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## Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

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Item 6 (a) of the provisional agenda\*

### **Matters relating to the definition and delimitation of outer space**

## **Historical summary on the consideration of the question on the definition and delimitation of outer space**

### **Report of the Secretariat**

#### **I. Introduction**

1. At the fortieth session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, in 2001, the Working Group on the agenda item "Matters relating to the definition and delimitation of outer space" agreed that the Secretariat should prepare, for submission to the Subcommittee at its forty-first session, a brief historical summary on the consideration of the question on the definition and delimitation of outer space in the Legal Subcommittee, indicating points of consensus, if any, that might have emerged over the years (see A/AC.105/763 and Corr.1, annex I, para. 11). The report of the Working Group was endorsed by the Legal Subcommittee.

2. The present summary, prepared by the Secretariat in response to that request, synthesizes the decisions

and recommendations of the Legal Subcommittee since it began its formal consideration of the item in 1967. In order to avoid repetition, the views of member States have been reported only in those years where new or different views were expressed. Decisions and recommendations of the Committee on the Peaceful Uses of Outer Space and of the General Assembly that had a direct impact on the discussions and work of the Legal Subcommittee in relation to the question of the definition and delimitation of outer space have been included. Although the issue has been considered together with a number of other issues over the years, only the discussions and proposals directly relevant to the question of the definition and delimitation of outer space have been included here.

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\* A/AC.105/C.2/L.230.

## II. Historical summary

3. The question of the definition and delimitation of outer space was included on the agenda of the Legal Subcommittee following a proposal made by France to the General Assembly in 1966.<sup>1</sup> The Legal Subcommittee considered the agenda item "Questions relative to (a) the definition of outer space and (b) the utilization of outer space and celestial bodies, including the various implications of space communications" for the first time at its sixth session, in 1967. During the discussions some delegations expressed the view that a definition and delimitation of outer space was necessary in order to establish the precise scope of application of a legal regime to govern outer space activities and that it had to be based on the fundamental principles governing contemporary international relations, namely, respect for sovereignty and national independence, equality of rights, mutual advantage and non-interference in domestic affairs. Two possible approaches to addressing the problem of the definition, namely, a direct approach in which an attempt would be made to distinguish between two natural environments and an indirect approach in which outer space would be defined in terms of the devices employed or the activities carried out, were discussed. Delegations favouring the direct approach made specific suggestions in respect of the altitude of the delimitation of outer space (see A/AC.105/C.2/SR.80-84). Two proposals, one by France and the other by Italy, were submitted in the course of the discussions (see A/AC.105/37, annex III).<sup>2</sup>

4. Based on those discussions and proposals, the Subcommittee approved a questionnaire and agreed to submit it to the Scientific and Technical Subcommittee. The questionnaire invited the Scientific and Technical Subcommittee (a) to draw up a list of scientific criteria that could be helpful to the Legal Subcommittee in its study relative to a definition of outer space; and (b) to give its views on the selection of scientific and technical criteria that might be adopted by the Legal Subcommittee and to indicate, on scientific and technical grounds, the advantages and disadvantages of each of them in relation to the possibility of a definition that would be valid for the long-term future (see A/AC.105/37, para. 18).

5. At its seventh session, in 1968, the Legal Subcommittee had before it the report of the Scientific and Technical Subcommittee (A/AC.105/39). The

report advised the Legal Subcommittee that it was not possible at that time to identify scientific or technical criteria that would permit a precise and lasting definition of outer space; and that a definition of outer space, on whatever basis it was recommended, was likely to have important implications for the operational aspects of space research and exploration and that it was therefore appropriate that the Scientific and Technical Subcommittee continue its consideration of the matter (see A/AC.105/39, para. 36). During the debate in the Legal Subcommittee, some delegations were of the view that it was not possible to identify scientific or technical criteria to permit a precise and lasting definition or to foresee all possible implications that further space exploration and research could have for the definition. Accordingly, the time was not ripe to define or delimit outer space. Other delegations remained convinced that a definition and delimitation of outer space was necessary. Those delegations, however, were not in agreement on the approach to be taken. Some were of the view that the delimitation should be altitude-based, whereas others supported the functional approach, namely, an attempt to define outer space activities and to distinguish them from airspace activities (see A/AC.105/C.2/SR.102-104 and 107).

