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**Report of the Legal Subcommittee on its
forty-eighth session, held in Vienna from 23 March to
3 April 2009**

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I. Introduction

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-eighth session at the United Nations Office at Vienna from 23 March to 3 April 2009 under the chairmanship of Vladimír Kopal (Czech Republic).
2. The Subcommittee held a total of 20 meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.783-802).

A. Adoption of the agenda

3. At its 783rd meeting, on 23 March, the Legal Subcommittee adopted the following agenda:
 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.
 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.
 11. General exchange of information on national legislation relevant to the peaceful exploration and use of outer space.
 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.

B. Attendance

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

5. At the 783rd meeting, on 23 March, the Chairman informed the Subcommittee that requests had been received from the Dominican Republic, Israel, Panama and the United Arab Emirates 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.

6. An observer for the International Atomic Energy Agency attended the session. The following organizations were also represented at the session by observers: European Space Agency, European Space Policy Institute, European Telecommunications Satellite Organization, International Academy of Astronautics, International Institute of Space Law, International Mobile Satellite Organization, International Organization of Space Communications, International Law Association, International Institute for the Unification of Private Law and Space Generation Advisory Council.

7. The Subcommittee took note of the request by the Asia-Pacific Space Cooperation Organization to be granted permanent observer status with the Committee (A/AC.105/C.2/2009/CRP.10).

8. A list of the representatives of States members of the Subcommittee, 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.2/2009/INF/41 and Corr.1.

C. Organization of work

9. At the 783rd meeting, on 23 March, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-eighth session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.783).

10. In accordance with decisions taken at its 783rd meeting, the 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, with Vassilis Cassapoglou (Greece) as 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, with José Monserrat Filho (Brazil) as Chairman;

(c) In accordance with paragraph 8 of General Assembly resolution 63/90, the Subcommittee established a Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, open to all members of the Subcommittee, and elected Irmgard Marboe (Austria) as Chairperson;

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

11. At the 783rd meeting, the Chairman proposed and the Subcommittee agreed that the work of the Subcommittee 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 “Thirtieth anniversary of the Moon Agreement: retrospective and prospects”, organized by the International Institute of Space Law (IISL) and the European Centre for Space Law (ECSL), had been held during the 784th meeting, on 23 March. The symposium was coordinated by Tanja Masson-Zwaan, Corinne Jorgenson and Kai-Uwe Schrogl of IISL and Sergio Marchisio of ECSL and was co-chaired by Tanja Masson-Zwaan of IISL and Sergio Marchisio of ECSL.

13. The Subcommittee heard the following presentations during the symposium: “The negotiation of the Moon Agreement”, by Corinne Jorgenson on behalf of Helmut Türk; “The Moon Agreement: perspective of developing countries”, by José Monserrat Filho; “Status of ratifications and key provisions of the Moon Agreement”, by Jean-François Mayence; “The common heritage of mankind principle: the Moon and lunar resources”, by Juan Manuel de Faramiñán Gilbert; “Is a new look necessary in the age of exploration and exploitation?”, by Susan Trepczynski; and “A look ahead: planetary exploration, exploitation and protection”, by Mahulena Hofmann.

14. Concluding remarks were made by the Chairman of the Subcommittee. 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/2009/symposium.html>).

15. The Subcommittee recommended that its forty-ninth session be held from 22 March to 1 April 2010.

D. Adoption of the report of the Legal Subcommittee

16. At its 802nd meeting, on 3 April, the Subcommittee adopted the present report and concluded the work of its forty-eighth session.

II. General exchange of views

17. The Subcommittee welcomed Vladimír Kopal (Czech Republic) as its Chairman for the second consecutive year.

18. Statements were made by representatives of the following States members of the Subcommittee during the general exchange of views: Algeria, Austria, Bolivia (Plurinational State of) (on behalf of States members of the Subcommittee that are members of the Group of Latin American and Caribbean States), Brazil, Canada, Chile, China, Cuba, Czech Republic, Ecuador, France, Germany, Greece, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Malaysia, Morocco, Nigeria, Poland, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Thailand, Ukraine, United States and Venezuela (Bolivarian Republic of). The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.783-792).

