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English only

**Committee on the Peaceful
Uses of Outer Space**
Scientific and Technical Subcommittee
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Long-term sustainability of outer space activities

**Comments and proposed amendments to the Updated set of
draft guidelines for the long-term sustainability of outer
space activities (document A/AC.105/C.1/L.340)**

Submission by GRULAC

Background and comments

GRULAC welcomes the important progress represented by the Updated set of draft guidelines for the long-term sustainability of outer space activities and sees this as an essential intermediate step towards establishing a legally binding framework that will help ensure that the benefits of outer space activities can be enjoyed by all of mankind for generations to come.

GRULAC would like to propose some amendments to the text for consideration of the Working Group on the Long Term Sustainability of Outer Space Activities and/or the Scientific and Technical Subcommittee of COPUOS, as appropriate.

Sustainability and sustainable development

In Section I — The context of the guidelines for the long-term sustainability of outer space activities — there are several references to the terms “sustainability” and “sustainable development”. The same terminology is also used throughout the terms of reference for the Working Group on the Long-term Sustainability of Outer Space Activities (document A/AC.105/C.1/L.307/Rev.1). In addition, item 15, proposed by the Russian Federation, makes reference to “establishing the concept of [...] long-term sustainability of outer space activities”. However, nowhere in the text is a working definition of “sustainability” provided.

Any discussion on the concept of sustainability of outer space activities should be grounded on the understanding that any activities that may affect, or impair, by accident or wilful action, the outer space environment run contrary to the spirit and



the letter 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 (“The Outer Space Treaty”), which states, in Article I:

The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

The importance of preserving the outer space environment for future generations while promoting its use for the benefit of all of mankind is a paramount principle in all United Nations space treaties. This principle is also embodied in the final document of the Rio+20 Conference, “The Future We Want”, which states, for instance:

6. We recognize that people are at the centre of sustainable development and in this regard we strive for a world that is just, equitable and inclusive, and we commit to work together to promote sustained and inclusive economic growth, social development and environmental protection and thereby to benefit all.

13. We recognize that opportunities for people to influence their lives and future, participate in decision-making and voice their concerns are fundamental for sustainable development. We underscore that sustainable development requires concrete and urgent action. It can only be achieved with a broad alliance of people, governments, civil society and the private sector, all working together to secure the future we want for present and future generations.

86. (...) We will also consider the need for promoting intergenerational solidarity for the achievement of sustainable development, taking into account the needs of future generations.

In the interest of precision, and in order to delimit the scope and application of the proposed guidelines, GRULAC proposes that the following definition be adopted in Section 1:

The long-term sustainability of outer space activities is defined as the need to reconcile the objectives of access to the exploration and use of outer space by all States and governmental and non-governmental entities only for peaceful purposes with the need to preserve and protect the outer space environment in such a manner that takes into account the needs of future generations.

It is suggested that this paragraph be added after the heading “Scope and application” and before current paragraph 12.

The role of national legal frameworks (guidelines 14+32+33 and 10+11+13+22+23)

GRULAC acknowledges the important role to be played by national frameworks in the promotion of sustainability of outer space activities. However, it must be pointed out that national frameworks that regulate and deal with matters that may affect, directly or otherwise, the sustainability of outer space activities must be subordinate to the interests of mankind. In other words, national frameworks must be developed, adapted and amended in such a manner that they do not conflict with

the principles outlined in the Outer Space Treaty and other relevant United Nations instruments. In no way can a State or Organization invoke national interests to carry out actions that may jeopardize the outer space environment. Given that the consequences of any such actions would affect the whole of mankind, irrespective of their perpetrator, the need to clearly state that international interests take precedence over national concerns is justified.