6. At its eighth session, in 1969, following proposals from Belgium and France (A/AC.105/C.2/L.56 and A/AC.105/C.2/L.64, respectively), the Subcommittee agreed to invite the Secretary-General to prepare a background paper on the question of the definition and/or the delimitation of outer space that would take into account both the data provided by the study carried out by the Legal Subcommittee and the Scientific and Technical Subcommittee and also contributions, studies, data and documents obtained from the specialized agencies concerned and from other international and national organizations and institutions interested in the subject (see A/AC.105/58, para. 13, resolution B).

7. As a result of lack of time and the prioritization of work at its ninth to fifteenth sessions, from 1970 to 1976, the Subcommittee did not consider the question of the definition and delimitation of outer space.<sup>3</sup> Delegations were however able to record their views during the general exchange of views. In 1970, the Subcommittee had before it, as requested, a background paper on the question of the definition and/or the delimitation of outer space (A/AC.105/C.2/7). At the tenth session, in 1971,

Argentina and France submitted a proposal recommending the inclusion of a number of issues on the agenda of the Subcommittee at its next session, including the consideration of matters relating to the definition and/or delimitation of outer space and outer space activities (A/AC.105/C.2/L.80). As a result, the wording of the item was changed and appeared on the agenda of the Subcommittee at its 1972 session as "Matters relating to the definition and/or delimitation of outer space and outer space activities" (see A/AC.105/101, para. 5). During the course of the eighteenth session of the Committee on the Peaceful Uses of Outer Space, in 1975, Italy submitted a proposal on the precise delimitation of outer space and the fixing of a "vertical frontier" at about 90 kilometres (km) from the surface of the Earth.<sup>4</sup> At its nineteenth session, in 1976, the Committee requested the secretariat to prepare a synoptic table of the proposals made within the framework of the Committee and its two Subcommittees with regard to the issue of the definition and delimitation of outer space as well as the revision of the background paper.<sup>5</sup>

8. The Subcommittee resumed its substantive discussion of the definition and delimitation of outer space at its sixteenth session, in 1977. Two documents, an update of the information contained in the background paper issued in 1970 (A/AC.105/C.2/7/Add.1) and a synoptic table of proposals and suggestions, were before the Subcommittee for consideration. While some delegations stressed that there was a need for a definition and delimitation of outer space and that the item should have a higher priority upon the conclusion of the Subcommittee's other items,<sup>6</sup> other delegations believed that there was no urgency for a resolution to the question (see A/AC.105/196, para. 35). Following a discussion on the issues relating to the geostationary orbit at its twentieth session, in 1977, the Committee on the Peaceful Uses of Outer Space recommended that the Legal Subcommittee also bear in mind questions relating to the geostationary orbit.<sup>7</sup>

9. On the recommendation of the Committee, the wording of the item was again changed and was considered by the Legal Subcommittee at its seventeenth session, in 1978, as "Questions relating to the definition and/or delimitation of outer space and outer space activities, also bearing in mind questions relating to the geostationary orbit". In the course of the session some delegations underlined the need to define

the terms "space objects" and "outer space activities" (see A/AC.105/218, para. 39). At the twenty-first session of the Committee on the Peaceful Uses of Outer Space, also in 1978, some delegations reiterated the view that it was necessary to develop a specific definition and delimitation of outer space. Some delegations supported the proposal for the establishment of a conditional boundary between outer space and air space at a certain altitude above sea level. In that connection, the view was expressed that the process of agreeing on such a boundary should take place in several stages. As a first step it might be agreed that the space higher than 100-110 km above sea level should be considered outer space and that space objects should maintain the right of flight over the territories of States at lower altitudes when they went into orbit or returned to Earth in the territory of the launching State. That would not, however, imply that the altitude of 100-110 km above sea level would automatically be adopted as the ceiling for air space. The question of the regime of space below that altitude would continue to be the object of further discussion and negotiations up to the moment when a final agreement was reached and a boundary established between air space and outer space. That delegation was also of the view that the establishment of such a conditional boundary should take the form of a treaty. Other delegations however were of the view that since space activities had been conducted for over 20 years without a definition or delimitation of outer space and neither the Scientific and Technical Subcommittee nor the Legal Subcommittee had identified any problem that would be solved by establishing an arbitrary altitude delimitation, there was no compelling need for a definition and delimitation of outer space.<sup>8</sup>

10. Over the next four years, from 1979 to 1982, delegations elaborated further on their views in favour or against the development of a definition and delimitation of outer space. Two working papers were submitted by the Union of Soviet Socialist Republics in 1979, one to the Legal Subcommittee (A/AC.105/C.2/L.121)<sup>9</sup> and the other to the Committee on the Peaceful Uses of Outer Space (A/AC.105/L.112).<sup>10</sup>