19. At the 783rd meeting, on 23 March, the Director of the Office for Outer Space Affairs made a statement reviewing the role and work of the Office relating to space law. The Subcommittee noted with appreciation the work of the Office in maintaining the United Nations Register of Objects Launched into Outer Space and the activities of the Office aimed at promoting understanding of, and adherence to, the international legal regime governing activities in outer space.

20. The Subcommittee heard a presentation entitled “Findings from Japan’s lunar explorer ‘Kaguya’”, given by the representative of Japan.

21. The Subcommittee noted the important role played by initiatives and mechanisms such as the African Leadership Conference on Space Science and Technology for Sustainable Development, the Asia-Pacific Regional Space Agency Forum, the Asia-Pacific Space Cooperation Organization and the Space Conference of the Americas in building regional and international partnerships among States and in promoting cooperation and coordination in the use of space technology and its applications.

22. The Subcommittee noted the preparations being undertaken for the Sixth Space Conference of the Americas and that a second meeting of representatives of the pro tempore secretariat of the Fifth Space Conference of the Americas, the International Group of Experts of the Space Conference of the Americas and the Office for Outer Space Affairs had been held in the Galapagos Islands, Ecuador, on 28 and 29 August 2008.

23. 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 should be strengthened 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, the General Assembly, in particular its First and Fourth Committees, and the International Telecommunication Union (ITU).

24. Some delegations expressed the view that it was essential for the Legal Subcommittee to increase its interaction with the Scientific and Technical Subcommittee in order to promote the elaboration of binding international norms addressing matters relating to, inter alia, the use of nuclear power sources and space

debris, considering the impact and association of those matters with regard to activities and life on the Earth.

25. Some delegations expressed the view that strengthening the security of the growing number of activities in outer space was an important objective. Such activities should be guided by three main principles: (a) freedom of access to outer space for peaceful purposes; (b) preservation of the security and integrity of space objects; and (c) due consideration for the legitimate defence interests of States.

26. Some delegations expressed the view that attempts to militarize outer space and to use outer space for purposes not consistent with United Nations treaties and principles had become cause for concern. Those delegations were of the view that the placement of weapons in outer space would have a negative effect on the legal regime governing the peaceful uses of outer space and on the entire system of international security.

27. Some delegations expressed the view that a lacuna relating to the possible introduction of weapons into outer space existed in the current legal regime governing outer space and that new treaties, as well as strengthening the current regime, were needed to maintain the use of outer space for peaceful purposes.

28. The view was expressed that the success of the work of the Legal Subcommittee 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.

29. The Subcommittee noted with concern the limited time allotted to the Fourth Committee of the General Assembly to consider the item "International cooperation in the peaceful uses of outer space".

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

30. In accordance with General Assembly resolution 63/90, the Subcommittee considered agenda item 4, entitled "Status and application of the five United Nations treaties on outer space", as a regular item of its agenda and reconvened its Working Group on the item.

31. The Subcommittee noted with satisfaction that the Secretariat had distributed a document containing information, updated to 1 January 2009 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.2). The Subcommittee also noted that, since that date, two additional accessions had been recorded, such that the current 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 Bodies,¹ had 100 States parties and had been signed by 26 additional States;

¹ United Nations, *Treaty Series*, vol. 610, No. 8843.

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space² had 90 States parties and had been signed by 24 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects³ had 87 States parties and had been signed by 23 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space⁴ had 52 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies⁵ had 13 States parties and had been signed by 4 additional States.

32. Some delegations expressed the view that the United Nations treaties on outer space constituted a coherent and valuable framework for the ever-growing scale of space activities. Those delegations welcomed further adherence to the treaties and expressed the hope that States that had not yet ratified or acceded to those treaties would consider becoming parties to them.

33. 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 and to take into account the need to identify new areas that might require regulation and that could be addressed by developing complementary instruments.

