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## Committee on the Peaceful

### Uses of Outer Space

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## Report of the Legal Subcommittee on its forty-fifth session, held in Vienna from 3 to 13 April 2006

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## **I. Introduction**

### **A. Opening of the session**

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-fifth session at the United Nations Office at Vienna from 3 to 13 April 2006 under the chairmanship of Raimundo González Aninat (Chile).
2. At the 732nd meeting, on 3 April, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-fifth session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.732).

### **B. Election of the Chairman**

3. At the 732nd meeting, Raimundo González Aninat (Chile) was elected Chairman of the Legal Subcommittee for a two-year term of office.

### **C. Adoption of the agenda**

4. At its 731st meeting, the Legal Subcommittee adopted the following agenda:
  1. Opening of the session.
  2. Election of the Chairman.
  3. Adoption of the agenda.
  4. Statement by the Chairman.
  5. General exchange of views.
  6. Status and application of the five United Nations treaties on outer space.
  7. Information on the activities of international organizations relating to space law.
  8. 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.
  9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
  10. Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment.
  11. Practice of States and international organizations in registering space objects.

12. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-sixth session.

#### **D. Attendance**

5. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Sudan, Sweden, Thailand, Turkey, Ukraine, Uruguay, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

6. At the 731st meeting, on 3 April, the Chairman informed the Subcommittee that requests had been received from the permanent representatives of Belarus, Bolivia, the Dominican Republic, Switzerland, Tunisia and Zimbabwe to attend the session as observers. The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, it could take no formal decision on the matter, but that representatives of those States might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.

7. The following organization of the United Nations system was represented at the session by an observer: International Civil Aviation Organization (ICAO).

8. The following organizations were also represented by observers: European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), European Space Agency (ESA), European Space Policy Institute (ESPI), International Institute for the Unification of Private Law (Unidroit), International Astronautical Federation (IAF), International Law Association (ILA) and Space Generation Advisory Council (SGAC).

9. A list of the representatives of States members of the Subcommittee and observers for States not members of the Subcommittee, organizations of the United Nations system, other intergovernmental organizations and other entities attending the session and members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.38.

#### **E. Organization of work**

10. In accordance with decisions taken at its 731st and 732nd meetings, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, open to all members of the Subcommittee, and agreed that Vassilios Cassapoglou (Greece) should serve as its Chairman;

(b) The Subcommittee reconvened its Working Group on Matters Relating to the Definition and Delimitation of Outer Space, open to all members of the Subcommittee, and agreed that José Monserrat Filho (Brazil) should serve as its Chairman;

(c) The Subcommittee reconvened its Working Group on the Practice of States and International Organizations in Registering Space Objects, open to all members of the Subcommittee, and agreed that Kai-Uwe Schrogl (Germany) should serve as its Chairman;

(d) The Subcommittee began its work each day with a plenary meeting to hear statements from delegations. It subsequently adjourned and, when appropriate, convened meetings of working groups.

11. At its 731st meeting, the Chairman proposed and the Subcommittee agreed that its work should continue to be organized flexibly with a view to making the best use of the available conference services.

12. The Subcommittee noted with satisfaction that a symposium entitled “Legal aspects of disaster management and the contribution of the law of outer space”, organized by the International Institute of Space Law (IISL) of IAF in cooperation with the European Centre for Space Law (ECSL) of ESA, had been held during the current session of the Subcommittee, on 3 April. The symposium was coordinated by Tanja Masson-Zwaan of IISL and chaired by Peter Jankowitsch (Austria). Presentations were made by Joanne Gabrynowicz on “The Disasters Charter: introduction, initial issues and experiences”, Ray Harris on “The challenges of access to Earth observation data for disaster management”, Sergio Marchisio on “Legal aspects of disaster management: European efforts including Global Monitoring for Environment and Security (GMES)” and Masami Onoda on “Legal and policy aspects of disaster management support from space in Asia”. The Subcommittee agreed that IISL and ECSL should be invited to hold a further symposium on space law at its forty-sixth session. The papers and presentations delivered during the symposium were placed on the website of the Office for Outer Space Affairs of the Secretariat (<http://www.unoosa.org/oosa/COPUOS/Legal/2006/symposium.html>).

13. The Legal Subcommittee recommended that its forty-sixth session should be held from 26 March to 5 April 2007.

## **F. Adoption of the report of the Legal Subcommittee**

14. The Legal Subcommittee held a total of 17 meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.731-747).

15. At its 747th meeting, on 13 April 2006, the Subcommittee adopted the present report and concluded the work of its forty-fifth session.

## II. General exchange of views

16. The Legal Subcommittee welcomed the election of Raimundo González Aninat (Chile) as its new Chairman and expressed its gratitude to the outgoing Chairman, Sergio Marchisio (Italy), for his leadership and contributions in furthering the achievements of the Subcommittee during his two-year term.

17. The Subcommittee expressed its condolences to the Government of the Islamic Republic of Iran for the loss of human life resulting from the recent earthquake in that country.

18. The Subcommittee congratulated the Russian Federation on the forty-fifth anniversary of the first manned flight into outer space made by cosmonaut Yuri Gagarin on 12 April 1961.

19. The Subcommittee also congratulated the United States of America on the twenty-fifth anniversary of the first flight of the Space Shuttle on 12 April 1981.

20. The Subcommittee congratulated Brazil on the space flight of its first astronaut on 30 March 2006.

21. The Subcommittee expressed its appreciation for the excellent work, including the preparation of documentation, done by the Secretariat for the current session of the Subcommittee.

22. Statements were made by representatives of the following States members of the Legal Subcommittee during the general exchange of views: Algeria, Argentina, Brazil, Burkina Faso, Canada, Chile, China, Colombia, Czech Republic, Ecuador, France, Greece, India, Indonesia, Italy, Japan, Libyan Arab Jamahiriya, Morocco, Nigeria, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Thailand and United States. The observers for EUMETSAT and IAF also made statements. The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.731-734).

23. At the 731st meeting, on 3 April, the Director of the Office for Outer Space Affairs made a comprehensive statement reviewing the role and work of the Office relating to space law. The Subcommittee noted with appreciation the activities of the Office aimed at promoting understanding of, and adherence to, the international legal regime.

24. The Subcommittee agreed that the existing international legal regime governing outer space provided a sound basis for undertaking space activities and that States should be encouraged to adhere to the existing legal regime in order to strengthen its effect.

25. Some delegations expressed the view that the existing legal regime governing outer space was not fully adequate in addressing current realities in outer space activities and welcomed the consideration of possible options for the future development and codification of international space law.

26. The view was expressed that there was a particular deficiency in the current legal regime governing outer space relating to the militarization of outer space, which required both the conclusion of new treaties aimed at bridging that gap and the strengthening of the current regime to maintain the use of outer space for

peaceful purposes. In particular, that delegation was of the view that the partial space-weapons ban enshrined in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex), should be extended to all weapons.

27. The view was expressed that the militarization of outer space risked undermining strategic stability and international security and could lead to an arms race. That delegation was of the view that the Subcommittee should discuss ways to ensure that space technology was used for peaceful purposes, including by establishing a comprehensive and effective legal mechanism to prevent the militarization and weaponization of, and an arms race in, outer space. That delegation also noted that other international forums had started to consider space-related issues, such as the delimitation of outer space, that could not be advanced within the Subcommittee.

28. The view was expressed that all States and relevant organizations should abide by the international treaties and principles relating to outer space, particularly the Outer Space Treaty, as a basic and important condition for guaranteeing the avoidance of an arms race in outer space and for maintaining outer space solely for peaceful purposes.

29. The view was expressed that the success of the Subcommittee in its work could be attributed to its avoidance of debating extraneous political issues and its ability to focus on practical problems and to seek to address any such problems by means of a consensus-based and result-oriented process.

30. The view was expressed that the early adoption of space debris mitigation guidelines by the Scientific and Technical Subcommittee would enable the guidelines to complement the existing outer space treaties with a view to promoting confidence in the security of the space environment and bringing the benefits of the peaceful uses of outer space to all nations.

31. The Subcommittee noted with satisfaction that the Government of Ecuador had succeeded the Government of Colombia as pro tempore secretariat of the Space Conference of the Americas and that, in accordance with General Assembly resolution 59/116 of 10 December 2004, it would be holding the Fifth Space Conference of the Americas, in Quito in July 2006. The Subcommittee also noted with satisfaction that the Government of Chile had organized an excellent preparatory meeting for the Conference during the International Air and Space Fair in Santiago in March 2006.

