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**Report of the Legal Subcommittee on its forty-
seventh session, held in Vienna from 31 March
to 11 April 2008**

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I. Introduction

A. Opening of the session and election of the Chairman

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-seventh session at the United Nations Office at Vienna from 31 March to 11 April 2008 under the chairmanship of Vladimír Kopal (Czech Republic), who was elected at the 765th meeting, on 31 March, for a two year term of office.

B. Adoption of the agenda

2. At its 765th 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 intergovernmental and non-governmental 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. Capacity-building in space law.
 12. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
 13. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-eighth session.

C. Attendance

3. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Belgium, Bolivia, 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, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Switzerland, Thailand, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Viet Nam.

4. At the 765th meeting, on 31 March, the Chairman informed the Subcommittee that requests had been received from the Dominican Republic, Guatemala, the former Yugoslav Republic of Macedonia and Tunisia 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 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.

5. The following organizations were represented at the session by observers: European Space Agency (ESA), European Space Policy Institute, International Academy of Astronautics (IAA), International Mobile Satellite Organization (IMSO), International Organization of Space Communications (Intersputnik), International Astronautical Federation, International Law Association (ILA) and Space Generation Advisory Council. The European Telecommunications Satellite Organization (EUTELSAT-IGO) attended the session and requested permanent observer status with the Committee (A/AC.105/C.2/2008/CRP.8).

6. A list of the representatives of States members of the Subcommittee and observers for States not members of the Subcommittee, intergovernmental organizations and other entities attending the session and members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/2008/INF/40 and Corr.1.

D. Organization of work

7. At the 765th meeting, on 31 March, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-seventh session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.765).

8. In accordance with decisions taken at its 765th meeting, 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 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.

9. At its 765th 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.

10. The Subcommittee noted with satisfaction that a symposium entitled “Legal Implications of Space Applications for Global Climate Change”, organized by the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL) of ESA, had been held during the current session of the Subcommittee, on 31 March and 1 April. The symposium was coordinated by Corinne Jorgenson and Kai-Uwe Schrogl of IISL and Sergio Marchisio of ECSL. The symposium consisted of two sessions: session 1, entitled “Legal implications of space applications for global climate change: principles and rules”, was chaired by Peter Jankowitsch of the Austrian Aeronautics and Space Agency and session 2, entitled “Legal implications of space applications for global climate change: institutions and instruments”, was chaired by Sergio Marchisio of ECSL. The following presentations were made: “Legal features of the climate change convention: from Kyoto to Bali” by Gerhard Loibl, “Legal implications of space technologies applications for global climate change” by Jorge Lafourcade on behalf of Raimundo González Aninat, “Legal aspects of cooperation for space monitoring of climate change and sustainable development” by José Monserrat Filho, “Promoting access to, and exchange of, data and information related to climate change: the legal perspective” by Joanne Irene Gabrynowicz, “Coordination instruments and satellite observation of the climate system: the contribution of CEOS” by Evangelina Oriol Pibernat, “Monitoring the environment for climate change: the case of GMES” by Gisela Süß, “Monitoring the Kyoto Protocol: greenhouse gases observation and the global forest carbon monitoring system” by Masami Onoda and “Legal aspects of climate monitoring by means of treaty law” by Frans von der Dunk. Concluding remarks were made by Vladimír Kopal (Czech Republic). The papers and presentations delivered during the symposium were made available on the website of the Office for Outer Space Affairs of the Secretariat (<http://www.unoosa.org/oosa/COPUOS/Legal/2008/symposium.html>).

11. The Subcommittee welcomed the fact that IISL would prepare the proceedings of the symposium for distribution to member States of the Committee on the Peaceful Uses of Outer Space.

12. The Legal Subcommittee recommended that its forty-eighth session should be held from 23 March to 3 April 2009.

E. Adoption of the report of the Legal Subcommittee

13. The Legal Subcommittee held a total of 18 meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.765-782).

14. At its 782nd meeting, on 11 April 2008, the Subcommittee adopted the present report and concluded the work of its forty-seventh session.

II. General exchange of views

15. Statements were made by representatives of the following States members of the Legal Subcommittee during the general exchange of views: Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Czech Republic, Ecuador, France, Germany, Greece, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Malaysia, Morocco, Netherlands, Nigeria, Pakistan, Poland, Republic of Korea, Russian Federation, Spain, South Africa, Thailand, Ukraine, United States and Viet Nam. A statement was also made by the observer for EUTELSAT-IGO. The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.765-769).

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

17. At the 765th meeting, on 31 March, the new Director of the Office for Outer Space Affairs, Mazlan Othman, made a 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.

18. The Subcommittee welcomed with satisfaction the adoption by the General Assembly of resolution 62/101 of 17 December 2007, entitled “Recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects”, and the endorsement by the Assembly, in its resolution 62/217 of 22 December, of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space.¹

19. The view was expressed that, as the Guidelines concerned the mitigation of future space debris, arrangements for the mitigation of existing space debris should take into consideration the principle of common but differentiated responsibilities, so that those States whose activities had created the existing space debris and States that had space capabilities should contribute significantly to debris mitigation efforts.

20. The view was expressed that, in order to build a more secure and accessible space environment, the Committee on the Peaceful Uses of Outer Space should consider developing guidelines for space traffic management.

¹ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, paras. 117 and 118 and annex.