With reference to combined guidelines 9+12 (“adoption of national regulatory frameworks”) and 10+11+13+22+23 (“elements to be taken into consideration when developing national regulatory frameworks”), GRULAC proposes that the combined guidelines should urge countries to examine existing national regulatory frameworks and implement revisions and amendments to ensure their space activities are conducted in such a manner as to ensure the long-term sustainability of outer space activities is maintained. The existing reference in the text to the adoption of national regulatory frameworks may be construed as to exclude the need for reviewing and adapting existing legislation.

Suggested changes highlighted in bold:

(a) Guidelines 9+12 (p. 8):

Adoption, **revision and amendment** of national regulatory frameworks (guidelines 9+12)

States should adopt, **revise and amend** national regulatory frameworks for space activities that provide clear guidance to governmental and non-governmental entities under their jurisdiction and/or control. When adopting, **revising, amending** or implementing national regulatory frameworks, States should consider the long-term sustainability of outer space activities.

With the globalization and generalization of space activities, [...] States should adopt, **revise and amend** regulatory frameworks to ensure [...]

When developing, **revising, amending** and adopting national regulatory frameworks. States are encouraged [...]

States, in enacting new regulations, **or in revising or amending existing legislation**, should bear in mind [...]

(b) Guidelines 10+11+13+22+23 (p. 9):

Elements to be taken into consideration when **developing, revising or amending** national regulatory frameworks

In developing, **revising or amending** measures applicable to the long-term sustainability of outer space activities, States should:

(g) examine and adapt existing relevant legislation to ensure its compliance with these guidelines.

An amendment to guidelines 14+32+33 is also suggested to address the need for ensuring that national legal frameworks comply with the proposed guidelines and other relevant international law instruments:

States bear international responsibility for national activities in outer space and for the authorization and continuing supervision of such activities, which are to be carried in conformity with international law. **States should not invoke national**

interests or national legislation to carry out operations that may run contrary to these guidelines nor to any of the principles enshrined in the United Nations treaties, guidelines and other documents relating to outer space activities. It should be noted, in addition, that the direct responsibility [...]

Preserving Outer Space Exclusively for Peaceful Uses (new guideline)

The weaponization of the outer space environment is intrinsically incompatible with the long-term sustainability of outer space activities. Any warfare activity in outer space, even of a defensive nature, would create a field of debris, harmful interference and radiation, which would ultimately render space activities impossible, with catastrophic consequences for the whole of mankind. GRULAC therefore proposes the inclusion of an additional guideline to address this issue:

States are encouraged to commit, in their national legal frameworks, to conducting solely activities of a peaceful nature in the outer space environment. When doing so, States should bear in mind the report of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities.¹

This would not prevent the conduct of monitoring activities, which are essential for national security but would represent a contribution towards a regime of Transparency and Confidence Building Measures (TCBMs). Insofar as States may have legitimate security interests in outer space, these interests must be subordinate to the interests of the whole of the international community.

Genuine military interests of States in outer space must be acknowledged. These must, however, be reconciled with the need for transparency in order to prevent conflict. Whenever States recognize an event or activity that may threaten their security interests, they are urged to engage in consultations, or any other communication process they deem suitable, to communicate their concerns and seek clarification of the purpose of the activities of another party. In like manner, States should refrain from conducting activities that may give rise to concerns by other States. In the event such activities should prove necessary, the State conducting them should endeavour to inform all potentially affected States and UNOOSA.

In addition, the inclusion of a “non-proliferation guideline” would ensure that the document responded to the recommendations of United Nations resolution 69/38² (“Transparency and Confidence-building Measures in Outer Space Activities”). In particular, it would mean that the document recognized the importance of preventing an arms race in outer space while encouraging increased transparency.

The adoption of the proposed guideline would be accompanied by a modification in paragraph 21 (p. 5), as follows:

[...] conducting outer space activities. **They also reaffirm the importance of preventing the placement of weapons in the outer space environment and implementing transparency and confidence building measures in outer space activities in order to prevent the occurrence of any incidents that may affect that environment.** The guidance addresses [...]

¹ Document A/68/189.

² Document A/RES/69/38.