### **III. Status and application of the five United Nations treaties on outer space**

32. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99 of 8 December 2005, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee should consider the agenda item on the status and application of the five United Nations treaties on outer space as a regular item, and had noted that the Subcommittee would reconvene its Working Group on the item at its forty-fifth session and would

review the need to extend the mandate of the Working Group beyond that session of the Subcommittee.

33. The Subcommittee noted with satisfaction that the Secretariat had distributed an updated document containing information, as at 1 January 2006, on States parties and additional signatories to the United Nations treaties and other international agreements relating to activities in outer space (ST/SPACE/11/Rev.1/Add.1).

34. The Subcommittee noted that, as at 1 January 2006, the status of the five United Nations treaties on outer space was as follows:

(a) The Outer Space Treaty had 98 States parties and had been signed by 27 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex) had 88 States parties and had been signed by 25 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects (Assembly resolution 2777 (XXVI), annex) had 83 States parties and had been signed by 25 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space (Assembly resolution 3235 (XXIX), annex) had 46 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Assembly resolution 34/68, annex) had 12 States parties and had been signed by 4 additional States.

35. The Subcommittee noted with satisfaction that EUMETSAT had declared its acceptance of the rights and obligations under the Rescue Agreement and the Liability Convention and that the declaration was directly attributed to the letter from the Secretary-General encouraging such declarations to be made by international organizations.

36. The Subcommittee welcomed the ratification by Brazil in 2006 of the Registration Convention and the accession of Nigeria to the Liability Convention, as well as reports from Member States regarding their progress towards becoming parties to the five United Nations treaties on outer space and towards developing national space laws to implement their obligations under those treaties. The Subcommittee noted with satisfaction that the activities of the Office for Outer Space Affairs were directly contributing to that progress.

37. The Subcommittee noted with appreciation that in 2005 a number of States had concluded bilateral and multilateral agreements promoting broad international cooperation with regard to the conduct of space activities and, in particular, with regard to the sharing of remote sensing data.

38. The Subcommittee noted with satisfaction the signing of the convention on the establishment of the Asia-Pacific Space Cooperation Organization by eight States in Beijing in October 2005.

39. The Subcommittee noted that a number of States were developing national mechanisms for registration of space objects.

40. The view was expressed that the Legal Subcommittee should continue to address legal issues arising from technological development, the expansion of space activities and the increasing participation of the private sector in those activities and to determine how to strengthen international and national legal systems in order to effectively address those issues.

41. Some delegations expressed the view that the United Nations treaties on outer space had established a coherent and useful framework for increasingly widespread and complex activities in outer space carried out by both governmental and private entities. Those delegations welcomed further adherence to the treaties and hoped that States that had not yet ratified or acceded to those treaties would consider becoming parties to them.

42. The view was expressed that the benefits to, and the rights and obligations of, parties to the United Nations treaties on outer space were multiple. That delegation was of the view that the first and foremost benefit was that space activities must be carried out freely but, at the same time, within a well-established and generally accepted legal framework, in order to avoid any temptation on the part of space-faring countries to engage in unilateral practices.

43. The view was expressed that the adherence of a State to the United Nations treaties on outer space, especially to the Liability Convention, would increase that State's attractiveness to potential foreign partners seeking international cooperation in the exploration and use of outer space, its involvement in international cooperation mechanisms, its confidence in the safety of space activities and its need for enacting national implementing legislation relating to claims for damage caused by space objects, paving the way for the progressive development of national space law.

44. The view was expressed that the United Nations treaties on outer space had evolved through consensus and had been accepted by a large number of States and that the treaties constituted the cornerstone of the international legal regime governing outer space. That delegation was of the view that, therefore, reviewing the status and application of the United Nations treaties on outer space was important in order to encourage adherence to them.

45. Other delegations expressed the view that, although the provisions and principles of the United Nations treaties on outer space constituted the regime to be observed by States and more States should be encouraged to adhere to them, the current legal framework for outer space activities required modification and further development in order to keep pace with advances in space technology and changes in the nature of space activities. Those delegations expressed the view that the lacunae resulting from the current legal framework could be addressed by the development of a universal, comprehensive convention on space law without disrupting the fundamental principles contained in the treaties currently in force.

46. The view was expressed that in the context of a universal, comprehensive convention on space law, for which the current international legal regime would serve as a guide, regard should be given to the relevant practice of States in space activities and to the regime and principles in the United Nations Convention on the

Law of the Sea<sup>1</sup> that might be usefully applied, *mutatis mutandis*, to outer space, as well as to the lessons learned from drafting that Convention.

47. The view was expressed that, in order to strengthen the legal framework for global space activities, States should commit themselves to adhering to the existing outer space treaties instead of discussing a universal, comprehensive convention on outer space.

48. The view was expressed that the effort needed to draft a new comprehensive convention on outer space would considerably slow down the work of the Subcommittee and would make less clear its message with regard to increasing the adherence to the existing outer space treaties and improving their implementation.

49. The view was expressed that it was important to continue efforts towards universal acceptance of the international legal regime governing activities in outer space, taking into account the need to identify those new areas which might require regulation and which could be addressed by developing complementary instruments.

50. The Subcommittee noted with satisfaction that the publication entitled *Space Law: Basic Legal Documents*, which had been edited and published by the Institute of Air and Space Law at Cologne, Germany, since 1989, had become available as an electronic database, in addition to being available as a hard-copy loose-leaf collection.

51. As mentioned in paragraph 10 (a) above, at its 732nd meeting, on 3 April, the Legal Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Vassilios Cassapoglou (Greece). The Working Group held six meetings. At its 746th meeting, on 12 April, the Subcommittee endorsed the report of the Working Group, which is contained in annex I to the present report.

52. The Subcommittee endorsed the recommendation of the Working Group that member States provide information on any action that might have been taken at the national level as a result of receiving the letter from the Secretary-General encouraging participation in the outer space treaties. The Subcommittee took note with appreciation of the text of the document on advantages of adherence to the Liability Convention, contained in the appendix to the report of the Working Group, and endorsed the recommendation that the Office for Outer Space Affairs send a letter transmitting the document to all States that had not yet become parties to the Liability Convention.

53. The Legal Subcommittee endorsed the recommendation that the mandate of the Working Group be extended for one additional year. It was agreed that the Subcommittee, at its forty-sixth session, in 2007, would review the need to extend the mandate of the Working Group beyond that period.

54. The full text of the statements made by delegations during the discussion on agenda item 6 is contained in unedited verbatim transcripts (COPUOS/Legal/T.733-736 and 746).

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

#### **IV. Information on the activities of international organizations relating to space law**

55. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee should consider, as a regular item of its agenda, an item entitled "Information on the activities of international organizations relating to space law".

56. The Legal Subcommittee noted with satisfaction that various international organizations had been invited by the Secretariat to report to the Subcommittee on their activities relating to space law. The Subcommittee agreed that for its forty-sixth session, the Secretariat should extend a similar invitation.

57. The Legal Subcommittee had before it a note by the Secretariat (A/AC.105/C.2/L.261 and Corr.1 and 2) and two conference room papers (A/AC.105/C.2/2006/CRP.4 and A/AC.105/C.2/2006/CRP.6) containing information on activities relating to space law received from the following international organizations: Centre régional de télédétection des États de l'Afrique du Nord (CRTEAN), ECSL, IISL and ILA.

58. In the course of the debate, observers for the following international organizations reported to the Subcommittee on their activities relating to space law: ESA, EUMETSAT, IAF, ILA and SGAC.

59. The Subcommittee noted with appreciation that ECSL had established a virtual network, free of charge, on space law and policy for countries in Latin America and the Caribbean. The network, which included a website containing space law texts and other international agreements, had been well received by member States of the Subcommittee, particularly by those from Latin America and the Caribbean. The Subcommittee also noted that the virtual network would be presented at the Fifth Space Conference of the Americas, to be held in Quito in July 2006.

60. The Subcommittee agreed to invite IISL and ECSL to organize a one-day symposium during the forty-sixth session of the Subcommittee that would include presentations by national and international space law institutions with emphasis on their capacity-building activities. The Subcommittee also agreed that the symposium could be organized during the afternoon meetings on the first and second days of the session.