11. Some delegations considered there to be a need for a definition and delimitation of outer space not only for legal but also for practical reasons. The number of space objects and the number of States participating in space activities were increasing and the absence of a definition and delimitation of outer space, in the view

of those delegations, caused uncertainty in outer space law and in air law (see A/AC.105/240, para. 44). The legal regime applicable to outer space differed, in particular on matters relating to state sovereignty, and a boundary was therefore necessary for the areas of application of the two legal regimes to be clear (see A/AC.105/271, para. 34) and to reduce the probability of disputes between States. As, in the future, there would be vehicles that would travel both in airspace and outer space, it would be necessary to know which legal regime was applicable at different stages. Some delegations were of the view that a definition and delimitation of outer space should be acceptable to all States as it would take account of the sovereignty and security interests of States and the development of space science and technology (see A/AC.105/288, paras. 53 and 57). In that regard, delegations exchanged views on whether the “spatial” approach, namely, that agreement should be reached on a certain altitude as the boundary between air and outer space, or the “functional” approach, namely, a definition of outer space activities and space objects, should be taken. Some delegations favoured the “spatial” approach because it was necessary to delimit clearly the areas in which air law and space law would be applicable, to define the upper limit of state sovereignty, to safeguard the security of national airspace and to prevent disputes arising between States (see A/AC.105/240, para. 44; A/AC.105/271, paras. 34 and 36; A/AC.105/288, paras. 54 and 55; and A/AC.105/305, paras. 37 and 38).

12. Other delegations remained of the opinion that a definition and delimitation of outer space was neither necessary nor feasible at that time (see A/AC.105/240, para. 45). As there had been no practical difficulties and there was no scientific or technical justification, an arbitrary definition and delimitation of outer space could lead to complications because of the inability of most countries to observe and control a designated boundary. In addition, the establishment of a definition and delimitation of outer space could impede development of space technology (see A/AC.105/271 and Corr.1, para. 35, and A/AC.105/288, para. 56). Outer space law had been successfully developed and applied and the establishment of a definition and delimitation of outer space at the time could, in the view of those delegations, cause more problems than it would solve (see A/AC.105/305, para. 39).

13. At its twenty-second session, in 1983, the Legal Subcommittee considered establishing a working group to examine the issues under this agenda item (see A/AC.105/320 and Corr.1, paras. 43-45). The Subcommittee was not able to reach agreement, however. At the same session, the Union of Soviet Socialist Republics submitted a working paper (A/AC.105/C.2/L.139) with a proposal on the approach to be taken in the definition and delimitation of outer space, proposing, firstly, that the boundary between outer space and air space should be established by agreement among States at an altitude not exceeding 110 km above sea level and should be legally confirmed by the conclusion of an international legal instrument of a binding character; and, secondly, that the instrument should also specify that a space object of any State should retain the right of innocent (peaceful) flight over the territory of other States at altitudes lower than the agreed boundary for the purpose of reaching orbit or returning to Earth. The question of establishing a working group was considered again by the Committee on the Peaceful Uses of Outer Space at its twenty-sixth session, in 1983. As in the case of the Legal Subcommittee, no agreement could be reached.<sup>11</sup> However, the General Assembly, in its resolution 38/80 of 15 December 1983, decided that the Legal Subcommittee should establish a working group to consider, on a priority basis, “matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including the elaboration of general principles to govern the rational and equitable use of the geostationary orbit, a limited natural resource”.<sup>12</sup>

14. At its twenty-third session, in 1984, the Subcommittee considered the issue under its new title and established a working group (see A/AC.105/337, para. 6 (c)). In the working group member States reiterated their views on the question of the definition and delimitation of outer space. The working group also heard members’ views on whether to take a “spatial” approach or a “functional” approach in defining and delimiting outer space. Some delegations expressed support for the proposal made in the working paper submitted by the Union of Soviet Socialist Republics at the twenty-second session of the Legal Subcommittee, in 1983 (see para. 13 above). In its resolution 39/96 of 14 December 1984, the General Assembly requested the Subcommittee to consider

“matters relating to the definition and delimitation of outer space and to 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”.<sup>13</sup>

15. From 1985 to 1987, the working group continued its work on the question of the definition and delimitation of outer space. However, delegations were not able to reach agreement on the need for a definition and delimitation of outer space or on the approach to be taken. At the thirtieth session of the Committee on the Peaceful Uses of Outer Space, in 1987, the Union of Soviet Socialist Republics submitted a further working paper proposing a compromise on the question of the definition and delimitation of outer space (A/AC.105/L.168). The working paper proposed the inclusion of the following text in the report as an agreed recommendation:

“While not resolving in advance the question of the need to establish a boundary between airspace and outer space and without prejudice to the final position concerning the upper limit of state sovereignty, general agreement might be reached to the effect that:

“1. Any object launched into outer space shall be considered as being in outer space at all stages of its flight after launch at which its altitude above sea level is 110 kilometres or more.