34. The view was expressed that, while 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, in order to keep pace with advances in space technology the current legal framework for outer space activities required modification in terms of outlining and adopting a set of measures and, where necessary, reviewing key provisions of international space law in a comprehensive, integrated and gradual manner.

35. The view was expressed that the existing legal regime should be strengthened in order to cope with new trends in outer space activities, such as those related to the commercialization of outer space and activities being conducted in the private sector, militarization and advances in space technology.

36. The view was expressed that the Outer Space Treaty and the other United Nations treaties on outer space played a positive and effective role in regulating national activities and promoting cooperation in space activities.

37. The view was expressed that the successful implementation and application of the international legal framework governing space activities depended on understanding and acceptance on the part of policymakers and decision makers of the United Nations treaties and principles on outer space.

38. At its 786th meeting, on 24 March, the Subcommittee reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer

² Ibid., vol. 672, No. 9574.

³ Ibid., vol. 961, No. 13810.

⁴ Ibid., vol. 1023, No. 15020.

⁵ Ibid., vol. 1363, No. 23002.

Space under the chairmanship of Vassilis Cassapoglou (Greece). The Working Group held six meetings. The Subcommittee, at its 802nd meeting, on 3 April, endorsed the report of the Working Group, contained in annex I to the present report.

39. 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-ninth session, in 2010, would review the need to extend the mandate of the Working Group beyond that period.

40. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.786-788 and 802).

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

41. In accordance with General Assembly resolution 63/90, the Subcommittee considered, as a regular item of its agenda, agenda item 5, entitled “Information on the activities of international intergovernmental and non-governmental organizations relating to space law”.

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

(a) Note by the Secretariat (A/AC.105/C.2/L.275 and Corr.1 and Add.1) containing information on activities relating to space law received from the following international organizations: ECSL, IISL, the International Law Association and the International Organization of Space Communications;

(b) A conference room paper containing information on the activities of the International Mobile Satellite Organization relating to space law (A/AC.105/C.2/2009/CRP.3).

43. The Subcommittee noted 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.

44. The Subcommittee recalled that the Rescue Agreement, the Liability Convention, the Registration Convention and the Moon Agreement contained mechanisms permitting international intergovernmental organizations conducting space activities to declare their acceptance of the rights and obligations established under those treaties.

45. The Subcommittee agreed that international intergovernmental organizations should consider taking steps to encourage their members to adhere to the outer space treaties, thereby enabling their acceptance of the rights and obligations under those treaties.

46. The Subcommittee welcomed the information provided by the observers for ESA and ECSL on the activities of those bodies relating to space law, including the annual summer course on space law and policy, the Manfred Lachs Space Law Moot

Court Competition, the Practitioner's Forum, other meetings and symposiums supported and organized, and documents and publications made available.

47. The Subcommittee welcomed the information provided by the observer for the International Academy of Astronautics (IAA) on the activities of IAA relating to space law, including the preparation of IAA studies and position papers, international conferences held and regional meetings organized for Africa.

48. The Subcommittee welcomed the information provided by the observer for IISL on the activities of IISL relating to space law, including the Manfred Lachs Space Law Moot Court Competition, the 51st and 52nd IISL colloquiums, other meetings and symposiums supported or organized and IISL publications and reports.

49. The Subcommittee welcomed the information provided by the observer for the International Law Association (ILA) on the activities of ILA relating to space law, including the work undertaken by the ILA Space Law Committee relating to the legal aspects of remote sensing, with special reference to satellite data in international litigation, near-Earth objects and space debris, the registration of space objects, national legislation, and cooperation with the International Law Commission on the responsibility of international organizations.

50. The Subcommittee welcomed the information provided by the observer for the International Organization of Space Communications (Intersputnik) on the activities of Intersputnik relating to space law, including cooperation with other international organizations and assistance provided to telecommunications administrations and satellite operators worldwide.

51. The Subcommittee agreed that international intergovernmental and non-governmental organizations should again be invited to report to it at its forty-ninth session on their activities relating to space law.

52. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.786-789).

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

53. In accordance with General Assembly resolution 63/90, the Subcommittee considered agenda item 6, entitled "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", as a regular item of its agenda.

54. For its consideration of the item, 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/Add.17);

(b) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865/Add.4);

(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.2 and 3);

(d) Conference room paper entitled “Questions on the definition and delimitation of outer space”, containing replies from Qatar and Saudi Arabia (A/AC.105/C.2/2009/CRP.11);

(e) Conference room paper entitled “National legislation and practice relating to the definition and delimitation of outer space: reply from Mexico” (A/AC.105/C.2/2009/CRP.15).

55. Some delegations expressed concern that little progress had been made on the question of the definition and delimitation of outer space despite the matter having been considered by the Subcommittee for over 40 years. Those delegations reiterated their view that the definition and delimitation of outer space was topical and should therefore continue to be considered by the Subcommittee.

56. Some delegations expressed 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.

57. 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 airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.

58. Some delegations expressed the view that the definition and delimitation of outer space was of paramount importance in relation to the issue of the liability of States and other entities engaging in space activities, which became particularly topical in the light of the current intensification and diversification of space activities.

59. Some delegations expressed the view that the definition and delimitation of outer space was a prerequisite to the establishment of an effective safety regime for outer space activities.

60. 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 airspace 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.

61. Some delegations expressed the view that the definition and delimitation of outer space could lead to unnecessary limitations on the regulation of space activities.
62. Some delegations expressed the view that the lack of a definition and delimitation of outer space had not hindered space exploration nor discouraged States from becoming parties to the United Nations treaties on outer space.
63. Some delegations expressed the view that the absence of some important definitions in other branches of international law, such as aviation law, environmental law and telecommunications law, had not undermined the effectiveness of regulation of the corresponding activities.
64. 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 the natural sciences.
65. The view was expressed that States should continue to operate under the current framework, which functioned well, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. That delegation was of the view that at the present time any attempt to define and delimit outer space would be a theoretical exercise that could complicate existing activities and that might not be able to anticipate future technological developments.
66. The view was expressed that no legal arguments against the need to define and delimit outer space had been put forward in the Subcommittee.
67. Some delegations expressed the view that alternative approaches, such as examination of the terms “space object” and “space activities” or consideration of issues of liability for space activities, could be adopted for the definition and delimitation of outer space.
68. 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 (ICAO).
69. The view was expressed that the definition and delimitation of outer space should not lead to revision or amendment of the United Nations treaties on outer space, which provided a solid and effective basis for the regulation of space activities.
70. The view was expressed that current and foreseeable civil aviation operations would not exceed altitudes of 100-130 km, where there was a potential danger of collision with numerous spacecraft. In this connection, that delegation proposed that the boundary between airspace and outer space be established in that range.
71. The Subcommittee agreed to request the ICAO secretariat to make, at the forty-ninth session of the Subcommittee, a comprehensive presentation on current and foreseeable civil aviation operations, with particular emphasis on the upper limit of those operations.
72. The view was expressed that the Subcommittee should not abstain from the development of legally binding rules relating, among other things, to the definition and delimitation of outer space and the status of the geostationary orbit.

73. 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, in 1998.

74. 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.

75. Some delegations expressed 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.

76. Some delegations expressed 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.

77. Some delegations expressed the view that the current Constitution, Convention and Radio Regulations of ITU, 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, fully took into account the interest of States in the use of the geostationary orbit and the radio frequency spectrum.

78. Some delegations expressed the view that the provisions of articles I and II of the Outer Space Treaty made it clear that a party to the Treaty could not appropriate any part of outer space, such as an orbital location in the geostationary orbit, either by claim of sovereignty or by means of use, including repeated use.

79. The Subcommittee noted the information provided by the United States on the actions of that Government 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 (GOES). The Subcommittee also noted the cooperation of the Governments of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).