61. Some delegations noted that the subject of outer space had been introduced into the programmes of their secondary schools and that it would be important to bring the subject of outer space into the programmes of classrooms in all countries, in particular developing countries.

62. The Subcommittee noted that there was a need for higher education institutions to include in their curricula subjects related to space law.

63. The Subcommittee was informed of activities related to space law carried out by the University of Athens, the National Remote Sensing and Space Law Center of the University of Mississippi and ECSL and, in particular, their contribution to educating young people about space.

64. The view was expressed that there was a need for connections and relations between space law studies and space activities and that the regional centres on space science and technology education, affiliated to the United Nations, could be used to develop and teach courses on space law using interdisciplinary approaches and curricula.

65. The Subcommittee noted that the Brazil Campus of the Regional Centre for Space Science and Technology Education in Latin America and the Caribbean had included space law as part of the curriculum of its international course on remote sensing.

66. Some delegations reiterated the importance of close cooperation between the Legal Subcommittee and the United Nations Educational, Scientific and Cultural Organization (UNESCO), in particular its Commission on the Ethics of Scientific Knowledge and Technology (COMEST). It was noted with satisfaction that UNESCO had decided not to prepare a special declaration of ethical principles relating to outer space activities.

67. The Subcommittee noted with appreciation that EUMETSAT had declared its acceptance of rights and obligations under the Rescue Agreement and the Liability Convention.

68. The view was expressed that other intergovernmental organizations conducting space activities should consider possible steps to encourage their member States to adhere to the Rescue Agreement, the Liability Convention and the Registration Convention, in order to allow those organizations to declare acceptance of rights and obligations under those agreements. The view was also expressed that that would improve the coverage and effectiveness of the main United Nations treaties on outer space.

69. The view was reiterated on the importance of the participation of international organizations in the work of the Legal Subcommittee and on the need of receiving written reports from those organizations that could not be represented at sessions of the Subcommittee due to budget limitations.

70. The Subcommittee noted with appreciation the efforts of the Office for Outer Space Affairs in building capacity in space law and commended its work in compiling the directory of education opportunities in space law (A/AC.105/C.2/2006/CRP.3), in preparing the electronic publication "Space law update" and in organizing its workshops on space law. The Subcommittee also noted with appreciation that that work was being conducted despite the Office's limited resources, including access to the full range of academic papers relating to space law.

71. The Subcommittee noted with appreciation that the directory of education opportunities in space law had been updated and would be made available on the website of the Office for Outer Space Affairs. The Subcommittee expressed its appreciation to the educational institutions that had provided information on their programmes and encouraged other educational institutions to provide such information.

72. The Subcommittee expressed its appreciation to the Government of Nigeria and the National Space Research and Development Agency of Nigeria for co-sponsoring the United Nations/Nigeria Workshop on Space Law on the theme

“Meeting international responsibilities and addressing domestic needs”, held in Abuja from 21 to 24 November 2005 (A/AC.105/866 and Corr.1). The Subcommittee expressed its appreciation to the Office for Outer Space Affairs for its dedication and efficient organization of the Workshop, as well as to the experts who had attended the Workshop, for having shared their knowledge and experience with the participants.

73. The Subcommittee noted with appreciation that the United Nations/Nigeria Workshop on Space Law had provided an overview of the United Nations treaties and principles on outer space, had addressed the development of national space laws and policies and had considered ways and means of enhancing the availability and development of university-level studies and programmes in space law, particularly in the African region. The Subcommittee also noted with appreciation that the Workshop had made a positive contribution to the dissemination and development of international and national space law and to the promotion of the universality of the five United Nations treaties on outer space.

74. The Subcommittee noted with appreciation that the next United Nations Workshop on Space Law would be hosted by the Government of Ukraine in Kyiv from 6 to 9 November 2006.

75. The Subcommittee noted with appreciation that member States had been invited by IAF to participate in the next International Astronautical Congress, to be held in Valencia, Spain, in October 2006.

76. The full text of the statements made by delegations during the discussion on agenda item 7 is contained in unedited verbatim transcripts (COPUOS/Legal/T.738-741).

## **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**

77. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-fifth session, taking into account the concerns of all countries, in particular those of developing countries, should 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 (ITU).

78. The Subcommittee had before it the following documents:

(a) Note by the Secretariat entitled “Questionnaire on possible legal issues with regard to aerospace objects: replies from Member States” (A/AC.105/635 and Add.1-13, Add.7/Corr.1 and Add.11/Corr.1);<sup>2</sup>

(b) Note by the Secretariat entitled “National legislation and practice relating to definition and delimitation of outer space” (A/AC.105/865 and Add.1).

79. The view was expressed that the use of the geostationary orbit, which was a limited natural resource, should, in addition to being rational, be made available to all countries, irrespective of their current technical capacities, thereby providing them with the possibility of having access to the 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 process of ITU.

80. Some delegations expressed the view that the geostationary orbit was a limited natural resource with sui generis characteristics that risked saturation and that equitable access to it should therefore be guaranteed for all States, taking into account in particular the needs of developing countries and the geographical position of certain countries.

81. The view was expressed that access to the geostationary orbit should be provided to States on equitable conditions, taking into account, in particular, the needs and interests of developing countries, irrespective of their geographical location.

82. Some delegations referred to the consensus reached by the Committee on the Peaceful Uses of Outer Space at its forty-fourth session<sup>3</sup> and expressed the view that, as the geostationary orbit was an integral part of outer space, its use should be governed by the provisions of the United Nations treaties on outer space.

83. The view was expressed 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, or even repeated use.

84. Some delegations expressed their satisfaction with the agreement reached by the Subcommittee at its thirty-ninth session (A/AC.105/738, annex III), to the effect that coordination among countries aimed at the utilization of the geostationary orbit should be carried out in a rational and equitable manner and in conformity with the ITU Radio Regulations.

85. Some delegations were of the view that the current Constitution and Convention of ITU<sup>4</sup> and the ITU Radio Regulations, as well as the current procedures set out in the treaties on international cooperation among countries and groups of countries with respect to the geostationary orbit and other orbits, took

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<sup>2</sup> A compilation of replies received from member States to the questionnaire is available on the website of the Office for Outer Space Affairs (<http://www.unoosa.org/oosa/SpaceLaw/aero/index.html>).

<sup>3</sup> *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 20* and corrigendum (A/56/20 and Corr.1), para. 159.

<sup>4</sup> United Nations, *Treaty Series*, vol. 1825, No. 31251.

fully into account the interests of States in the use of the geostationary orbit and the radio-frequency spectrum.

86. Some delegations were of the view that, in order for the agreement reached by the Legal Subcommittee at its thirty-ninth session to be successfully implemented, it was necessary for ITU to participate and to play an effective role. To that end, the relationship between ITU and the Committee should become closer and more effective.

87. The Subcommittee decided to invite ITU to participate in its sessions on a regular basis and to submit reports on its activities relating to the use of the geostationary orbit on an annual basis.

88. It was agreed that the participation of ITU in the work of the Subcommittee would be in the spirit of paragraph 62 of General Assembly resolution 60/99, in which the Assembly had requested organizations of the United Nations system and other international organizations to continue and, where appropriate, to enhance their cooperation with the Committee on the Peaceful Uses of Outer Space and to provide it with reports on the issues dealt with in the work of the Committee and its subsidiary bodies.

89. The view was expressed that the question of the definition and delimitation of outer space was linked to the issue of the geostationary orbit.

90. The view was expressed that scientific and technological progress, the commercialization of outer space, emerging legal questions and the increasing use of outer space in general had made it necessary for the Legal Subcommittee to consider the question of the definition and delimitation of outer space.

91. Some delegations expressed the view that the lack of a definition or delimitation of outer space brought about legal uncertainty concerning the applicability of space law and air law and that matters concerning state sovereignty and the boundary between air space and outer space needed to be clarified in order to reduce the possibility of disputes among States.

92. The view was expressed that States should continue to operate under the current framework, which was functioning well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. That delegation was of the view that currently an attempt to define or to delimit outer space would be a theoretical exercise, could lead to complicating existing activities and might not be able to anticipate continuing technological developments.

93. The Subcommittee noted that Colombia was developing, with the assistance of the Office for Outer Space Affairs, a project entitled "Geostationary orbit analyser tool", illustrating the non-homogeneous use of the orbit-spectrum resources.