21. The Subcommittee was informed that, on 20 February 2008, the United States had successfully intercepted USA 193, an inoperable satellite of the National Reconnaissance Office of the United States, and that almost all of the resultant space debris from the engagement had fallen to Earth and had not survived re-entry. The Subcommittee was also informed about the notifications made prior to and after the engagement and that there were no plans to adapt any technology from that extraordinary effort for use on any current or planned weapon system.
22. The view was expressed that the success of the Subcommittee in its work could be attributed to its ability to focus on practical problems and to seek to address any such problems via a consensus-based and result-oriented process.
23. The view was expressed that in considering legal aspects of the uses of outer space, the Subcommittee should endeavour to contribute to enhancing the development goals identified in the United Nations Millennium Declaration (General Assembly resolution 55/2).
24. Some delegations expressed the view that, in responding to the challenges and opportunities posed by the international community's increased reliance on outer space, links between the Committee on the Peaceful Uses of Outer Space and other United Nations entities having an interest in outer space, including the Conference on Disarmament and the International Telecommunication Union (ITU), should be strengthened.
25. Some delegations expressed the view that there was a particular deficiency in the current legal regime governing outer space relating to the possible introduction of weapons into outer space, which required both the conclusion of new treaties aimed at eliminating that deficiency and the strengthening of the current regime to maintain the use of outer space for peaceful purposes.
26. The view was expressed that the transfer of space technology would increase the level of participation of developing countries in space activities and serve as an incentive for such countries to adhere to the United Nations treaties on outer space.
27. The Subcommittee noted that a meeting had been held in Quito on 13 and 14 December 2007 and that it had been attended by representatives of the Governments of Colombia, Ecuador and Guatemala, as well as of the Office for Outer Space Affairs and the International Group of Experts of the Space Conferences of the Americas. The meeting had resulted in a set of recommendations for the execution of the Action Plan of the Fifth Space Conference of the Americas, including prospects for the further development of regional coordination and cooperation in space activities and space law.
28. The Subcommittee also noted the important role played by other initiatives in building regional and international partnerships among States, such as the 2008 International Air and Space Fair, held in Santiago from 31 March to 6 April, during which a conference had been organized on space technology and climate change in relation to achieving the Millennium Development Goals (A/56/326, annex); the fourteenth session of the Asia-Pacific Regional Space Agency Forum, held in Bangalore, India, in November 2007; and the fifteenth session of the Forum, to be held in Hanoi in December 2008.
29. The Subcommittee noted that the Pro Tempore Secretariat of the Fifth Space Conference of the Americas had held consultations with members of the

International Group of Experts of the Space Conference of the Americas during the 2008 International Air and Space Fair and that it had decided to convene a second meeting of the International Group of Experts in conjunction with a seminar on space law for development and human security, to be held in Ecuador on 24 and 25 July 2008.

30. The Subcommittee observed a minute of silence in tribute to Sir Arthur C. Clarke, a pioneer in the field of space, who had passed away on 19 March 2008.

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

31. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, 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 at its forty-seventh session would reconvene its Working Group on the item and would review the need to extend the mandate of the Working Group beyond that session.

32. The Subcommittee noted with appreciation that the Secretariat had distributed a revised version of the *United Nations Treaties and Principles on Outer Space and Related General Assembly Resolutions* (ST/SPACE/11/Rev.2), including the text of Assembly resolution 1721 A (XVI) of 20 December 1961; paragraph 4 of Assembly resolution 55/122 of 8 December 2000, in which the Assembly had noted with satisfaction the agreement reached by the Subcommittee, at its thirty-ninth session, on the question of the character and utilization of the geostationary orbit and a paper entitled "Some aspects concerning the use of the geostationary orbit" (A/AC.105/738, annex III); and the text of Assembly resolution 62/101.

33. The Subcommittee noted with satisfaction that the Secretariat had distributed an updated document containing information, as at 1 January 2008, 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.2/Add.1).

34. The Subcommittee noted that, as at 1 January 2008, the status of the five United Nations treaties on outer space was as follows:

(a) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies² 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 Space³ had 90 States parties and had been signed by 24 additional States;

² United Nations, *Treaty Series*, vol. 610, No. 8843.

³ *Ibid.*, vol. 672, No. 9574.

(c) The Convention on International Liability for Damage Caused by Space Objects⁴ had 86 States parties and had been signed by 24 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space⁵ had 51 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies⁶ had 13 States parties and had been signed by 4 additional States.

35. The Subcommittee welcomed the accession by Turkey to the Liability Convention, the ratification by Turkey of the Rescue Agreement and the accession by Algeria to the Registration Convention, as well as reports from Member States regarding their progress towards becoming parties to the five United Nations treaties on outer space.

36. The Subcommittee noted with appreciation that in 2007 a number of States had concluded bilateral and multilateral agreements promoting broad international cooperation with regard to the conduct of space activities.

37. The Subcommittee noted that a number of States were developing national mechanisms for the registration of space objects. In that regard, the Subcommittee noted with satisfaction the positive impact that General Assembly resolution 62/101 was already having on enhancing registration practices.

38. Some delegations expressed the view that the United Nations treaties on outer space constituted a coherent and useful framework for increasingly widespread and complex outer space activities of 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.

39. 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, changes in the nature of space activities and the increase in the volume of such 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.

40. Some delegations expressed the view 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 new areas that might require regulation and that could be addressed by developing complementary instruments.

41. The view was expressed that the development of a comprehensive convention on space law would be based on the principle of the sovereign equality of Member

⁴ Ibid., vol. 961, No. 13810.

⁵ Ibid., vol. 1023, No. 15020.

⁶ Ibid., vol. 1363, No. 23002.

States set out in article 2, paragraph 1, of the Charter of the United Nations and reiterated in General Assembly resolution 1348 (XIII) of 13 December 1958, entitled “Question of the peaceful use of outer space”.

42. Some delegations expressed satisfaction with the fact that issues related to the low rate of participation of States in the Moon Agreement had started to be considered, as there was a need for adequate and timely regulation of activities relating to the Moon in view of the extensive exploration of the Moon planned by several space-faring countries. Those delegations were open to a revision of the Moon Agreement, if necessary, and drew the attention of the Subcommittee to the precedent-setting value of the law of the sea and other international legal regimes dealing with areas beyond national jurisdiction.

43. At its 765th meeting, on 31 March, the 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 seven meetings. At its 779th meeting, on 9 April, the Subcommittee endorsed the report of the Working Group, contained in annex I to the present report.

44. The 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-eighth session, in 2009, would review the need to extend the mandate of the Working Group beyond that period.

45. 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.767-772 and 779).

IV. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

46. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, 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 intergovernmental and non-governmental organizations relating to space law”. The Subcommittee noted with satisfaction that various international organizations had been invited by the Secretariat to report to it on their activities relating to space law. The Subcommittee agreed that, for its forty-eighth session, the Secretariat should extend a similar invitation.

47. The Subcommittee had before it a note by the Secretariat (A/AC.105/C.2/L.270 and Add.1) containing information on activities relating to space law received from the following international organizations: ECSL, IISL, ILA and Intersputnik.