“2. Space objects of States shall retain the right to fly over the territory of other States at altitudes lower than 110 kilometres above sea level for the purposes of reaching orbit around the Earth or proceeding on a flight trajectory beyond the confines of that orbit, and for the purpose of returning to Earth.”

No agreement could be reached on the proposed text.<sup>14</sup>

16. From 1987, some delegations began to call for the item to be removed from the agenda of the Legal Subcommittee as agreement could not be reached. Some member States continued to believe strongly in the need to establish a definition and delimitation of outer space, however, and no agreement could be reached on removing the item from the agenda of the Subcommittee (see A/AC.105/385, annex II, paras. 10

and 11; A/AC.105/411, annex II, para. 11; and A/AC.105/430, annex II, para. 11).

17. At the twenty-ninth session of the Legal Subcommittee, in 1990, some delegations proposed that the working group and the Subcommittee conduct a preliminary exchange of views on the international legal problems connected with the anticipated flights of aerospace systems. Those delegations were of the view that such an exchange of views would lead to future international legal norms and principles regulating the use of aerospace systems. Where a practical link between the problem of delimitation and the problem of regulating flights of aerospace systems was evident, the consideration of the latter problem could begin before resolving the former. However, some delegations were of the view that, at that stage, they were not in a position to join a consensus on the proposal to commence a preliminary exchange of views (see A/AC.105/457, annex II, para. 10). Other delegations continued to call for a removal of the item from the agenda of the Subcommittee (see A/AC.105/457, annex II, para. 11). This proposal was addressed again at the thirtieth session of the Subcommittee, in 1991, but no agreement was reached (see A/AC.105/484, annex II, paras. 9 and 10).

18. A working paper on the subject was submitted by the Russian Federation at the thirty-first session of the Legal Subcommittee, in 1992 (A/AC.105/C.2/L.189). The working paper set out a number of questions that would require attention in the consideration of the legal aspects of the regime for aerospace objects. Among other things, the working group considered the working paper submitted by the Russian Federation. At its thirty-fifth session, later in the same year, the Committee on the Peaceful Uses of Outer Space took note of the working paper on aerospace objects and agreed that the approach suggested therein was positive and that it could form a suitable basis, among others, for future discussions.<sup>15</sup>

19. From 1993 to 1995, the Legal Subcommittee considered issues relating to aerospace objects, including a questionnaire circulated informally by the Chairman of the working group. The questionnaire was subject to discussion, revision and informal consultations (A/AC.105/544, paras. 4-22; A/AC.105/573, annex II, paras. 16-22; and A/AC.105/607, annex I, paras. 6-12, 16, 17 and 19-27). At its thirty-fourth session, in 1995, the Legal Subcommittee finalized and agreed on the

text of the questionnaire on possible legal issues with regard to aerospace objects. The Subcommittee agreed that the purpose of the questionnaire was to seek the preliminary views of States members on various issues relating to aerospace objects.<sup>16</sup>

20. At its thirty-fifth session, in 1996, the Subcommittee had before it a note by the Secretariat containing the replies received to the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/635 and Add.1 and 2). In the working group, while delegations considered the questionnaire and answers received on a question-by-question basis (see A/AC.105/639, annex I, paras. 14-21), the view was expressed that the questionnaire reflected the contradictions and uncertainties of the debate on the subject, that the questions were presented in an ambiguous manner, that it did not serve to clarify the issues and that it would revive the unproductive debate on the approach to the definition and delimitation of outer space. The working group also heard the view that there was no practical need to pursue the debate on a definition and delimitation of outer space and that the questionnaire was unnecessary and premature and would raise further contentious issues (see A/AC.105/639, annex I, paras. 12 and 13). The working group however agreed that the Secretariat should encourage those States members of the Committee which wished to submit replies to do so as early as possible and that it should prepare, in time for the thirty-sixth session, a comprehensive analysis of the replies to the questionnaire that had been received (see A/AC.105/639, annex I, para. 22).