94. As mentioned in paragraph 10 (b) above, at its 732nd meeting, on 3 April 2006, the Legal Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space and elected José Monserrat Filho (Brazil) as Chairman of the Working Group. In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, and subsequently endorsed

by the General Assembly in its resolution 60/99, the Working Group was convened only to consider matters relating to the definition and delimitation of outer space.

95. The Working Group held five meetings. At its 746th meeting, on 12 April, the Subcommittee endorsed the report of the Working Group, which is contained in annex II to the present report.

96. The full text of the statements made by delegations during the discussion on agenda item 8 is contained in unedited verbatim transcripts (COPUOS/Legal/T.736, 740 and 746).

## **VI. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space**

97. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-fifth session, taking into account the concerns of all countries, in particular those of developing countries, should consider the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Assembly resolution 47/68) as a single issue/item for discussion.

98. The Subcommittee noted with satisfaction the progress made by the Scientific and Technical Subcommittee at its forty-third session, in accordance with its multi-year workplan to establish the objectives, scope and attributes of an international, technically based framework of goals and recommendations for the safety of nuclear power source applications in outer space.

99. The Subcommittee noted that the Joint Technical Workshop on the Objectives, Scope and General Attributes of a Potential Technical Safety Framework for Nuclear Power Sources in Outer Space, organized by the Scientific and Technical Subcommittee and the International Atomic Energy Agency (IAEA) in Vienna from 20 to 22 February 2006 had been well received by member States and had been important for the development of an international consensus on a technically based framework for the safe use of nuclear power sources in outer space and that close coordination between the two organizations would contribute in a more effective manner to the preparation of such an international framework.

100. The view was expressed that the establishment of a committee, composed of experts from IAEA and the two subcommittees of the Committee on the Peaceful Uses of Outer Space, could lead to the preparation of a document that would take into consideration scientific, technical, legal and strategic aspects and that would enable the Legal Subcommittee to open the debate regarding a potential revision of the principles governing the use of nuclear power sources.

101. The view was expressed that the Legal Subcommittee could consider the question of a possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space and the development of international standards and norms in the field of nuclear power sources and that, if such a review was undertaken, the Subcommittee could benefit from the experience of other international organizations, such as IAEA, and of those States which had already developed relevant legislative norms.

102. The view was expressed that the establishment of cooperation between UNESCO and the Legal Subcommittee on the use of nuclear power sources in outer space would be important.

103. The Legal Subcommittee agreed that it was necessary to continue examining the issue and that the item should remain on its agenda.

104. The full text of the statements made during the discussions on agenda item 9 is contained in unedited verbatim transcripts (COPUOS/Legal/T.740-742).

## **VII. Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment**

105. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee should consider an agenda item entitled “Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment”, as a single issue/item for discussion.

106. At the 737th meeting of the Subcommittee, on 6 April 2006, the observer for ICAO made a statement concerning the assumption of the role of Supervisory Authority by ICAO under the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (Aircraft Protocol). At the 739th meeting, on 7 April, the observer for Unidroit reported to the Subcommittee on developments concerning the draft space assets protocol.

107. The Subcommittee noted that the Convention on International Interests in Mobile Equipment and the Aircraft Protocol had entered into force on 2 November 2005 and that, pursuant to article 16 of the Convention, the International Registry on aircraft equipment had been established and had entered into operation on 1 March 2006 for the registration of international interests in aircraft equipment. The Subcommittee also noted that ICAO had assumed the role of Supervisory Authority under the Aircraft Protocol and that the Regulations and Procedures for the International Registry had been published and were available on the website of ICAO. The Subcommittee further noted that the ICAO Council had decided to establish a commission of experts, nominated by the signatory and contracting States of the Convention and the Aircraft Protocol, to assist the Council in its functions as Supervisory Authority.

108. The Subcommittee noted that Unidroit continued to be fully committed to the timely completion of work on the draft space assets protocol and that the States members of the Committee on the Peaceful Uses of Outer Space had been invited to the third session of the Committee of Governmental Experts, tentatively scheduled to be held in Rome from 11 to 15 December 2006. The Subcommittee also noted that a number of consultations would be held prior to that session, to advance progress on outstanding issues.

109. The Subcommittee noted the request from the Unidroit secretariat to member States of the Committee to provide it with information on which services should be considered as “public services” for the purposes of article XVI, paragraph 3, of the draft space assets protocol and how those services were presently protected at the national level. The Subcommittee also noted the invitation from the Unidroit secretariat to member States of the Committee to post comments on the special web forum created by ITU to develop proposals relating to the future international registration system for space assets.

110. Some delegations expressed the view that the draft space assets protocol offered an opportunity to facilitate the expansion of the commercial space sector by setting up a framework through which States could support a system of assets-based financing. Those delegations were of the view that the draft protocol would allow a broader range of States, in all regions and at all levels of economic development, to benefit from that expansion by providing a better opportunity to acquire interests in space equipment and acquire services generated from space equipment.

111. Some delegations expressed their support for the United Nations assuming the function of Supervisory Authority, through its Office for Outer Space Affairs.

112. The view was expressed that the United Nations assumption of the role of Supervisory Authority should be supported because that would enhance the role of the United Nations in promoting international cooperation for the benefit of all countries and in encouraging the progressive development of international law and its codification.

113. The view was expressed that ICAO, by assuming the functions of Supervisory Authority under the Aircraft Protocol, demonstrated that there were no legal obstacles preventing a specialized agency of the United Nations system from assuming that role. That delegation expressed the view that the functions of the Supervisory Authority under the draft protocol could not be qualified as “commercial” and, therefore, would not fall outside the mandate of the United Nations.

114. The view was expressed that the International Registry on space assets would be a distinct entity from the Register of Objects Launched into Outer Space maintained by the Secretary-General under the Registration Convention and from the records maintained by ITU on the use of radio frequencies and related orbital locations.

115. The view was expressed that, if the Supervisory Authority were to be an intergovernmental organization, it would need to be immune from legal and administrative processes for all issues relating to the Registry and its operation and that such immunity should be stated in the draft protocol. That delegation noted that Unidroit was considering the possibility of other intergovernmental bodies undertaking the role of Supervisory Authority.

116. Some delegations expressed the view that the future protocol was intended to address only the distinct and important issue of financing for commercial space activities and not to affect the rights and obligations of parties to the outer space treaties or the rights and obligations of States members of ITU under its Constitution, Convention and Regulations. Those delegations also expressed the

view that the draft space assets protocol would ultimately be negotiated by the States members of Unidroit through the Unidroit process.

117. Some delegations expressed the view that the attempt by a number of delegations to raise the issue of the appropriateness of the United Nations assuming the role of Supervisory Authority was disturbing. Those delegations expressed the view that, because consensus could not be reached on that issue at the forty-fourth session of the Legal Subcommittee and because the scope of the agenda item had been duly modified to take into account the lack of consensus, the question of the appropriateness of the United Nations assuming the role of Supervisory Authority had been removed from the agenda of the Legal Subcommittee.

118. The view was expressed that, although there was no longer a working group considering the question of the appropriateness of the United Nations assuming the role of Supervisory Authority, the reformulated agenda item had been worded clearly and broadly enough to allow the Subcommittee to consider all issues regarding the draft protocol.

119. The view was expressed that although a space assets protocol would fuel the growth of space activities, it was not appropriate for the United Nations to assume the role of Supervisory Authority. That delegation expressed the view that, moreover, the present formulation of the draft protocol raised certain issues requiring attention and that Unidroit was working towards their resolution through the Committee of Governmental Experts. The delegation also stated that the Subcommittee had the responsibility to ensure that the legal regime established through the space treaties was not negatively affected and that that was the main intent of the present formulation of the agenda item.

120. The view was expressed that, while the draft protocol addressed in detail the rights and interests of the financier in case of any default on the part of the debtor, it did not adequately address the issues relating to the obligations of the creditor and the State to which the financier belonged, in particular the obligations of States under articles VI and VII of the Outer Space Treaty and article II, paragraph 1, of the Registration Convention.

121. The view was expressed that implementation of the future protocol must not affect the orbital slots and frequency spectrum bands allocated to States in accordance with the established rules of ITU, because it was possible that, in the case of default, the financier taking control of the space asset might seek to make use of those orbital slots and the frequency spectrum band.

122. The view was expressed that the provisions of the space assets protocol must be compatible with the United Nations treaties on outer space and that, in case of any conflict with the treaties on outer space, the provisions of those treaties would prevail. That delegation was also of the view that forums and symposiums needed to be organized for all Member States, particularly for developing countries, with a view to providing information about certain aspects of the draft protocol that required clarification.