48. The Subcommittee was of the view that the activities of international intergovernmental and non-governmental organizations relating to space law were important and had contributed significantly to the development of space law. International intergovernmental organizations had an important role to play in

strengthening the legal framework applicable to space activities and should consider taking steps to encourage their members to adhere to the outer space treaties. Several of the treaties contained mechanisms permitting international intergovernmental organizations conducting space activities to declare their acceptance of the rights and obligations under those treaties.

49. The Subcommittee expressed its appreciation to IISL and ECSL for organizing the symposium entitled “Legal Implications of Space Applications for Global Climate Change”. Some delegations noted the wide range of potential legal implications of the use of space applications to address climate change. The Subcommittee agreed that IISL and ECSL should be invited to hold another symposium on space law at its forty-eighth session.

50. The Subcommittee took note of the report by IAA on its space-related activities, which included information on studies undertaken and conferences held worldwide on a broad range of issues that could be of further relevance to the Subcommittee. The Subcommittee noted that IAA had held the First IAA African Regional Conference entitled “Space for Africa: Path to Knowledge and Development”, in Abuja from 3 to 5 December 2007. The Conference had promoted the engagement of IAA members and their interaction with States not participating regularly in such international meetings. The Subcommittee noted with satisfaction that IAA had decided to organize such a conference in Africa on an annual basis.

51. The Subcommittee took note of the information submitted by IMSO on its activities relating to space law (A/AC.105/C.2/2008/CRP.13) and noted that most member States of IMSO had ratified both the Outer Space Treaty and the Registration Convention and that the issue of declaring acceptance of the rights and obligations under those treaties could be raised at the next IMSO assembly, in September 2008. The Subcommittee noted with appreciation the contributions that the previous Director of IMSO, Jerzy Vonau, had made to the work of the Subcommittee during the preceding eight years.

52. The Subcommittee took note of the information received from Intersputnik on its activities relating to space law, contained in a note by the Secretariat (A/AC.105/C.2/L.270). According to that information, the phase-by-phase privatization of Intersputnik was continuing, through the establishment of a group of companies that took care of the bulk of the core business of the organization. In November 2007, the Intersputnik Operations Committee had approved amendments to the operating agreement of the organization, which was to be submitted to the Board of Intersputnik for approval at its next session in April 2008. That process would complete efforts to revise and update the regulatory structure and regulatory documents of Intersputnik.

53. The Subcommittee noted the statement made by the observer for ESA on the activities of that agency relating to space law in 2007, which included lectures by ESA staff members on legal implications of space activities and the publication of studies on various aspects of space law, such as human spaceflight and space exploration programmes, satellite navigation, launching policies, international space agreements, institutional aspects of space activities, commercial space activities, the legal aspects of space debris and national legislation governing space activities.

54. The Subcommittee took note of the information received from ILA on its most recent contributions relating to space law, contained in a note by the Secretariat

(A/AC.105/C.2/L.270). It was noted that, at the 73rd ILA Conference, to be held in Rio de Janeiro, Brazil, in August 2008, the ILA Space Law Committee would report on remote sensing, national space legislation, registration issues, the legal aspects of space debris and the settlement of disputes related to space activities. Special attention would be drawn to the use of satellite data in national and international litigation and its value as evidence in court proceedings. The ILA Study Group on the Responsibility of International Organizations, which was working closely with the International Law Commission, would also be meeting in the framework of the 73rd ILA Conference. The Legal Subcommittee would be kept informed of the progress of the work of the Study Group.

55. The Subcommittee took note of information received from ECSL and IISL, contained in a note by the Secretariat (A/AC.105/C.2/L.270 and Add.1), on their most recent contributions to space law, including through the organization of relevant regional and global conferences and workshops.

56. 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.767-772).

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

57. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee at its forty-seventh session, taking into account the concerns of all countries, in particular those of developing countries, should consider, as a regular agenda item, "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".

58. The Subcommittee had before it the following:

(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.1-16, Add.7/Corr.1 and Add.11/Corr.1);

(b) Note by the Secretariat entitled "National legislation and practice relating to definition and delimitation of outer space" (A/AC.105/865 and Add.1-3);

(c) Note by the Secretariat entitled "Questions on the definition and delimitation of outer space: replies from Member States" (A/AC.105/889 and Add.1);

(d) Conference room paper entitled “Questionnaire on possible legal issues with regard to aerospace objects: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.4);

(e) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.5);

(f) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Brazil” (A/AC.105/C.2/2008/CRP.10).

59. Some delegations were of the view 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 Subcommittee to consider the question of the definition and delimitation of outer space.

60. Some delegations were of the view that the lack of a definition or delimitation of outer space created 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.

61. The view was expressed that progress in the definition and delimitation of outer space could be achieved through cooperation with the International Civil Aviation Organization.

62. The view was expressed that, because of the absence of a definition and delimitation of outer space in international law, States might be inclined to establish the definition and delimitation of outer space in their national legislations, which could possibly lead to the creation of different legal norms in that regard. That delegation was of the view that, in the absence of any positive results emanating from the Committee, there was a potential risk that the issue might be dealt with by other international bodies for their own purposes, thus prejudicing a legal solution.

63. The view was expressed that the definition and delimitation of outer space could be necessary for determining the scope of application of air law and space law. That delegation was of the view that certainty in the application of space law would encourage Member States to accede to the United Nations treaties on outer space.

64. The view was expressed that the establishment of a definition and delimitation of outer space would create certainty in the sovereignty of States over their air space and would also enable the effective application of the principles of the freedom of use of outer space and of non-appropriation of outer space. That delegation was of the view that the definition and delimitation of outer space was linked to the definition of space objects.

65. The view was expressed that there was no need to seek a legal definition or delimitation of outer space, as the current framework presented no practical difficulties to space activities.

66. The view was expressed that there was no need for a definition and delimitation of outer space from a legal perspective and that the delimitation of outer space had already been defined from the perspective of natural sciences.

67. The view was expressed that if member States failed to give clear-cut criteria for delimitation, a special regime or zone between airspace and outer space should be explored.

68. The view was expressed that the question of the definition and delimitation of outer space was linked to the issues of the management of space resources, the protection of the environment, the use of frequencies and the monitoring of the purposeful destruction of satellites.

69. The view was expressed that the geostationary orbit, as a limited natural resource clearly in danger of saturation, must be used rationally, efficiently, economically and equitably. That principle was deemed fundamental to safeguarding the interests of developing countries and countries with a certain geographical position, as set out in article 44, paragraph 196.2, of the Constitution of the International Telecommunication Union, as amended by the Plenipotentiary Conference held in Minneapolis, United States of America, in 1998.