21. In 1997, the Subcommittee and the working group had before it two new addenda containing the replies of members States to the questionnaire (A/AC.105/635/Add.3 and 4) and a note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.204).

22. From 1998 to 2000, the working group concentrated mainly on the second part of the item, 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.<sup>17</sup> As a result of the paper adopted by the Subcommittee in 2000 on the use of the

geostationary orbit, the Subcommittee agreed that, while the item would continue to be considered by the Subcommittee, the working group would be convened to consider only matters relating to the question of the definition and delimitation of outer space (see A/AC.105/C.2/L.221, para. 8 (c)). At its forty-third session, also in 2000, the Committee on the Peaceful Uses of Outer Space agreed to consider the issues as two separate parts of the agenda item.<sup>18</sup>

23. At its fortieth session, in 2001, the Subcommittee considered the agenda item:

"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."

During the course of the discussions in the Subcommittee and the working group, delegations reiterated their views in favour or against establishing a definition and delimitation of outer space. Some delegations viewed a definition and delimitation of outer space indispensable as a legal basis through which to regulate their national territories and to resolve practical issues arising from collisions that could occur between aerospace objects and aircraft. Some of those delegations were of the view that recent technological developments and emerging legal questions made it necessary for the Legal Subcommittee to consider the question of the definition and delimitation of outer space without delay (see A/AC.105/763 and Corr.1, para. 54, and annex I, para. 5). Another delegation, however, reaffirmed its view that it was not necessary to develop a definition and delimitation of outer space when the absence of such a definition had not resulted in any legal or practical problems. That delegation believed that the differing legal regimes applicable in respect of airspace and outer space operated well in their respective spheres and that the lack of a definition and delimitation of outer space had not impeded development of activities in either sphere (see A/AC.105/763 and Corr.1, para. 57, and annex I, para. 6).

24. As had been agreed, the working group considered only matters relating to the definition and delimitation of outer space. During the course of the discussions, delegations expressed their views, on a question-by-question basis, on the various issues set out in the questionnaire on aerospace objects and the replies received. Although some delegations expressed reservations about proceeding with consideration of the questionnaire or proceeding therewith on the question-by-question basis (see A/AC.105/763, para. 59, and annex I, paras. 6 and 7), the working group agreed that the questionnaire on aerospace objects and the comprehensive analysis of replies received could serve as a basis for future consideration of the subject. The working group also agreed that, as very few replies had been received, member States should be requested to consider submitting or updating replies to the questionnaire in the interest of making progress, that the Secretariat should prepare a brief historical summary on the consideration of the question of the definition and delimitation of outer space in the Legal Subcommittee, indicating points of consensus, if any, that might have emerged over the years, and that member States should be invited to make presentations to the Working Group on the question of the definition and delimitation of outer space on what their practices had been (see A/AC.105/763 and Corr.1, annex I, paras. 9, 11 and 12).

### III. Conclusion

25. Since the beginning of its consideration of the question of the definition and delimitation of outer space, in 1967, the Legal Subcommittee has heard diverse views on the issue and considered and addressed numerous proposals received. No agreements on substantive legal issues relating to the definition and delimitation of outer space are apparent from the reports of the Subcommittee or of the Committee on the Peaceful Uses of Outer Space. However, consensus has been reached on the referral of the issue to the Scientific and Technical Subcommittee for consideration; the preparation and updating of background papers on the question; the establishment of a working group to consider the issue on a priority basis; the consideration of issues relating to aerospace objects; the finalization of a questionnaire on possible legal issues with regard to aerospace objects; the preparation of a comprehensive analysis of the replies

received to the questionnaire; that the questionnaire could serve as a basis for future consideration of the subject; and on the preparation of the present historical summary on the question of the definition and delimitation of outer space.

