space resources" refers to: (a) activities in Earth orbit(s), (b) *in situ* resource utilization, and (c) the extraction and exploitation of natural space resources for commercial purposes. The designation of orbits as a space resource is derived from Article 44 § 2 of the Constitution of the International Telecommunication Union (ITU), pursuant to which "Member States shall take into account that radio frequencies and associated orbits, including the geostationary satellite orbit, are limited natural resources which must be used rationally,

¹ Report of the Legal Subcommittee on its fifty-fifth session, held in Vienna from 4 to 15 April 2016, 27 April 2016, A/AC.105/1113, para. 250.

efficiently and economically, in accordance with the provisions of the Radio Regulations, in order to provide equitable access by different countries...”. It is therefore clear that, in the field of international law, the orbits around the Earth are considered as natural resources, even if they have no material substance and their availability is limited. However, in the context of the Legal Subcommittee, issues related to orbits are addressed, directly or indirectly, in other agenda items of the Committee, such as, indicatively:

- 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;
- General exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee;
- General exchange of views on the legal aspects of space traffic management; and
- General exchange of views on the application of international law to small-satellite activities.

Given that issues related to orbits are addressed, directly or indirectly, in other agenda items of the Committee, as we already mentioned, we believe that the Working Group on Legal Aspects of Space Resource Activities should focus on the *in situ* resource utilization, as well as the extraction and commercial exploitation of natural space resources of the celestial bodies. It must however be clarified that these two activities should not necessarily be approached together, as they have clearly different characteristics.

The views of States members regarding the existing legal framework for space resource activities

All activities in the exploration and use of outer space are regulated by international law. This is apparent from articles I, II, III and VI of the Outer Space Treaty. The absence of any national jurisdiction over outer space, or parts thereof, is patent in the principle of non-appropriation, enshrined in article II of the Outer Space Treaty (OST), pursuant to which outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation or by any other means.

The applicability of international law is further reinforced by article I of the Outer Space Treaty, which stipulates that outer space, including the Moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law.

Article I of the Outer Space Treaty, thus, pronounces the need to adopt space law rules of an international nature to regulate the use of space (and its resources). Of course, States may authorize the space activities of their nationals. However, the exercise of national jurisdiction does not affect the legal status of outer space itself. It follows that the legal aspects of space resource exploitation must be regulated by international law. Past legal experience in this respect includes the administration of international airspace by the International Civil Aviation Organization (through the recognition, by its member States, of a series of functional jurisdictions inside the so-called “flight information regions”), the administration of international seabed by the International Seabed Authority (United Nations Convention on the Law of the Sea, part XI, in combination with the 1994 Agreement relating to the Implementation of Part XI), the frequency spectrum management regime of the International Telecommunication Union and the legal regime governing Antarctica (under the 1959 Antarctic Treaty).

- The benefits and challenges to the development of a framework for such activities

Over the last few years, there has been an intense debate on the development of activities related to the exploration, exploitation and utilization of outer space resources. Greece strongly believes that any such activities need a solid and unequivocal legal framework, which

should be formulated on the basis of the principles of international space law in force.

This is clear if we take into account that the domain of space activities has, at this stage, been differentiated in its characteristics in comparison with the past. The dynamic emergence of the private sector in outer space activities is an undeniable fact and creates new challenges.

It follows that there must be a considerable mitigation of legal risk and, thus, a specific international legal framework would be a decisive factor to encourage the huge investment projects that are indispensable for the exploration and utilization of space resources.

In this context, Greece's position is that UN COPUOS should be the primary forum for the discussions on a legal framework for the development of space resource activities and welcomes, in this respect, the establishment of the working group "on Legal Aspects of Space Resource Activities," a development well reflected in operative paragraph 9 of the UNGA Resolution 76/76 of 2021.

It is our conviction that the WG will positively enrich the relevant debate within the Legal Subcommittee and also greatly facilitate initiatives by States, through either governmental or non-governmental entities, to utilize space resources in an efficient, lawful, sustainable, rational and equitable manner, in accordance with international law.

- The format, Agenda, topics, and other details of the dedicated Conference scheduled for 2024.

Proposed topics:

- The impact of international agreements on the elaboration of an international legal framework for space resource exploration, exploitation and utilization
- Feasibility of space resource extraction, appropriation and exploitation in light of the International Space Law in force
- Discussing an international legal framework for *in situ* resource utilization

- Environmental issues associated with space resource exploration, exploitation and utilization

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