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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
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Draft report

II. General exchange of views

1. Statements were made by representatives of the following States members of the Committee during the general exchange of views: Algeria, Argentina, Austria, Belgium, Bulgaria, Brazil, Canada, Chile, China, Cuba, Czech Republic, France, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Luxembourg, Mexico, Morocco, Pakistan, Republic of Korea, Russian Federation, South Africa, Ukraine, United Kingdom, United States, Venezuela (Bolivarian Republic of), and Viet Nam. Statements were made by Chile on behalf of the Group of 77 and China and by Colombia on behalf of the Group of Latin American and Caribbean States. The observers for El Salvador, Oman, and the United Arab Emirates also made statements. The observers for ESA, ESPI, SGAC and SWF also made statements.
2. At the 897th meeting, on 13 April, the Chair made a statement in which he highlighted the programme of work and organizational matters of the Subcommittee at its current session.
3. At the same meeting, the Director of the Office for Outer Space Affairs made a statement in which she reviewed the role of the Office in discharging the responsibilities of the Secretary-General under the United Nations treaties on outer space. The Director also reviewed Office activities and initiatives in areas relevant to the Subcommittee. She drew the attention of the Subcommittee to a reduction in the Office's resources and stressed the importance of the availability of resources for the successful implementation of the programme of work, as well as for the Office's ability to develop new initiatives and meet emerging needs.
4. The Subcommittee welcomed Luxembourg as a new member of the Committee.

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5. The Subcommittee recalled paragraph 15 of General Assembly resolution 69/85, relating to ways and means of maintaining outer space for peaceful purposes, and welcomed the views submitted by States thus far on the report of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities (A/68/189).
6. Some delegations reaffirmed the commitment of their countries to the peaceful use and exploration of outer space and emphasized the following principles: universal and equal access to outer space for all countries without discrimination, regardless of their level of scientific, technical and economic development, as well as the equitable and rational use of outer space for the benefit of all humankind; non-appropriation of outer space, including the Moon and other celestial bodies, by claim of sovereignty, use, occupation or any other means; the non-militarization of outer space, which should never be used for the installation of weapons of any kind, and, as a common heritage of humankind, its strict use for the improvement of living conditions and peace among the peoples that inhabit our planet; and international cooperation in the development of space activities.
7. Some delegations expressed the view that the United Nations treaties and principles on outer space provided the basis for regulating the involvement of the governmental, non-governmental and private sectors in outer space.
8. Some delegations expressed the view that in order to harmonize the multilateral regime governing activities in outer space with new scientific and technological advances, it was necessary to review, update and strengthen the five United Nations treaties on outer space with a view to invigorating the principles that govern the space activities of States, strengthening international cooperation and making space technology accessible to the people.
9. Some delegations expressed the view that a universal comprehensive convention on outer space should be developed, with the aim of finding solutions for existing issues while fully respecting the fundamental principles incorporated in the existing United Nations treaties on outer space.
10. Some delegations reaffirmed the importance of preventing an arms race in outer space and noted the useful role that transparency and confidence-building measures could play in this regard.
11. Some delegations expressed the view that measures that would limit access to space for nations with emerging space capabilities should be avoided and that States should refrain from further developing the international legal framework in a manner that sets overly high standards or thresholds that could hinder the enhancement of capacity-building for developing countries.
12. The view was expressed that the rule of law in space was the cornerstone that could ensure the use of outer space for peaceful purposes, as well as its long-term sustainable development.
13. Some delegations expressed the view that the Subcommittee represented the main intergovernmental forum for developing space law.
14. Some delegations expressed the view that the growth of actors engaged in space activities, and the increasing complexity of such activities, underscored the

need for States to work within the Subcommittee for the improvement of the existing legal framework.

15. Some delegations expressed the view that interaction between the Legal Subcommittee and the Scientific and Technical Subcommittee should be strengthened in order to synchronize the progressive development of space law with the major scientific and technical advances in this area.

16. Some delegations expressed the view that the Legal Subcommittee should follow the work of the Working Group on the Long-term Sustainability of Outer Space Activities of the Scientific and Technical Subcommittee.

17. The view was expressed that the Subcommittee should consider the legal basis for, and the modalities of, all aspects of the right to self-defence in outer space in accordance with the Charter of the United Nations, as applied to outer space.

18. The view was expressed that all States should encourage private investment in the exploration and peaceful use of outer space.

19. The view was expressed that the Office for Outer Space Affairs should establish a technical cooperation section to help triangulate efforts among States and provide technical assistance to countries upon their request.

V. Matters relating to the definition and delimitation of outer space and 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

20. Pursuant to General Assembly resolution 69/85, the Subcommittee considered, as a regular item on its agenda, agenda item 6, entitled:

“Matters relating to:

“(a) The definition and delimitation of outer space;

“(b) 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.”