70. The view was expressed that the evident saturation of the geostationary orbit required that the social, political and legal interests and concerns of States be adequately addressed in order to avoid discriminatory practices safeguarding solely the interests of technologically advanced countries and to ensure consistency with the United Nations Millennium Declaration and its objectives.

71. 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.

72. Some delegations were of the view 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.

73. Some delegations were of the view that the geostationary orbit was an integral part of outer space and that, therefore, its use should be governed by the provisions of the United Nations treaties on outer space and the ITU regulations.

74. 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 outer space or any part thereof, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, even repeated use, or by any other means.

75. The view was expressed that outer space should be viewed as the province of all humankind, that all States should be able to benefit from its use and, in that context, that the rational and equitable use of the geostationary orbit should be ensured for all States.

76. The Subcommittee noted the information provided by the United States on its actions to further the use of the geostationary orbit and other uniquely situated orbits, such as the free provision of the signal from the Global Positioning System, information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration of the United States and data from the Geostationary Operational Environmental Satellites. The Subcommittee also noted the cooperation

of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).

77. Some delegations expressed their satisfaction with the recommendation made by the Subcommittee at its thirty-ninth session that, where coordination was required among countries with a view to the utilization of the geostationary orbit, the countries concerned should take into account the fact that access to that orbit must take place, *inter alia*, in an equitable manner and according to the ITU Radio Regulations (A/AC.105/738, annex III, para. 8 (a)).

78. The Subcommittee noted with satisfaction that the ITU World Radiocommunication Conference held in 2007 had decided, in accordance with the principle of due diligence, to revise the application of the basic principles of article 44 of the ITU Constitution in the light of the recommendations made by the Legal Subcommittee at its thirty-ninth session and, pursuant to article 12 of the ITU Constitution, to conduct studies on ways to quantify and analyse the application of those principles.

79. The view was expressed that the Subcommittee should continue its debate on the use of the geostationary orbit with a view to identifying further common ground and mindful of the unique nature of that limited natural resource. In that connection, the view was also expressed that ITU should participate more in the activities of the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies.

80. The view was expressed that in view of the rapid evolution of satellite technologies the Subcommittee could also consider the use of other Earth orbits.

81. At its 765th meeting, the Legal Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, the Working Group was convened to consider only matters relating to the definition and delimitation of outer space.

82. The Working Group on the Definition and Delimitation of Outer Space held three meetings. At its 781st meeting, on 10 April, the Subcommittee endorsed the report of the Working Group, contained in annex II to the present report.

83. 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.771-775 and 781).

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

84. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee, at its forty-seventh 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.

85. The Legal Subcommittee noted with satisfaction the progress made by the Scientific and Technical Subcommittee of the Committee on the Peaceful Uses of Outer Space at its forty-fifth session in considering the use of nuclear power sources (NPS) in outer space and working to achieve consensus on an international, technically based framework of goals and recommendations for the safety of NPS applications in outer space.

86. The Legal Subcommittee noted the progress in, and positive benefits of, the cooperation of the Joint Expert Group of the Scientific and Technical Subcommittee and the International Atomic Energy Agency in the development of an international safety framework for the use of NPS in outer space. Such efforts could set a good example of inter-institutional cooperation to be encouraged in the future.

87. Some delegations expressed the view that a revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space was not warranted at that time.

88. Some delegations expressed the view that the Legal Subcommittee should consider revising the Principles.

89. The view was expressed that discussion of the review and possible revision of the Principles was closely dependent on the work of the Scientific and Technical Subcommittee on the use of NPS in outer space, as well as on information to be presented to the Committee by the Joint Expert Group.

90. The view was expressed that the Principles should be reviewed and revised with a view to accommodating new demands. That delegation was of the view that the use of NPS should be limited to deep-space missions, given the real risk of a collision between space debris and space objects with NPS.

91. The view was expressed that it was important to adhere rigorously to safety standards when using NPS in outer space.

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

93. The full text of the statements made during the discussions on agenda item 9 is contained in unedited verbatim transcripts (COPUOS/Legal/T.770-774).

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

94. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee at its forty-seventh session should consider, as a single issue/item for discussion, the 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.

95. At the 773rd meeting of the Subcommittee, on 4 April 2008, the Chairman of the committee of governmental experts for the preparation of the draft space assets protocol of the International Institute for the Unification of Private Law (Unidroit) read a statement from Unidroit to the Subcommittee on developments concerning that draft protocol.

96. The Subcommittee noted that the following two major developments had taken place since its forty-sixth session: (a) the second meeting on the views of industry and Government on how best to finalize the expansion of the Convention on International Interests in Mobile Equipment to cover space assets, held in New York on 19 and 20 June 2007, had reached the significant conclusion that the substantial intersessional work accomplished on the key outstanding issues constituted a sound basis for an early resumption of the intergovernmental consultation process; and (b) prior to the reconvening of the Unidroit committee of governmental experts, there had been an increase in the awareness that it would be essential to build consensus around the important conclusions reached at the New York meeting.

97. The Subcommittee also noted that the principal conclusion reached at the New York meeting concerned the sphere of application of the draft space assets protocol. In that connection, it was decided that the sphere of application should be limited essentially to the satellite itself.

98. The Subcommittee was informed of the intention of Unidroit to take the process forward, in a timely fashion, on the basis of the provisional conclusions reached at the New York meeting and to establish a new steering committee, comprising representatives of Governments and of the international commercial space, financial and insurance communities that had participated in the intersessional meetings.

99. The Subcommittee was informed that the new steering committee would be launched at a meeting to be held in Berlin from 7 to 9 May 2008. The principal aims of the meeting would be to consider drafting solutions to implement the provisional conclusions reached in New York and to consider the most appropriate means of building the necessary consensus around those conclusions.

100. The Subcommittee thanked Unidroit for the comprehensive report.

101. Some delegations expressed their support for the progress made on the draft space assets protocol and looked forward to the continuation and successful completion of the drafting process.

102. 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 asset-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 to acquire services generated from space equipment.