123. The view was expressed that the inclusion of an explicit reference in the draft protocol to the United Nations treaties on outer space as not being affected by the protocol would be a new act of reaffirmation and strengthening of the international legal regime governing outer space.

124. The view was expressed that consideration should be given to the establishment, by the conference of States parties to the Convention and the future space assets protocol, of a mechanism for appointing a Supervisory Authority consisting of States parties to the Convention, once the protocol had entered into force, which had been one of the possibilities indicated by the Secretariat in a report on the subject submitted to the Legal Subcommittee at its forty-second session (A/AC.105/C.2/L.238, para. 52).

125. The view was expressed that the final decision regarding the designation of the Supervisory Authority remained with the diplomatic conference that would be convened to adopt the future protocol.

126. The Subcommittee agreed that the item should remain on the agenda of its forty-sixth session, in 2007.

127. The full text of statements made by delegations during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T.734-740).

### **VIII. Practice of States and international organizations in registering space objects**

128. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee should consider the practice of States and international organizations in registering space objects, in accordance with the workplan adopted by the Committee.

129. The Subcommittee had before it the following documents:

(a) Note by the Secretariat on the registration of space objects: harmonization of practices, non-registration of space objects, transfer of ownership and registration/non-registration of “foreign” space objects (A/AC.105/867);

(b) Note by the Secretariat on the practice of States and international organizations in registering space objects: benefits of becoming a party to the Convention on Registration of Objects Launched into Outer Space (A/AC.105/C.2/L.262);

(c) Note by the Secretariat on States and intergovernmental (or former intergovernmental) organizations that operate or have operated space objects in Earth orbit or beyond (1957-present) (A/AC.105/C.2/2006/CRP.5).

130. The Subcommittee noted with satisfaction that its work under agenda item 11 would encourage States to adhere to the Registration Convention, improve the application and enhance the effectiveness of the Convention and assist in developing and strengthening national legislative norms relating to the registration of objects launched into outer space.

131. The Subcommittee was informed of progress being made by States towards becoming party to the Registration Convention; the practices of States regarding national legislation for implementing the Registration Convention; the establishment and maintenance of national registries of objects launched into outer

space; and the transmission of information from those registries to the Register of Objects Launched into Outer Space maintained by the Secretary-General. The Subcommittee was also informed of bilateral agreements between States that took into account provisions of the Registration Convention.

132. The Subcommittee was also informed of the practice of some States in registering launch vehicles and payloads separately, as well as of the practice with regard to the transfer of ownership of space objects in orbit.

133. The Subcommittee agreed that it was important to urge greater adherence to the Registration Convention, which would lead to more States registering space objects, and also encourage international organizations to declare their acceptance of the rights and obligations under the Convention.

134. Some delegations expressed the view that it was important to identify practical ways and means to improve the application of the Registration Convention, ensuring that the registration process functioned well in the future, thus facilitating the productive and beneficial use of outer space. A uniform and complete application of the Registration Convention was important for the conduct of space activities, both governmental and non-governmental. All parties to the Registration Convention should ensure that the space objects for which they considered themselves to be the launching State were duly registered.

135. The Subcommittee noted with concern that in recent years there had been a marked decrease in the registration of objects launched into outer space and that the failure to register those objects undermined the application of the treaties on outer space.

136. The view was expressed that one factor that contributed to the problem with non-registration of space objects was that States that were not party to the Registration Convention and international organizations that were unable to declare their acceptance of the rights and obligations under the Convention were under no obligation to register their space objects.

137. The view was expressed that non-registration of space objects constituted not only a violation of international law but also a real concern, since orbital objects, including debris, and the multiplication of launch services were placing new constraints on global space activities. Non-registered space objects were, on that account, not subject to any jurisdiction and control from their launching States.

138. The view was expressed that, in order to secure compliance with the Convention, it would seem to be in the interest of the State from whose territory or facility a space object was launched to contact other States or international organizations that it considered to be involved in the launch, with a view to ensuring that the space object in question was registered.

139. The view was expressed that when a space object was transferred from the jurisdiction and control of the State of registry to the jurisdiction and control of another State, the State of registry, following the transfer of ownership, would no longer bear international responsibility for the space object under article VI of the Outer Space Treaty.

140. The view was expressed that registration of a space object other than by a launching State was not conceivable under the Registration Convention. The

obligation to register provided for by the Registration Convention had a different purpose than was provided for under article VIII of the Outer Space Treaty, which had to be linked to the liability system set up by article VII of the Outer Space Treaty and by the Liability Convention.

141. The view was expressed that, with regard to jurisdiction and control over a space object launched by multiple launching States, the State that had registered a space object would retain jurisdiction and control over that object according to article VIII of the Outer Space Treaty. In case jurisdiction and control over the space object were to be changed, an appropriate agreement had to be concluded among launching States in accordance with article II of the Registration Convention.

142. The view was expressed that in registering their space objects, States acknowledged their responsibility for launching space objects into outer space. The Liability Convention connected the liability for damage caused by a space object to the launching State, a matter that was directly connected to the registration of the space object in question. That delegation was also of the view that the Registration Convention and Liability Convention did not fully reflect the needs and realities of ongoing commercialization and use of space for research. Since national legislation addressed that problem only in part, there was a need for the adoption of universally recognized norms at the international level.

143. The view was expressed that the obligation to register covered all objects launched into outer space, regardless of the status, nature or purpose of their operation.

144. As mentioned in paragraph 10 (c) above, at its 732nd meeting, on 3 April 2006, the Subcommittee reconvened its Working Group on the Practice of States and International Organizations in Registering Space Objects and elected Kai-Uwe Schrogl (Germany) Chairman of the Working Group. The Working Group held six meetings. At its 747th meeting, on 13 April 2006, the Subcommittee endorsed the report of the Working Group, which is contained in annex III to the present report.

145. The full text of the statements made during the discussions on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T.741-744 and 747).

## **IX. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-sixth session**

146. The Legal Subcommittee recalled that the General Assembly, in its resolution 60/99, had noted that the Subcommittee, at its forty-fifth session, would submit its proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Subcommittee at its forty-sixth session, in 2007.

147. The Chairman recalled the proposals for new items to be included in the agenda of the Legal Subcommittee that had been considered by the Subcommittee at its forty-fourth session and retained by their sponsors with a view to discussing them at subsequent sessions of the Subcommittee (see A/AC.105/850, para. 148).

148. The Subcommittee noted that informal consultations were being conducted among member States with regard to the proposal to consider an item entitled “International cooperation with a view to developing national infrastructure for the use of geospatial data”. The Subcommittee noted that the proposal, introduced in a preliminary form by Brazil, would be further refined and could be presented to the Committee, on the basis of those consultations, for consideration at its forty-ninth session, to be held in June 2006.

149. Some delegations proposed the inclusion of an item entitled “Legal aspects of disaster management” on the future agenda of the Legal Subcommittee. Those delegations noted that a formal proposal would be drawn up following the conclusion of the work being conducted by the ad hoc expert group on the possibility of creating an international entity to provide for coordination and means of realistically optimizing the effectiveness of space-based services for use in disaster management and further consultations among member States.

150. The view was expressed that it was important for the Legal Subcommittee to consider the legal aspects of space debris mitigation. That delegation noted that, as the Scientific and Technical Subcommittee was carrying out extensive work in relation to space debris, the discussion on the inclusion of a new item on space debris on the agenda of that Subcommittee could be postponed for the next session of the Legal Subcommittee. That delegation also noted the importance of the space debris mitigation guidelines developed by the Inter-Agency Space Debris Coordination Committee (IADC) and expressed the view that the Committee on the Peaceful Uses of Outer Space was the most appropriate forum for promoting the application of those guidelines at the international level.

151. The Legal Subcommittee agreed on the following items to be proposed to the Committee on the Peaceful Uses of Outer Space for inclusion in the agenda of the Subcommittee at its forty-sixth session:

*Regular items*

1. Opening of the session and adoption of the agenda.
2. Statement by the Chairman.
3. General exchange of views.
4. Status and application of the five United Nations treaties on outer space.
5. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
6. 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.

*Single issues/items for discussion*

7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
8. Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment.

*Items considered under workplans*

9. Practice of States and international organizations in registering space objects.  
2007: Report to the Committee on the Peaceful Uses of Outer Space.