21. The representatives of Algeria, Belgium, Brazil, Canada, China, Colombia, France, Mexico, the Netherlands, the Republic of Korea, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 6. The representative of Chile made a statement on behalf of the Group of Latin American and Caribbean States and a statement on behalf of the Group of 77 and China. A statement was also made by the observer for the United Arab Emirates. The observer for ITU also made a statement. During the general exchange of views, statements relating to item 6 were made by the representatives of other member States.

22. At its 897th meeting, on 13 April 2015, the Legal Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the

chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.

23. The Working Group held [...] meetings. The Subcommittee, at its [...] meeting, on [...] April, endorsed the report of the Chair of the Working Group, contained in annex II to the present report.

24. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat on questions on the definition and delimitation of outer space: replies from Member States (A/AC.105/889/Add.15 and 16);

(b) Note by the Secretariat on questions on suborbital flights for scientific missions and/or for human transportation (A/AC.105/1039/Add.4 and 5).

25. The Subcommittee noted with satisfaction that a joint Aerospace Symposium on the theme “Emerging space activities and civil aviation: challenges and opportunities” had been organized by ICAO and the Office for Outer Space Affairs and held in Montreal, Canada, from 18 to 20 March 2015. That unprecedented event had brought together 350 participants from around the globe representing the aviation and space communities and had succeeded in strengthening the dialogue between the relevant legal and regulatory actors and in enhancing the common understanding of the challenges and opportunities related to commercial space transportation development. The Symposium agreed on follow-up symposiums to be held in the United Arab Emirates in 2016 and in Vienna in 2017.

26. The Subcommittee noted that the Office for Outer Space Affairs and ICAO would lead the learning group set up as an interactive forum for discussion under this framework and that States members of the Committee were invited to nominate their experts for membership in the learning group.

27. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, the participation of the private sector, emerging legal questions and the increasing use of outer space in general had made it necessary for the Subcommittee to consider the question of the definition and delimitation of outer space. The delegations expressing that view were also of the view that the definition and delimitation of outer space would help to establish a single legal regime regulating the movement of an aerospace object and to address legal clarity in the implementation of space law and air law, as well as clarify the issues of the sovereignty and international responsibility of States and the boundary between airspace and outer space.

28. The view was expressed that the definition and delimitation of outer space were important for ensuring the safety of aerospace operations.

29. The view was expressed that an agreement on a clear definition of the boundaries between outer space and airspace would allow the Committee and the Subcommittee to concentrate on developing and improving legal instruments whose application was not restricted to one single realm of space activities and would create the legal certainty that would provide commercial operators with the assurances they needed in order to carry out their activities. The delegation

expressing that view was also of the view that if the Subcommittee failed to act, it might lose its leading role on the issue, and that would be tantamount to neglecting its mandate.

30. The view was expressed that the further development of aerospace activities could lead to the creation of relevant customary norms, which could assist in the regulation of such activities, without the need to define and delimit outer space.

31. Some delegations expressed the view that in relation to the definition and/or delimitation of outer space, it would be preferable to focus on the function and purpose of an object rather than on its location, in order to determine if and when space law would govern its activities.

32. The view was expressed that it was important to consider the interrelationship between air law and space law.

33. Some delegations expressed the view that States should continue to operate in the current framework, which functioned well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. The delegations expressing that view were also of the view that at present any attempt to define and delimit outer space would be a theoretical exercise that could unintentionally complicate existing activities and that might not be adaptable to continuing technological developments.

34. Some delegations were of the view that the delimitation of outer space was a management issue and that the Subcommittee and its Working Group could first concentrate on relevant matters that needed practical solutions, such as suborbital flights or launches from flying objects. The delegations expressing that view were also of the view that international cooperation could be helpful, as exemplified by the recent undertaking by the Office for Outer Space Affairs and ICAO.

35. Some delegations expressed the view that progress in the definition and delimitation of outer space could be achieved through cooperation with ICAO.

36. Some delegations expressed the view that the Subcommittee should reinvigorate its efforts to reach consensus on the issue of the definition and delimitation of outer space and called upon States to make every effort necessary to reach a positive and legally essential solution.

37. Some delegations expressed the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — needed to be used rationally and should be made available to all States, irrespective of their current technical capacities. That would provide States with the possibility of having access to the geostationary orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical position of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.

38. Some delegations expressed the view that the geostationary orbit was a limited natural resource with a great potential for the implementation of a wide array of programmes for the benefit of all States, and that it was at risk of becoming saturated, thereby threatening the sustainability of space activities in that environment; that its exploitation should be rationalized; and that it should be made available to all States, under equitable conditions, taking into particular account the

needs of developing countries. Those delegations were also of the view that it was important to use the geostationary orbit in compliance with international law, in accordance with the decisions of ITU and within the legal framework established in the relevant United Nations treaties, while giving consideration to the contributions of space activities to sustainable development and the achievement of the Millennium Development Goals.