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

and that that principle would be explicit in the text of any space assets protocol. Those delegations also expressed the view that while the draft space assets protocol would ultimately be negotiated by States members of Unidroit through the Unidroit process, that process had already included many States members of the Subcommittee and considered requests from States not members of Unidroit who wished to attend.

104. 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.

105. The view was expressed that the draft space assets protocol was a good example of efforts being made to find a solution to the deficiencies in the existing United Nations treaties on outer space without compromising the interests safeguarded in those treaties. That delegation expressed the view that private and commercial space activities should be regulated.

106. The view was expressed that a major unresolved issue concerned the competence of national courts to enforce judicial decisions on matters related to outer space.

107. The Subcommittee expressed its satisfaction with the participation of the Office for Outer Space Affairs as an observer in the negotiating sessions of Unidroit and agreed that the Office should continue participating in those sessions.

108. The Subcommittee agreed that the item should remain on the agenda of its forty-eighth session, in 2009.

109. The full text of statements made by delegations during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T.773-776).

VIII. Capacity-building in space law

110. The Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, at its forty-seventh session, should consider capacity-building in space law as a single issue/item for discussion.

111. The Subcommittee had before it the following:

(a) Report on the United Nations Expert Meeting on Promoting Education in Space Law, held in Vienna on 3 and 4 December 2007 (A/AC.105/908);

(b) Conference room paper entitled "Education opportunities in space law: a directory" (A/AC.105/C.2/2008/CRP.3).

112. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to international, regional and national efforts to further develop space activities and to increase knowledge of the legal framework within which space activities were carried out.

113. The Subcommittee emphasized its important role in building capacity in space law. It was noted that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space, the subject of deliberations under agenda item 12, enabled representatives participating in the session to enhance their knowledge of the various legal frameworks at the national level for conducting activities in outer space.

114. The Subcommittee noted that in order to successfully build capacity in space law, it was necessary to address the following matters: education; research and development; and dissemination of information. Addressing those matters would enable Member States to put in place the foundation necessary for the universal and informed application of the existing international legal regime governing the activities of States in outer space and on the further development of the regime.

115. The Subcommittee noted with appreciation that a number of national, regional and international efforts were being undertaken to build capacity in space law, including efforts by the African Leadership Conference on Space Science and Technology for Sustainable Development, the Space Conference of the Americas, the Asia-Pacific Space Cooperation Organization and the regional centres on space science and technology education, affiliated to the United Nations.

116. The Subcommittee was informed about the international conference on capacity-building in space law to be held in Kyiv in June 2008, on the occasion of the tenth anniversary of the agreement signed by the Russian Federation and Ukraine on the foundation of the International Center for Space Law. The delegation of Ukraine invited all interested delegations to take part in the conference.

117. The Subcommittee also noted with appreciation the contribution made by governmental and non-governmental entities and institutions to existing initiatives to promote capacity-building in space law.

118. The Subcommittee noted that several international non-governmental organizations were playing an important role in building capacity and promoting knowledge in space law.

119. The Subcommittee noted with satisfaction that the next United Nations workshop on space law, to be organized by the Office for Outer Space Affairs for the benefit of countries in Asia and the Pacific and co-sponsored by the Government of Thailand and ESA, would be held in Thailand from 24 to 27 November 2008.

120. In that regard, the Subcommittee noted that the series of workshops on space law organized by the Office for Outer Space Affairs served as a useful forum in which experts and authorities could share views, knowledge and experiences related to the further development of both international and national space law.

121. The Subcommittee noted with appreciation that, in response to its request at its forty-sixth session, the Office for Outer Space Affairs had organized in Vienna in December 2007 an expert meeting on promoting education in space law (A/AC.105/908).

122. The Subcommittee took note of the recommendations and conclusions contained in the report of the Expert Meeting on Promoting Education in Space Law (A/AC.105/908, paras. 8-11) and expressed its appreciation to the educators and the representatives of the regional centres on space science and technology education,

who were continuing to develop a draft curriculum for a basic course on space law by electronic means and, when possible, by meeting at the sidelines of other international space-related meetings.

123. The Subcommittee recommended that, in developing the curriculum for a basic course on space law, consideration should be given to its usefulness to other educational institutions and training initiatives. The Subcommittee also noted that the draft curriculum would be widely circulated for comment prior to its finalization.

124. The view was expressed that additional resources would be needed if the regional centres on space science and technology education were to serve as a conduit for capacity-building in space law.

125. The Subcommittee noted with satisfaction that, in response to its request at its forty-sixth session, the Office for Outer Space Affairs had updated the directory of education opportunities in space law (A/AC.105/C.2/2008/CRP.3), including information on available fellowships and scholarships. The Subcommittee noted with appreciation that three new educational institutions had submitted information on their courses in space law. The Subcommittee welcomed the fact that the Office would continue to explore ways and means of improving the directory.

126. The Subcommittee noted with appreciation the continued role of the Office for Outer Space Affairs in providing legal advisory services on space law and legal issues relating to activities in outer space, as well as the efforts of the Office to strengthen cooperation with space law entities and organizations, with a view to contributing to international and regional efforts to promote understanding and the development of space law.

127. The Subcommittee also noted with appreciation that the Office for Outer Space Affairs had participated in other initiatives to build capacity in space law, including the Sixteenth ECSL Summer Course on Space Law and Policy, held in Noordwijk, the Netherlands, from 3 to 15 September 2007, and the workshop on space law organized by the Iranian Space Agency in Tehran on 17 and 18 November 2007.

128. The Subcommittee noted that capacity in space law, particularly in developing countries, could be strengthened further by:

(a) The introduction of air and space law modules in the general international law courses of national educational institutions;

(b) The creation of regional and international space law information networks and partnerships;

(c) The creation of a database of experts working in the field of space law;

(d) The dissemination, through the Internet, of reports, studies, papers, articles, reviews and other reference resources relating to space law that were in the public domain;

(e) The updating of the publication *International Agreements and Other Available Legal Documents Relevant to Space-Related Activities*, prepared by the Office for Outer Space Affairs;

(f) The development of a short online course on space law;

(g) The establishment of a fellowship programme providing financial support to enable young professionals to pursue further education in space law;

(h) The establishment of training opportunities with organizations and institutions working in space-related areas to enhance the capabilities and increase the experience of young professionals, particularly from developing countries, in the field of space law;

(i) The creation of programmes for exchanges between educational institutions to facilitate training in other countries while reducing the costs associated with international travel;

(j) The development of a strategy to help developing countries to build their capacity in space law, including through the provision of targeted assistance that would take advantage of the training capabilities of other institutions;

(k) The establishment of a regional centre on space science and technology education for countries with economies in transition in Eastern Europe;

(l) The dissemination of information on space law through special activities and events, such as the World Space Week.