*New items*

10. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-seventh session.

152. The Legal Subcommittee agreed that the working groups on the status and application of the five United Nations treaties on outer space, on matters relating to the definition and delimitation of outer space and on the practice of States and international organizations in registering space objects should be reconvened at its forty-sixth session.

153. The Subcommittee agreed to review, at its forty-sixth session, the need to extend the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space beyond that session of the Subcommittee.

154. The Subcommittee noted that the sponsors of the following proposals for new items to be included in its agenda intended to retain their proposals for possible discussion at its subsequent sessions:

(a) Review of the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting, with a view to possibly transforming the text into a treaty in the future, proposed by Greece;

(b) Review of existing norms of international law applicable to space debris, proposed by the Czech Republic and Greece;

(c) Discussion on matters relating to the Principles on Remote Sensing, proposed by Chile and Colombia;

(d) Space debris, proposed by France and supported by member and cooperating States of ESA;

(e) Review of the Principles on Remote Sensing, with a view to transforming them into a treaty in the future, proposed by Greece.

155. The full text of the statements made during the discussions on agenda item 12 is contained in unedited verbatim transcripts (COPUOS/Legal/T.742-745).

## Annex I

### **Report of the Chairman of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space**

1. In accordance with paragraph 6 of General Assembly resolution 60/99 of 8 December 2005, the Legal Subcommittee, at its 732nd meeting, on 3 April 2006, reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, under the chairmanship of Vassilios Cassapoglou (Greece).

2. The Working Group held six meetings on 4, 5, 6 and 12 April 2006. At the 1st meeting of the Working Group, on 4 April, the Chairman recalled that, at its fortieth session, in 2001, the Legal Subcommittee had agreed that the discussions of the Working Group would include the status of the United Nations treaties on outer space, review of their implementation and obstacles to their universal acceptance, as well as the promotion of space law, especially through the United Nations Programme on Space Applications (A/AC.105/763 and Corr.1, para. 118). The Chairman also recalled that, at its forty-first session, in 2002, the Subcommittee had agreed that the Working Group could consider any new, similar issues that might be raised in discussions in the Working Group, provided that those issues fell within the existing mandate of the Working Group (A/AC.105/787, paras. 138 and 140).

3. The Working Group had before it a document entitled "Questionnaire on the possible options for future development of international space law" (A/AC.105/C.2/L.259).

4. The Chairman, in his introductory remarks, recalled that during its forty-fourth session, in 2005, the Legal Subcommittee had agreed that it would have been premature for the Working Group to meet during that session, as Member States and international organizations needed time to respond to the letters sent to them by the Secretary-General concerning the five United Nations treaties on outer space and to the recommendation of the General Assembly, in its resolution 59/115 of 10 December 2004, concerning voluntary submission by Member States of information on their current practices regarding on-orbit transfer of ownership of space objects (A/AC.105/850, para. 29).

5. The Chairman also recalled that the Legal Subcommittee at its forty-fourth session had therefore agreed on 5 April 2005 to suspend the Working Group and to reconvene it at its forty-fifth session, in 2006. The Subcommittee had agreed that, at its forty-fifth session, it would also review the need to extend the mandate of the Working Group beyond that session (A/AC.105/850, para. 30).

6. The Working Group agreed to focus its attention on developing a programme of work and used the following list of proposed issues as a basis for developing such a workplan:

(a) Actions taken or issues presented in the plenary of the Legal Subcommittee at its forty-fourth session, in 2005:

- (i) Secretary-General's letter requesting States to consider adhering to the outer space treaties (A/AC.105/850, para. 29):

Member States would be invited to provide information on any action that might have been taken at the national level as a result of the letter;

- (ii) General Assembly resolution 59/115, entitled "Application of the concept of the 'launching State'" (A/AC.105/850, para. 29):

Member States would be invited to provide information on a voluntary basis on their current practices regarding on-orbit transfer of ownership of space objects;

- (iii) Questionnaire on the possible options for future development of international space law (A/AC.105/850, para. 146):

Recalling paragraph 146 of the report of the Legal Subcommittee on its forty-fourth session (A/AC.105/850), in which it is stated that the questionnaire on the possible options for future development of international space law could be discussed by the Working Group;

- (iv) Review of the need to extend the mandate of the Working Group beyond the forty-fifth session of the Legal Subcommittee (A/AC.105/850, para. 30);

- (b) Issues that were raised in the Working Group but not fully addressed in the Legal Subcommittee during its forty-first session, in 2002 (A/AC.105/787):

- (i) The role of the United Nations treaties on outer space as the basis for national space legislation, especially in regulating the involvement of the private sector in outer space activities;

- (ii) The legal value of the declaration of acceptance by an international intergovernmental operational organization following its privatization;

- (iii) Mechanisms for the worldwide promotion of space law, not only through education, but also through the provision of technical assistance to Governments for the development of national space legislation;

- (c) Issues that were raised but not fully addressed in the plenary of the Legal Subcommittee at its thirty-ninth session, in 2000 (A/AC.105/738):

The issue of strict compliance by States with the provisions of the international legal instruments governing outer space to which they are currently parties should be examined further with a view to identifying measures to encourage full compliance, taking into account the interrelated nature of the principles and rules governing outer space.

- 7. Following the discussion, the Working Group agreed:

- (a) To recommend to the Subcommittee that Member States be requested to provide information on any action that might have been taken at the national level as a result of receiving the model letter, endorsed by the Subcommittee, from the Secretary-General encouraging participation in the outer space treaties;

- (b) To transfer to the Working Group on the Practice of States and International Organizations in Registering Space Objects the issue of Member States

providing information on a voluntary basis on their current practices regarding on-orbit transfer of ownership of space objects;

(c) To continue the discussion on the questionnaire on the possible options for future development of international space law in the Legal Subcommittee at its forty-sixth session, in 2007;

(d) To postpone the discussion of all other matters (except for the review of the need to extend the mandate of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space beyond 2006) to the forty-sixth session of the Subcommittee, in 2007.

8. In addition to the agreed programme of work outlined above, the Working Group at its 5th meeting, on 6 April 2006, agreed on the text of a document on advantages of adherence to the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex), and recommended that the Office for Outer Space Affairs of the Secretariat send it to all States that had not yet become parties to the Convention. The text of the document is reproduced in the appendix to the present report.

9. The Working Group noted with satisfaction the statements made by a number of delegations about the positive impact of the letter from the Secretary-General encouraging participation in the outer space treaties, which, in their view, had stimulated a thorough consideration of participation in the United Nations treaties on outer space.

10. At the 5th meeting, on 6 April 2006, it was recommended that the Subcommittee at its forty-sixth session, in 2007, reconvene the Working Group and review the need to extend the mandate of the Working Group beyond that session.

## Appendix

### **Advantages of adherence to the Convention on International Liability for Damage Caused by Space Objects**

1. Among the subjects discussed in the Working Group during the forty-fifth session of the Legal Subcommittee, emphasis was placed on action taken at the national level as a result of the Secretary-General's letter requesting States to become parties to the United Nations outer space treaties (A/AC.105/826, annex I), in view of the multiple advantages of such a decision.

2. Special reference was made to the reasons for which participation in the legal regime established pursuant to the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex) was of significant interest, particularly to developing countries.

3. In fact, it is generally recognized that the Convention is of eminent importance for the legal order in outer space and constitutes a cornerstone for the safety and credibility of space activities. By consecrating internationally the concept of absolute or objective and unlimited State liability for any damage caused by space objects on the surface of the Earth or to aircraft in flight, the Convention has

become a unique case and a real novelty in contemporary public international law concerning the protection of victims.

4. Although many States are parties to the Convention, the number of ratifications of and accessions to the Convention remains unsatisfactory. By January 2006, of the 191 States Members of the United Nations, only 83 had ratified the Convention, 25 had only signed it and the remaining 83 had not yet become parties to it (through adherence, accession etc.). That means that 43 per cent of the current membership of the United Nations does not participate in the regime established by the Convention. The same situation prevails in the case of international (global and regional) intergovernmental organizations directly involved in space activities, only three of which (the European Space Agency, the European Telecommunications Satellite Organization and the European Organisation for the Exploitation of Meteorological Satellites) have made a declaration of acceptance of the Convention.