39. Some delegations expressed the view that the geostationary orbit was part of outer space, that it was not subject to national appropriation by claim of sovereignty, by means of use, repeated use or occupation, or by any other means, and that its utilization was governed by the Outer Space Treaty and ITU treaties. The delegations expressing that view were also of the view that the provisions of articles I and II of the Outer Space Treaty made it clear that a party to the Treaty could not appropriate any part of outer space, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, including repeated use, or by any other means.

40. The view was expressed that the geostationary orbit, as a limited natural resource clearly in danger of saturation, must be used rationally, efficiently, economically and equitably. That principle was deemed fundamental for safeguarding the interests of developing countries and countries in certain geographical positions, as set out in article 44, paragraph 196.2, of the Constitution of ITU, as amended by the ITU Plenipotentiary Conference held in 1998.

41. The view was expressed that the utilization by States of the geostationary orbit on the basis of "first come, first served" was unacceptable and that the Subcommittee should therefore develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of the peaceful use and non-appropriation of outer space.

42. The view was expressed that special attention should be given to equitable access for all States to orbit-spectrum resources in geostationary orbit while recognizing their potential with respect to social programmes that benefited the most underserved communities, making educational and medical projects possible, guaranteeing access to information and communications technology and improving links to necessary sources of information in order to strengthen social organization, as well as promoting knowledge and the exchange thereof without commercial interests acting as intermediaries.

43. Some delegations expressed the view that, in order to ensure the sustainability of the geostationary orbit, it was necessary to keep that issue on the agenda of the Subcommittee and to explore it further, through the creation of appropriate working groups and legal and technical intergovernmental panels, as necessary. Those delegations were of the view that working groups or intergovernmental panels with technical and legal expertise should be established to promote equal access to the geostationary orbit, and called for the greater participation of ITU in the work of the Subcommittee under those matters.

VI. National legislation relevant to the peaceful exploration and use of outer space

44. Pursuant to General Assembly resolution 69/85, the Subcommittee considered agenda item 7, entitled “National legislation relevant to the peaceful exploration and use of outer space”, as a regular item on its agenda.

45. The representatives of Algeria, Austria, Brazil, Japan, Mexico, the Netherlands and the Republic of Korea made statements under agenda item 7. The observer for ITU also made a statement. During the general exchange of views, statements relating to that item were made by the representatives of other member States.

46. In accordance with the request by the Subcommittee at its fifty-third session, in 2014, an information handout on issues related to registration, authorization, debris mitigation and frequency management with respect to small and very small satellites had been jointly developed by the Office for Outer Space Affairs and ITU. The publication was made available to the Subcommittee in conference room paper A/AC.105/C.2/2015/CRP.17 and was also published on the website of the Office for Outer Space Affairs (www.unoosa.org/oosa/en/COPUOS/lsc/small-sat-handout.html).

47. The Subcommittee commended the Office and ITU for preparing the handout, which would become an important source of information for the benefit of space actors intending to operate such satellites.

48. The Subcommittee agreed that the handout could also be further promoted through the efforts of member States of the Committee.

49. The Subcommittee noted with satisfaction that some States members of the Committee had already begun to implement the recommendations of General Assembly resolution 68/74.

50. The Subcommittee noted various activities of member States in strengthening or developing their national space laws and policies, as well as in reforming or establishing the governance of national space activities. In that connection, the Subcommittee also noted that those activities were aimed at improving management, increasing competitiveness, involving academia, better responding to challenges posed by the development of space activities and better implementing international obligations.

51. The Subcommittee noted with satisfaction the increasing number of space-related international cooperation programmes and projects. In that connection, the Subcommittee noted the importance of the development of space legislation by States, as national regulatory frameworks played a significant role in regulating and promoting such cooperation activities.

52. The Subcommittee reiterated that it was important to take into account the increased level of commercial and private activities in outer space in the context of developing a national space-related regulatory framework, particularly with respect to the responsibilities of States regarding their national space activities.

53. The Subcommittee agreed that the discussions under this item were important and that they enabled States to gain an understanding of existing national regulatory

frameworks, share experiences on national practices and exchange information on national legal frameworks.

54. The Subcommittee agreed that it was important to continue to exchange information regularly on developments in the area of national space-related regulatory frameworks. In that regard, the Subcommittee encouraged member States to continue to submit to the Secretariat texts of their national space laws and regulations and to provide updates and inputs for the schematic overview of national regulatory frameworks for space activities.