129. The Subcommittee recommended that member States, permanent observers of the Committee on the Peaceful Uses of Outer Space and the Office for Outer Space Affairs should consider the initiatives listed above and inform the Subcommittee, at its forty-eighth session, on any actions taken or planned on a national, regional or international level.

130. The full text of the statements made by delegations during the discussion on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T.775-777).

IX. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space

131. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee, at its forty-seventh session, should consider the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space in accordance with the workplan adopted by the Committee at its fiftieth session.⁷

132. The Subcommittee had before it the following:

(a) Note by the Secretariat entitled “Information on national legislation relevant to the peaceful exploration and use of outer space” (A/AC.105/912);

(b) Conference room paper containing information on the national legislation governing space activities of the United States (A/AC.105/C.2/2008/CRP.9);

⁷ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, para. 219.

(c) Conference room paper containing information on the national legislation governing space activities of Brazil, Colombia, Germany and the Netherlands (A/AC.105/C.2/2008/CRP.14).

133. The Subcommittee was of the view that its discussion of the agenda item on general exchange of information on national legislation relevant to the peaceful exploration and use of outer space provided the Subcommittee with a broad picture of how States regulated their national space activities and that such information could be of value to any State involved in space activities in their efforts to establish a domestic regulatory framework.

134. The Subcommittee noted that an exchange of information on national legislation would allow it to examine the main developments taking place at the national level in order to identify common principles, norms and procedures.

135. The delegations of the following States presented information on their national regulatory frameworks governing space activities or on plans to create such frameworks or national infrastructure: Belgium, Brazil, Bulgaria, Canada, China, Colombia, France, Germany, Japan, Netherlands, Republic of Korea, Russian Federation, South Africa, Ukraine and United States. In addition, the delegations of the Netherlands and the United States gave special presentations on their national legislation.

136. The Subcommittee noted that several national regulatory frameworks presented at the current session dealt with the following issues: national jurisdiction for regulating the space activities of governmental and non-governmental entities; procedures for authorizing and licensing national space activities; liability; indemnification procedures; insurance; intellectual property rights; distribution of remote sensing data; registration of objects launched into outer space and establishment of national registries; safety requirements for the conduct of space activities, in particular for launching activities; and regulatory frameworks for national space agencies or other national entities mandated to carry out and supervise space activities. The Subcommittee also noted that some States had promulgated domestic regulations on space debris mitigation and the protection of the Earth environment in relation to space activities.

137. The Subcommittee noted that those regulatory frameworks represented different legal systems with either unified acts or a combination of national legal instruments dealing with different aspects of space activities.

138. The Subcommittee took note, with appreciation, of the information provided by those delegations. The Subcommittee agreed that the work of the working group to be established under that agenda item at its forty-eighth session would be further facilitated if more States would submit information on their respective national legislation and regulatory frameworks. That information would be compiled in a document to be prepared by the Secretariat.

139. The Subcommittee took note of the database on national space legislation and multilateral and bilateral agreements related to the peaceful exploration and use of outer space, maintained by the Office for Outer Space Affairs on its website (<http://www.unoosa.org>). The Subcommittee encouraged States to continue to submit to the Office, for inclusion in the database, the texts of laws and regulations, as well as policy and other legal documents, related to space activities.

140. The Subcommittee agreed that its agenda item on the general exchange of information on national legislation was closely linked to the agenda item on capacity-building in space law, since capacity-building efforts were important in promoting understanding of national requirements for space activities, in particular given the different constitutional and legal systems of Member States. The dissemination of such information could stimulate the development of national space laws and would significantly enhance international cooperation, in particular for the benefit of developing countries.

141. The Subcommittee noted the important role played by regional coordination mechanisms in promoting cooperation among States in the peaceful uses of outer space.

142. The view was expressed that information on the activities of international intergovernmental and non-governmental organizations relating to space law would greatly assist States in developing national space legislation.

143. The view was expressed that an exchange of information on national legislation would promote both the acceptance and implementation of the principles enshrined in the United Nations treaties on outer space.

144. The view was expressed that, although the development of national legislation was crucial to the administration of space activities, it could only have a complementary character to international space law. That delegation was of the view that further advances in international space law were necessary in order to adequately regulate space activities.

145. The view was expressed that the exchange of information on national legislation could contribute to the further development of international space law.

146. The Subcommittee agreed that Irmgard Marboe (Austria) should act as Chairperson of the working group to be established by the Subcommittee at its forty-eighth session, in 2009.

147. The full text of the statements made during the discussion on agenda item 12 is contained in unedited verbatim transcripts (COPUOS/Legal/T.776-779 and 781).

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

148. The Legal Subcommittee recalled that the General Assembly, in its resolution 62/217, had noted that the Subcommittee, at its forty-seventh 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-eighth session, in 2009.

149. 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-sixth session and retained by their sponsors with a view to discussing them at subsequent sessions of the Subcommittee (see A/AC.105/891, para. 141).

150. The Subcommittee agreed to include “General exchange of information on national mechanisms relating to space debris mitigation measures”, which had been proposed by Italy and Ukraine and supported by several other delegations, as a new single issue/item on the agenda of the Subcommittee at its forty-eighth session, in 2009. The Subcommittee also agreed to retain all the single issues/items currently on the agenda of the Subcommittee for consideration at its forty-eighth session.

151. The 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-eighth 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.
9. Capacity-building in space law.
10. General exchange of information on national mechanisms relating to space debris mitigation measures.

Items considered under workplans

11. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.

2009: Examination, in a working group, of the responses received in order to develop an understanding of the manner in which Member States have regulated governmental and non-governmental space activities.