5. Yet the advantages of adhering to the Convention (ratifying it or acceding to it) are numerous. They include:

(a) The launching State is absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft in flight (article II of the Convention), as a result of which the aggrieved State does not need to engage legal procedures;

(b) A claim may be submitted by the State of nationality of the aggrieved person or by the State where damage was sustained, or by the State of permanent residence of the aggrieved person (article VIII);

(c) Claims may be submitted to the launching State without the claimant having had to exhaust local remedies, while not excluding recourse to such remedies (article XI);

(d) Compensation is determined in accordance with international law and the principles of justice and equity (article XII);

(e) If no settlement of a claim is arrived at through diplomatic negotiations, either State involved may request the establishment of a Claims Commission (article XIV);

(f) States parties to the Convention may declare that they will recognize as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which they become parties (General Assembly resolution 2777 (XXVI), para. 3; and article XIX);<sup>a</sup>

(g) In case of large-scale danger to human life or serious interference with the living conditions of populations, the State that has suffered the damage may request assistance from the launching State and other members of the international community (article XXI).

6. These advantages accrue to all States that are parties to the Convention, whether space-faring or not, as they could all be potential victims of accidents caused by space objects. Developing countries in particular could benefit from the extensive no-fault liability regime established by the Convention, in case of damage

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<sup>a</sup> Austria, Canada, Denmark, Finland, Greece, Ireland, the Netherlands, New Zealand, Norway and Sweden have made such declarations.

to their territories. Many of these countries possess vast territories or are situated in equatorial and subequatorial regions and may be particularly affected by launches and re-entries of space objects.

7. Enhanced adherence to the Convention would strengthen the international legal regime governing outer space activities.

## Annex II

### **Report of the Chairman of the Working Group on the Definition and Delimitation of Outer Space**

1. At its 732nd meeting, on 3 April 2006, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Definition and Delimitation of Outer Space and elected José Monserrat Filho (Brazil) as Chairman of the Working Group.

2. The Chairman drew the attention of the Working Group to the fact that, in accordance with the agreement reached at the thirty-ninth session of the Legal Subcommittee and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, and subsequently endorsed by the General Assembly in its resolution 60/99 of 8 December 2005, the Working Group convened only to consider matters relating to the definition and delimitation of outer space.

3. The Working Group had before it a conference room paper on the contribution of Belgium to its work (A/AC.105/C.2/2006/CRP.8). It also had before it the following documents:

(a) Note by the Secretariat entitled “Questionnaire on possible legal issues with regard to aerospace objects: replies from Member States” (A/AC.105/635 and Add.1-13, Add.7/Corr.1 and Add.11/Corr.1);<sup>a</sup>

(b) Note by the Secretariat entitled “National legislation and practice relating to definition and delimitation of outer space” (A/AC.105/865 and Add.1).

4. Some delegations were of the view that the replies to the questionnaire on aerospace objects constituted a solid foundation for considering matters relating to aerospace objects.

5. The view was expressed that the Subcommittee should continue to invite Member States to submit their replies to the questionnaire on aerospace objects until the number of replies reached a level sufficient to initiate work on summarizing them.

6. The view was expressed that the questionnaire in its current form should be considered final and that all replies received from Member States should be summarized. The issue of aerospace objects should then be suspended until new events merited resumed consideration of the status of aerospace objects.

7. On the basis of its discussions, the Working Group agreed:

(a) To initiate work on the development of criteria for analysing the replies to the questionnaire on aerospace objects. For that purpose, the Working Group agreed to invite its Chairman, as well as volunteer experts nominated by member States of the Committee, to present to the Legal Subcommittee at its forty-sixth session, in 2007, proposals concerning possible ways forward. For the purpose of completing that task, the Working Group agreed to continue:

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<sup>a</sup> A compilation of replies received from Member States to the questionnaire is available on the website of the Office for Outer Space Affairs (<http://www.unoosa.org/oosa/SpaceLaw/aero/index.html>).

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- (i) To invite member States of the Committee to submit their preferences with regard to the replies of Member States to the questionnaire on aerospace objects, summarized in document A/AC.105/C.2/L.249 and Corr.1 and Add.1;
- (ii) To invite member States of the Committee to submit proposals concerning criteria for analysing the replies to the questionnaire on aerospace objects;
- (b) To continue to invite Member States to reply to the questionnaire on aerospace objects until a consensus on criteria for analysing the replies could be reached by the Subcommittee;
- (c) To request the Secretariat to continue to update the document entitled "Analytical summary of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.249 and Corr.1 and Add.1), using the replies of Member States to the questionnaire on aerospace objects contained in documents A/AC.105/635/Add.12 and 13 and future replies;
- (d) To request the Secretariat to continue to update the compilation of replies to the questionnaire on aerospace objects, available in electronic format in all official languages of the United Nations on the website of the Office for Outer Space Affairs;
- (e) To invite member States of the Committee to submit information on national legislation or any national practices that might exist or were being developed, relating directly or indirectly to the definition and/or delimitation of outer space and air space, taking into account the current and foreseeable level of the development of space and aviation technologies;
- (f) To address to the Member States of the United Nations, through the Secretariat, the following questions:
- (i) Does your Government consider it necessary to define outer space and/or to delimit air space and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies? Please provide a justification for the answer; or
- (ii) Does your Government consider another approach to solving this issue? Please provide a justification for the answer.
8. The Working Group took note with appreciation of the conference room paper on the contribution of Belgium to the work of the Working Group (A/AC.105/C.2/2006/CRP.8).
9. The Working Group agreed to continue its work, including its consideration of the proposals and views expressed at its meeting held during the forty-fifth session of the Legal Subcommittee, at its next meeting, to be held during the forty-sixth session of the Subcommittee.
10. Pursuant to a request from the Legal Subcommittee, the Committee on the Peaceful Uses of Outer Space, at its forty-eighth session, in 2005, had invited the Scientific and Technical Subcommittee to consider the possibility of preparing a report on the technical characteristics of aerospace objects in the light of the current level of technological advancement and possible developments in the foreseeable

future.<sup>b</sup> At its forty-third session, in 2006, the Scientific and Technical Subcommittee had agreed, through its Working Group of the Whole, to request the Legal Subcommittee, through its Working Group on the Definition and Delimitation of Outer Space, to clarify its invitation and to indicate the exact nature and purpose of such a report, which might include a definition of the character of aerospace objects to be considered and the technical attributes to be taken into account (A/AC.105/869, annex I, para. 19).

11. The Working Group expressed its appreciation to the Scientific and Technical Subcommittee for its reply regarding the possibility of preparing a report on the technical characteristics of aerospace objects (see A/AC.105/869, annex I, para. 19). In that connection, the Working Group agreed to clarify its invitation in the future, taking into account the results of the work on the development of criteria for analysing the replies to the questionnaire on aerospace objects.

12. The view was expressed that the delimitation of outer space was necessary in view of the technological advancements in the field of outer space and the fundamental differences between the legal regimes applicable to airspace and outer space.

13. The view was expressed that a single regime for the navigation of space objects was necessary.

14. Some delegations expressed the view that the absence of a definition and the delimitation of outer space created an uncertainty in air and space laws.

15. Some delegations expressed the view that, given the current level of the development of space technologies, the delimitation of outer space was not warranted.

16. The view was expressed that, in view of the absence of a definition of outer space, it was difficult to establish a number of important definitions in national laws on space activities.

17. Some delegations expressed the view that the definition and delimitation of outer space remained a topical and important issue that should continue to be considered by the Working Group.

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<sup>b</sup> *Official Records of the General Assembly, Sixtieth Session, Supplement No. 20* and corrigendum (A/60/20 and Corr.1), para. 204.

## Annex III

### **Report of the Chairman of the Working Group on the Practice of States and International Organizations in Registering Space Objects**

1. In accordance with paragraph 8 of General Assembly resolution 60/99 of 8 December 2005, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its 732nd meeting, on 3 April 2006, reconvened its Working Group on the Practice of States and International Organizations in Registering Space Objects. The Working Group was chaired by Kai-Uwe Schrogl (Germany).