#### Notes

- <sup>1</sup> See *Official Records of the General Assembly, Twenty-first Session, Summary Records of Meetings, First Committee, 1492nd meeting*, para. 21 (A/C.1/SR.1492); *Verbatim Records of Meetings, Plenary, 1499th meeting*, paras. 148-150 (A/PV.1499); and General Assembly resolution 2222 (XXI), para. 4 (b).
- <sup>2</sup> In its proposal, France invited the Scientific and Technical Subcommittee: (a) to draw up a list of scientific criteria that could be helpful to the Legal Subcommittee in its study relative to the definition of outer space; and (b) to give its views on the selection of scientific and technical criteria that might be adopted by the Subcommittee, on the advantages and disadvantages of each of them and on the advisability of giving consideration to one or the other of those criteria or to a combination of some of them. Italy recommended that the Legal Subcommittee request the Scientific and Technical Subcommittee to consider the following questions: (a) whether it was scientifically possible to determine accurately the line or zone of demarcation between the two types of space and (b) if so, to state at what altitude above sea level that line or zone of demarcation might be placed; or (c) should it seem scientifically impossible or difficult, owing to the present state of scientific knowledge and differences of opinion among scientists, to determine accurately such line or zone of demarcation, whether it would not be preferable to establish it arbitrarily and, in that case, at what altitude, having regard both to such physical data and practical considerations as might promote the development of activities in outer space and broader cooperation in this field among the States of the Earth, without jeopardizing their right to freedom and their territorial security.
- <sup>3</sup> In 1970 and 1971, the Subcommittee devoted its sessions to the consideration of the Convention on International Liability for Damage Caused by Space Objects. Lack of time prevented it from considering the agenda item substantively from 1972 to 1976. At that time, the Subcommittee had on its agenda items concerning the draft treaty relating to the Moon, the draft convention on registration of objects launched into outer space; elaboration of principles governing the use by States of artificial Earth satellites for direct television broadcasting; and legal implications of remote sensing of the Earth from space.
- <sup>4</sup> See *Official Records of the General Assembly, Thirtieth Session, Supplement No. 20 (A/10020)*, para. 27.

<sup>5</sup> See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 20 (A/31/20)*, para. 25.

<sup>6</sup> On a draft treaty relating to the Moon; elaboration of principles governing the use by States of artificial Earth satellites for direct television broadcasting; and legal implications of remote sensing of the Earth from space.

<sup>7</sup> See *Official Records of the General Assembly, Thirty-second Session, Supplement No. 20 (A/32/20)*, para. 33.

<sup>8</sup> See *Official Records of the General Assembly, Thirty-third Session, Supplement No. 20 (A/33/20)*, para. 64.

<sup>9</sup> The working paper proposed the following approach as a solution of the problems of the delimitation of air space and outer space: (a) circumterrestrial space over 100 (110) km above sea level should be outer space; (b) the boundary between air space and outer space should be subject to agreement between States and should subsequently be confirmed by treaty at an altitude not exceeding 100 (110) km above sea level; and (c) space objects of States should retain the right to fly over the territory of other States at altitudes lower than 100 (110) km above sea level for the purpose of reaching orbit or returning to Earth in the territory of the launching State.

<sup>10</sup> The working paper proposed draft basic provisions for a General Assembly resolution on the delimitation of air space and outer space and on the legal status of orbital space for geostationary satellites. The paper proposed that (a) the region above 100 (110) km altitude from the sea level of the Earth was outer space; (b) the boundary between air space and outer space should be subject to agreement among States and should subsequently be established by a treaty at an altitude not exceeding 100 (110) km above sea level; (c) space objects of States should retain the right to fly over the territory of other States at altitudes lower than 100 (110) km above sea level for the purpose of reaching orbit or returning to Earth in the territory of the launching State. (Provisions 4-7 of the working paper related to the legal status of the geostationary satellite orbit.)

<sup>11</sup> *Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 20 (A/38/20)*, para. 75.

<sup>12</sup> The Assembly also requested Member States to submit draft principles and, in doing so, to take account of the different legal regimes governing airspace and outer space, respectively, and the need for technical planning and legal regulation of the geostationary orbit.

<sup>13</sup> The item was considered, with this new formulation, for the first time at the twenty-fourth session of the Legal Subcommittee, in 1985.

<sup>14</sup> See *Official Records of the General Assembly, Forty-second Session, Supplement No. 20 (A/42/20)*, para. 82.

<sup>15</sup> See *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 20 (A/47/20)*, para. 118.

<sup>16</sup> See A/AC.105/607 and Corr.1, paras. 38 and 39 and annex I, paras. 28-30; and *Official Records of the General Assembly, Fiftieth session, Supplement No. 20 (A/50/20)*, para. 117.

<sup>17</sup> An additional addendum (A/AC.105/635/Add.5) containing the replies of member States to the questionnaire was submitted to the Legal Subcommittee at its thirty-seventh session, in 1998.

<sup>18</sup> See *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 20 (A/55/20)*, para. 167.