New items

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-ninth session.
152. The Subcommittee agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space and the Working Group on Matters Relating to the Definition and Delimitation of Outer Space should be reconvened at its forty-eighth session. The Subcommittee also agreed that a working group on agenda item 11 should be established at its forty-eighth session.
153. The Subcommittee agreed to review, at its forty-eighth 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. Some delegations expressed the view that, considering the efficient conduct of its work during sessions and in view of the ongoing discussion on the future role and activities of the Committee, the Subcommittee could consider shortening the duration of its future sessions.
155. The view was expressed that the Subcommittee should further strengthen its work by considering additional items instead of shortening its future sessions.
156. The view was expressed that “The means to enable equitable access to and rational and economic use of other Earth orbits, taking duly into account the needs of developing countries” should be included as a new sub-item under agenda item 6.
157. Some delegations expressed the view that the inclusion of such a sub-item would infringe on the role and mandates of ITU and were therefore opposed to its inclusion on the agenda.
158. Some delegations, recalling the discussion at the forty-sixth session of the Subcommittee (A/AC.105/891, para. 137) and taking into account the discussion in the symposium held during the present session, proposed that “Legal implications of space applications for global climate change” be included as a new single issue/item on the agenda of the Subcommittee. Those delegations expressed their satisfaction with the fact that the symposium had drawn attention to the complex legal issues relating to the use of space applications in monitoring and mitigating the effects of global climate change.
159. Other delegations were of the view that the Subcommittee was not the right forum in which to discuss legal issues related to climate change, as those issues were already being dealt with in other, more appropriate forums.
160. The Subcommittee noted that the sponsors of the following proposals for new items to be included on 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 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) Matters relating to the Principles Relating to Remote Sensing of the Earth from Outer Space (proposed by Chile and Colombia);

(d) Review of the Principles Relating to Remote Sensing of the Earth from Outer Space, with a view to transforming them into a treaty in the future (proposed by Greece);

(e) The appropriateness and desirability of drafting a universal comprehensive convention on international space law (proposed by China, Greece, the Russian Federation and Ukraine);

(f) Legal implications of space applications for global climate change (proposed by Chile).

161. The full text of the statements made during the discussion on agenda item 13 is contained in unedited verbatim transcripts (COPUOS/Legal/T.777-780).

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 62/217 of 22 December 2007, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its 765th meeting, on 31 March 2008, 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 seven meetings, from 1 to 9 April 2008. At the 1st meeting of the Working Group, on 1 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 the following:
 - (a) Questionnaire on the possible options for future development of international space law (A/AC.105/C.2/L.259);
 - (b) Note by the Secretariat on activities being carried out or to be carried out on the Moon and other celestial bodies, international and national rules governing those activities and information received from States parties to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies about the benefits of adherence to that Agreement (A/AC.105/C.2/L.271 and Corr.1);
 - (c) Note by the Secretariat on the joint statement on the benefits of adherence to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies by States Parties to the Agreement (A/AC.105/C.2/L.272);
 - (d) Conference Room Paper submitted by Brazil on the status and application of the five United Nations treaties on outer space (A/AC.105/C.2/2008/CRP.12).
4. The Chairman recalled that at its forty-sixth session, in 2007, the Legal Subcommittee had, by endorsing the report of the Working Group, decided:
 - (a) That the Working Group should, at the forty-seventh session of the Subcommittee, continue to debate in an open and flexible manner the issues raised in the questionnaire on the possible options for future development of international space law (A/AC.105/C.2/L.259);
 - (b) That, during the forty-seventh session of the Subcommittee, the Working Group, in addressing the low rate of participation of States in the Agreement

Governing the Activities of States on the Moon and Other Celestial Bodies,^a could (A/AC.105/891, annex I, para. 11):

- (i) Address activities currently being carried out or to be carried out on the Moon and other celestial bodies in the near future;
- (ii) Identify the benefits of adherence to the Moon Agreement;
- (iii) Identify the international and national rules governing activities on the Moon and other celestial bodies;
- (iv) Assess whether existing international rules adequately address activities on the Moon and other celestial bodies;

(c) That the Secretariat should prepare a background paper on activities being carried out or to be carried out on the Moon and other celestial bodies, international and national rules governing those activities and information from States parties to the Moon Agreement about the benefits of adherence to that agreement, and that the background paper should be based primarily on information provided by member States on those matters (A/AC.105/891, annex I, para. 12).

5. The Chairman also recalled that, at the forty-sixth session of the Legal Subcommittee, it was agreed that the Subcommittee would review the need to extend the mandate of the Working Group beyond the forty-seventh session of the Subcommittee (A/AC.105/891, para. 45).

6. Some delegations expressed the view that responses to the questionnaire would provide useful information for the future development of international space law and a consolidation of the divergent positions of States on that issue.

7. Other delegations questioned the utility of the questionnaire, particularly as it consisted of multiple choice questions, and were of the view that it did not help to increase adherence to or improve implementation of the existing United Nations treaties on outer space.

8. The Working Group agreed that, at the forty-eighth session of the Legal Subcommittee, in 2009, it would not discuss the list of questions in the questionnaire but would instead discuss the current state of international space law and possible options for its future development, as necessary.

9. The Working Group noted that some member States were carrying out or planned to carry out space missions related to the exploration of the Moon and Mars involving the following: the lunar exploration project, the Kaguya satellite, the Ares I and Ares V launch vehicles, the International Space Exploration Coordination Group, the Lunar Reconnaissance Orbiter, the Chandrayaan-1 mission, Phoenix, the Mars Science Laboratory Spacecraft and Mars Exploration Rovers Spirit and Opportunity.

10. Some delegations informed the Working Group that their States were not undertaking or planning to undertake activities on the Moon.

11. The view was expressed that a number of member States undertaking or planning to undertake activities on the Moon had not provided information on those activities and that more information was needed for discussion on that subject.

^a United Nations, *Treaty Series*, vol. 1363, No. 23002.