2. The Working Group held six meetings, from 10 to 13 April 2006. At its 1st meeting, the Chairman recalled that, in accordance with the workplan adopted by the Committee on the Peaceful Uses of Outer Space at its forty-sixth session, in 2003, the Working Group would identify common practices and draft recommendations for enhancing adherence to the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex). The Chairman also recalled the agreement that in 2006, during the forty-fifth session of the Subcommittee, the Working Group could focus on the following issues (A/AC.105/850, annex III, para. 11): (a) harmonization of practices (administrative and practical); (b) non-registration of space objects; (c) practice with regard to transfer of ownership of space objects in orbit; and (d) practice with regard to registration/non-registration of “foreign” space objects. The Chairman underlined the problem of the decreasing registrations of objects launched into outer space over the past few years. The Chairman recalled the relevance of the conclusions of the Legal Subcommittee’s Working Group on the Review of the Concept of the “Launching State”, as well as General Assembly resolution 59/115 of 10 December 2004, on the application of the concept of the “launching State”.

3. The Working Group had before it the following:

(a) Note by the Secretariat entitled “Registration of space objects: harmonization of practices, non-registration of space objects, transfer of ownership and registration/non-registration of ‘foreign’ space objects” (A/AC.105/867 and Corr.1);

(b) Note by the Secretariat entitled “Practice of States and international organizations in registering space objects: benefits of becoming a party to the Convention on Registration of Objects Launched into Outer Space” (A/AC.105/C.2/L.262);

(c) Conference room paper prepared by the Secretariat entitled “States and intergovernmental (or former intergovernmental) organizations that operate or have operated space objects in Earth orbit or beyond (1957-present)” (A/AC.105/C.2/2006/CRP.5).

4. The Working Group also had before it a background paper prepared by the Secretariat entitled “Practice of States and international organizations in registering space objects” (A/AC.105/C.2/L.255 and Corr.1 and 2) and a conference room paper (A/AC.105/C.2/2005/CRP.10) containing statistical information on the number of space objects launched and registered or unregistered during the period 1957-2004.

5. The Working Group was informed of practices followed by States in registering space objects and implementing the Registration Convention. In particular, the Working Group was informed of activities of authorities responsible for maintaining national registries and the legal regulations applicable to registering space objects; criteria for including objects in national registries; the procedures applied in cases where more than one party was involved in the launch or where private entities or international organizations were involved; practices with regard to transfer of ownership of space objects in orbit; and the provision of additional information to the Register of Objects Launched into Outer Space maintained by the Secretary-General under the Registration Convention. The Working Group was also informed of practices of States concerning the inclusion of provisions related to the terms of the Registration Convention in bilateral agreements between States and between States and international organizations.

6. The Working Group was informed by some States of the status of their ratification of, or accession to, the Registration Convention and their practice in furnishing information under General Assembly resolution 1721 B (XVI) of 20 December 1961.

7. The Working Group noted with appreciation the compilation of elements provided in the note by the Secretariat on the benefits of becoming a party to the Registration Convention (A/AC.105/C.2/L.262).

8. The Working Group agreed that the following elements could constitute the basis for a consensus on specific recommendations and conclusions to be included in the report to be prepared by the Subcommittee at its forty-sixth session, in 2007:

(a) Benefits of becoming a party to the Registration Convention:

(i) By acceding to, implementing and observing the provisions of the Registration Convention, States would:

a. Enhance the usefulness and maintenance of the Register of Objects Launched into Outer Space, in which information furnished by States and international intergovernmental organizations conducting space activities that have declared their acceptance of the rights and obligations under the Registration Convention is recorded;

b. Benefit from additional means and procedures that assist with the identification of space objects;

c. Have the right to request assistance from other States, including States possessing monitoring and tracking facilities, to identify a space object that has caused damage or that may be of a hazardous or deleterious nature;

(ii) Universal accession to and acceptance, implementation and observance of the provisions of the Registration Convention would:

a. Lead to increased establishment of national registries;

b. Contribute to the development of national procedures and mechanisms for the maintenance of national registries and provision of information to the Register of Objects Launched into Outer Space;

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- c. Contribute to standardized procedures, both nationally and internationally, for registering space objects with the Register of Objects Launched into Outer Space;
  - d. Contribute to uniformity with regard to the information to be furnished and recorded in the Register of Objects Launched into Outer Space concerning space objects carried in the national registries;
  - e. Contribute to the receipt of and recording in the Register of Objects Launched into Outer Space of additional information concerning space objects on the national registries and/or information on objects that are no longer in Earth orbit;
- (iii) Only States that have become parties to the Registration Convention will be able to propose amendments to the Convention and to participate in any review of the Convention that may be requested by parties in accordance with the Convention;
- (b) Adherence to and implementation of the Registration Convention:
- (i) States that have not yet ratified or acceded to the Registration Convention should become parties to that Convention and furnish, until such time as they become parties to the Convention, information in accordance with General Assembly resolution 1721 B (XVI);
  - (ii) International intergovernmental organizations conducting space activities should declare their acceptance of the rights and obligations under the Registration Convention;
  - (iii) States parties to the Registration Convention and international intergovernmental organizations conducting space activities having declared their acceptance of the rights and obligations under the Convention are to furnish information to the Secretary-General in accordance with the Convention;
  - (iv) States parties to the Registration Convention are to establish a national registry and inform the Secretary-General of the establishment of such a registry in accordance with the Convention;
- (c) Registration practice relating to the uniformity of registration on the basis of the Registration Convention or General Assembly resolution 1721 B (XVI) or any other basis:
- (i) Harmonization of administrative measures:
    - a. Consideration should be given to achieving uniformity in the information to be provided upon registration. Such information should include:
      - i. The Committee on Space Research (COSPAR) international designator, where appropriate;
      - ii. Greenwich mean time (GMT) as the time reference for the date of launch;
      - iii. Kilometres, minutes and degrees as standard units for basic orbital parameters;

- iv. Function of space object;
  - b. Additional information that could be considered appropriate might include:
    - i. The geostationary orbit (GSO) location, where appropriate;
    - ii. Web links to official information on space objects;
    - iii. Notification when a space object is no longer “functional”;
    - iv. Provision of the date of decay or re-entry based on GMT, where States are capable of verifying that information;
  - c. States and international intergovernmental organizations conducting space activities should designate focal points for their national registries. Contact details of the focal points should be made public through the web pages of the Office for Outer Space Affairs of the Secretariat related to the Register of Objects Launched into Outer Space;
  - d. Web links should be established through the Web pages of the Office for Outer Space Affairs related to the Register of Objects Launched into Outer Space to the national registries that are available on the Internet;
  - e. The Office for Outer Space Affairs should draw up a registration template reflecting the obligations of States deriving from article IV of the Registration Convention, available to all Member States, in order to assist States in their submission of registration information to the Register of Objects Launched into Outer Space;
- (ii) Non-registration of space objects and registration/non-registration of “foreign” space objects:
  - a. Due to the complexity of the responsibility structure in international intergovernmental organizations conducting space activities, a solution should be sought in cases where an international intergovernmental organization conducting space activities has not yet declared its acceptance of the rights and obligations under the Registration Convention, and a general backup solution for registration by international intergovernmental organizations conducting space activities is needed in cases where consensus is missing on registration among the States members of such organizations;
  - b. The State from whose territory or facility an object was launched should contact States that could also qualify as “launching States” to jointly determine which of the States involved should register the space object, in the absence of prior agreement having been reached between those States;
  - c. The separate registration of the launch vehicle and parts thereof and each of the satellites should be encouraged. Satellites should be included on a registry of the State of the satellite’s owner and/or operator because that State is best positioned to exercise jurisdiction and control;

d. States should encourage launch service providers that offer their services for foreign satellites to advise the owner and/or operator of the satellite to address the appropriate State on the registration of that satellite;

(iii) Transfer of ownership of space objects in orbit:

Following the transfer of ownership of a space object in orbit, the State of registry could furnish to the Secretary-General additional information, on the basis of article IV, paragraph 2, of the Registration Convention, to be included in the Register of Objects Launched into Outer Space.

9. The Working Group recalled General Assembly resolution 59/115, entitled “Application of the concept of the ‘launching State’”, in which the Assembly recommended that the Committee on the Peaceful Uses of Outer Space invite Member States to submit information on a voluntary basis on their current practices regarding on-orbit transfer of ownership of space objects.

10. It was agreed that the Legal Subcommittee at its forty-sixth session, in 2007, should reconvene the Working Group in order to assist the Subcommittee in preparing the report to be submitted to the Committee in accordance with the workplan under the item entitled “Practice of States and international organizations in registering space objects”. The Working Group also agreed that, to facilitate its work in relation to that report, the Chairman of the Working Group could conduct informal consultations open to all interested member States of the Committee before the forty-sixth session of the Subcommittee, by electronic means or in any other appropriate manner.

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