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**Committee on the Peaceful
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Draft report

Annex I

Report of the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space

1. At its 897th meeting, on 13 April 2015, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Jean-François Mayence (Belgium).
2. The Working Group held four meetings, from 13 to 23 April 2015. At the opening meeting, the Chair recalled the mandate of the Working Group (see A/AC.105/942, annex I, paras. 4 and 6, and A/AC.105/990, annex I, para. 7). The Chair informed the Working Group that this was his last year in his capacity as its Chair.
3. The Chair also recalled that at its fifty-third session the Subcommittee had agreed to review, at its fifty-fourth session, the need to extend the mandate of the Working Group beyond the fifty-fourth session of the Subcommittee (see A/AC.105/1067, annex I, para. 15).
4. At the opening meeting, the Chair expressed his deep regret at the passing away of Vassilios Cassapoglou (Greece), who chaired the Working Group from 2006 to 2009, and paid tribute to his great dedication and contribution to the area of space law.



5. The Working Group had before it the following:
 - (a) Conference room paper on the status of international agreements relating to activities in outer space as at 1 January 2015 (A/AC.105/C.2/2015/CRP.8);
 - (b) Note by the Secretariat containing responses to the set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, received from Germany (A/AC.105/C.2/2015/CRP.11) and Canada (A/AC.105/C.2/2015/CRP.21);
 - (c) Overview by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space of the responses from member States and permanent observers of the Committee to the set of questions provided by the Chair (A/AC.105/C.2/2015/CRP.12).
6. The Working Group reviewed the responses to the set of questions provided by the Chair, attached to the present report as an appendix, and a synthesis of views presented in writing and raised in the discussions of the Working Group during past sessions of the Legal Subcommittee, as contained in the overview by the Chair of the Working Group.
7. The Working Group noted that the set of questions continued to provide a good basis for discussion, within the mandate of the Working Group, on matters relevant to the status and application of the five United Nations treaties on outer space. The Working Group also noted that the questions presented in the questionnaire were not exhaustive and should not serve to limit the discussion of the Working Group.
8. The Working Group noted that a comprehensive discussion had taken place at the current session with respect to issues concerning the relationship between the United Nations treaties on outer space, their implementation and application, and the nature of several fundamental principles laid down in those treaties.
9. Some delegations reiterated the view that the principles contained in the United Nations treaties on outer space remained a solid foundation and that the Working Group should take a practical rather than a theoretical approach in discussing the provisions of the treaties.
10. The Working Group noted that a number of views, either converging or diverging, had been expressed during the discussion on the questionnaire and in the responses received from States members of the Committee, either in written form or raised during the deliberations of the Working Group.
11. The Working Group recognized that it was useful to further explore such views under its current mandate, in particular those that might serve as elements of solutions, in order to ensure the rational implementation and full application of the provisions of the five United Nations treaties on outer space to current and future space activities.
12. The Working Group agreed that the outgoing Chair, together with the Secretariat, should present to the Working Group for consideration at its next session, in 2016, an updated overview of the responses to the set of questions, including a synthesis of views presented in writing and raised in the discussions during the meetings of the Working Group at the fifty-fourth session of the Legal Subcommittee, in 2015, as well as any other responses to the set of questions

provided during the intersessional period, as a basis for future work of the Working Group and for promoting further discussions within the mandate of the Working Group.

13. The Working Group also noted that continued discussions would benefit from more written contributions from member States and international intergovernmental and non-governmental organizations having permanent observer status with the Committee, in order for the Working Group to gather a collection of views for future consideration.

14. The Working Group agreed that States members of the Committee and international intergovernmental and non-governmental organizations having permanent observer status with the Committee should again be invited to provide comments and responses to the questionnaire. Any replies received would be made available in a conference room paper.

15. The Working Group recommended that the Subcommittee, at its fifty-fifth session, in 2016, should reconvene the Working Group and review the need to extend the mandate of the Working Group beyond that session.

Appendix

Set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space

1. United Nations treaties on outer space and provisions related to the Moon and other celestial bodies

1.1 Do the provisions 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 (Outer Space Treaty) constitute a sufficient legal framework for the use and exploration of the Moon and other celestial bodies?

1.2 What are the benefits of being a party to the Moon Agreement?

1.3 Which principles or provisions of the Moon Agreement should be clarified or amended in order to allow for wider adherence to it by States?

2. International responsibility and liability

2.1 Could the notion of “fault”, as featured in articles III and IV of the Convention on International Liability for Damage Caused by Space Objects (Liability Convention), be used for sanctioning non-compliance by a State with the resolutions related to space activities adopted by the General Assembly or its subsidiary bodies, such as Assembly resolution 47/68 on the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space; in other words, could non-compliance with resolutions adopted by the General Assembly or with instruments adopted by its subsidiary bodies related to space activities be considered to constitute “fault” within the meaning of articles III and IV of the Liability Convention?

2.2 Could the notion of “damage”, as featured in article I of the Liability Convention, be used to cover loss resulting from a manoeuvre, performed by an operational space object in order to avoid collision with a space object or space debris not complying with the Space Debris Mitigation Guidelines of the Committee?

2.3 Are there specific aspects related to the implementation of international responsibility, as provided for in article VI of the Outer Space Treaty, in connection with General Assembly resolution 41/65 on the Principles Relating to Remote Sensing of the Earth from Outer Space?

3. Registration of space objects

3.1 Is there a legal basis to be found in the existing international legal framework applicable to space activities and space objects, in particular the provisions of the Outer Space Treaty and of the Convention on Registration of Objects Launched into Outer Space (Registration Convention), which would allow the transfer of the registration of a space object from one State to another during its operation in orbit?

3.2 How could a transfer of activities or ownership involving a space object during its operation in orbit from a company of the State of registry to a company of a foreign State, be handled in compliance with the existing international legal framework applicable to space activities and space objects?

3.3 What jurisdiction and control are exercised, as provided for in article VIII of the Outer Space Treaty, over a space object registered by an international intergovernmental organization in accordance with the provisions of the Registration Convention?

4. International customary law in outer space

4. Are there any provisions of the five United Nations treaties on outer space that could be considered as forming part of international customary law and, if yes, which ones? Could you explain on what legal and/or factual elements your answer is based?