12. The Working Group requested the Secretariat to prepare a more detailed background paper to inform it of activities on the Moon that member States were undertaking or planned to undertake. The paper would be based on information already submitted to the Working Group and information in the *Highlights in Space* publication.
13. The Working Group expressed its appreciation to Austria, Belgium, Chile, Mexico, the Netherlands, Pakistan and the Philippines for their joint statement on the benefits of adherence to the Moon Agreement, as States parties to the Agreement (A/AC.105/C.2/L.272, annex).
14. Some delegations expressed their support for the joint statement and noted its usefulness as a basis for further discussion.
15. Some delegations expressed the view that although the Moon Agreement contained provisions that reiterated or developed the principles set out 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,^b certain provisions of the Moon Agreement were unique and of particular interest in implementing space projects, activities and missions by providing clarity and facilitating international scientific cooperation. In that regard, those delegations highlighted the following provisions of the Moon Agreement: article 9 (on procedures for the establishment of stations), article 10 (on safeguarding the life and health of persons), article 11, paragraph 3 (on the prohibition of acquisition of property), article 12 (on the use of and jurisdiction over vehicles, equipment, facilities, stations and installations) and article 15 (on compliance).
16. The view was expressed that the flexibility provided by the Moon Agreement for States parties to establish a sui generis regime to govern the exploitation of the natural resources of the Moon, once such exploitation becomes feasible, would assist in reducing the impact that the commercialization of those resources might have on the world economy and the imbalance it might generate.
17. Some delegations stated that their States were seeking the reasons why some member States were not parties to the Moon Agreement in order to find solutions to overcome obstacles to participation in the Agreement.
18. The view was expressed that article 18 of the Moon Agreement provided a procedure for States parties to seek a review of the Agreement. That delegation encouraged an open discussion on the Moon Agreement in order to highlight the reasons for its low rate of ratification and to consider its revision.
19. The view was expressed that non-adherence to the Moon Agreement had not hindered current or future activities aimed at the study, exploration and use of the Moon and that activities undertaken by States in relation to the Moon were consistent with the provisions of the other four United Nations treaties on outer space.
20. The view was expressed that the visions of States parties to the Moon Agreement and of States not parties to the Agreement needed to be explored more fully so that the gap between the two might be narrowed.

^b Ibid., vol. 610, No. 8843.

21. The Working Group noted that the Committee on the Peaceful Uses of Outer Space had considered the question of the review of the Moon Agreement at its thirty-seventh session, in 1994, and had recommended to the General Assembly, at its forty-ninth session, that the Assembly should take no further action at that time (Assembly resolution 49/34).
22. The Working Group noted that national legislation governing activities on the Moon existed in a number of States whose acts on space activities applied to any activities in outer space, including activities involving the Moon or other celestial bodies. The Working Group also noted that some States were developing such national legislation.
23. Some delegations expressed the view that many provisions of the Outer Space Treaty, including articles II-IV, VI and VII, applied to the Moon and other celestial bodies and that, therefore, the Outer Space Treaty adequately addressed activities on the Moon and other celestial bodies.
24. Other delegations expressed the view that it was premature to arrive at any conclusions on the adequacy of existing international rules governing the Moon and other celestial bodies, as a fuller picture was needed of the activities concerning the Moon and of the relevant national rules.
25. The Working Group noted with appreciation the announcement of the delegation of Austria, welcomed by other delegations, that an interdisciplinary seminar on issues related to the Moon Agreement would be organized before the Subcommittee held its forty-eighth session, in 2009.
26. The Working Group agreed that the Subcommittee, at its forty-eighth session, in 2009, should continue its discussion on the issue referred to in paragraph 4 (b) above.
27. At the 6th meeting, on 7 April 2008, it was recommended that the Legal Subcommittee, at its forty-eighth session, in 2009, should reconvene the Working Group and review the need to extend the mandate of the Working Group beyond that session.

Annex II

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

1. At its 765th meeting, on 31 March 2008, 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 under the Chairmanship of José Monserrat Filho (Brazil).
2. The Chairman drew the attention of the Working Group to the fact that, in accordance with General Assembly resolution 62/217 of 22 December 2007, the Working Group had been convened to consider only matters relating to the definition and delimitation of outer space.
3. The Working Group had before it the following:
 - (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.1-16, Add.7/Corr.1 and Add.11/Corr.1);
 - (b) Note by the Secretariat entitled “National legislation and practice relating to definition and delimitation of outer space” (A/AC.105/865 and Add.1-3);
 - (c) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889 and Add.1);
 - (d) Conference room paper entitled “Questionnaire on possible legal issues with regard to aerospace objects: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.4);
 - (e) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Azerbaijan” (A/AC.105/C.2/2008/CRP.5);
 - (f) Conference room paper entitled “Questions on the definition and delimitation of outer space: reply from Brazil” (A/AC.105/C.2/2008/CRP.10).
4. Some delegations were of the view that the delimitation of outer space would help States to avoid possible problems connected with the rapid development of space technologies and the increasing activities of States and private entities in the exploration and use of outer space.
5. Some delegations expressed the view that the lack of a definition or delimitation of outer space created 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.
6. Some delegations were of the view that States should continue to operate under the current framework, which had functioned well, and that, at the present time, an attempt to define or delimit outer space would be a theoretical exercise, which could lead to complicating existing activities and might not be able to anticipate continuing technological developments.

7. The view was expressed that, at the current stage of development of space activities, the absence of the definition and delimitation of outer space did not create any problem and that the establishment of the regulation of space traffic was more topical.
8. The view was expressed that the definition and delimitation of outer space would strengthen security and confidence in outer space activities.
9. On the basis of its discussions, the Working Group agreed:
 - (a) To suspend the invitation to member States of the Committee to submit their preferences with regard to the replies of Member States to the questionnaire on aerospace objects (A/AC.105/C.2/L.249 and Corr.1 and Add.1 and 2);
 - (b) To suspend the invitation to member States of the Committee to submit proposals concerning criteria for analysing the replies to the questionnaire on aerospace objects;
 - (c) To suspend the invitation to Member States to reply to the questionnaire on possible legal issues with regard to aerospace objects. The Working Group took note of the replies of 45 Member States contained in the note of the Secretariat on the questionnaire (A/AC.105/635 and Add.1-16, Add.7/Corr.1 and Add.11/Corr.1) and agreed that consideration of the issue of aerospace objects should be suspended until new events warranted its reconsideration of the issue;
 - (d) To continue to invite member States of the Committee to submit information on national legislation or any national practices that might exist or were being developed that related 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;
 - (e) To continue to address to the Governments of Member States, 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.
10. The Working Group noted the proposal of the Chairman to organize, in the framework of the Working Group at the forty-eighth session of the Subcommittee, in 2009, a scientific meeting at which the Working Group could hear presentations by interested member States on the existing positions of States regarding the definition and delimitation of outer space. The Working Group discussed that proposal and did not reach a consensus on the need to organize such a scientific meeting.
11. 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.