80. The view was expressed that a balance should be established in the use of the geostationary orbit among States, intergovernmental organizations and private entities. That delegation was of the view that that goal could be achieved through cooperation between the Subcommittee and ITU.

81. The view was expressed that, in view of the rapid development of satellite technologies, the Subcommittee could also consider the use of other Earth orbits and that the question of the legal regime governing the geostationary orbit should be considered together with that issue.

82. The view was expressed that an effective regime for the geostationary orbit, including a mechanism to monitor that orbit, could be addressed through the establishment of an international specialized space agency.

83. At its 783rd meeting, the 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.

84. The Working Group held four meetings. The Subcommittee, at its 799th meeting, on 2 April, endorsed the report of the Working Group, contained in annex II to the present report.

85. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.788-797 and 799).

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

86. In accordance with General Assembly resolution 63/90, the Subcommittee considered agenda item 7, entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”, as a single issue/item for discussion.

87. The Legal Subcommittee noted with satisfaction the adoption by the Scientific and Technical Subcommittee, at its forty-sixth session, of the Safety Framework for Nuclear Power Source Applications in Outer Space (A/AC.105/C.1/L.292/Rev.4).

88. The Subcommittee also noted with satisfaction the successful cooperation in the development of the Safety Framework between the Scientific and Technical Subcommittee and the International Atomic Energy Agency through the work of the Joint Expert Group of the Scientific and Technical Subcommittee and the International Atomic Energy Agency.

89. Some delegations expressed the view that the development of the Safety Framework was a good example of inter-institutional cooperation, which should be encouraged.

90. Some delegations expressed the view that the Safety Framework promoted the safe use of nuclear power sources (NPS) in outer space and complemented both existing national and international safety guidelines and standards and those under development.

91. The view was expressed that consideration could be given to submitting the Safety Framework to the General Assembly for endorsement by way of a specific resolution.

92. With regard to the Safety Framework, the Subcommittee noted the following reservations expressed by the representative of the Bolivarian Republic of Venezuela:

(a) The inadmissibility of the use of NPS in Earth orbits, based on the premise that any activity conducted in outer space should be governed by the principles of preservation of life and maintenance of peace;

(b) The responsibility of States for national activities carried out by Government agencies or non-governmental organizations using NPS in outer space; States should ensure the regulation, authorization and monitoring of such activities and that authority may not be delegated in any way.

93. Some delegations expressed the view that the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (General Assembly resolution 47/68) was closely dependent on further progress being made by the Scientific and Technical Subcommittee in its consideration of the issue of the use of NPS in outer space and on consideration of the Safety Framework by the Committee on the Peaceful Uses of Outer Space and the Commission on Safety Standards of the International Atomic Energy Agency.

94. Some delegations were of the view that a revision of the Principles was not warranted.

95. Some delegations expressed the view that the Legal Subcommittee should consider revising the current legal regime governing the use of NPS in outer space by developing, on the basis of the Safety Framework, a binding instrument to regulate the use of NPS in outer space.

96. The view was expressed that the Principles should be reviewed and revised in a pragmatic manner 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.

97. Some delegations were of the view that serious consideration should be given to the possible impact that missions carrying NPS on board could have on human life and the environment.

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

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

100. The full text of the statements made during the discussion on this agenda item is contained in unedited verbatim transcripts (COPUOS/Legal/T.788-791).

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

101. In accordance with General Assembly resolution 63/90, the Subcommittee considered agenda item 8, 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.

102. At the 794th meeting of the Subcommittee, on 30 March, the Deputy Secretary-General of the International Institute for the Unification of Private Law (Unidroit) read out a statement from Unidroit to the Subcommittee on developments concerning the draft space assets protocol.

103. The Subcommittee noted certain developments that had taken place since its forty-seventh session. The steering committee of Unidroit, established by the General Assembly of Unidroit to build consensus around provisional conclusions reached during intersessional work by government and industry, had made good progress in identifying appropriate solutions to the key outstanding issues. At its first meeting, held in Berlin from 7 to 9 May 2008, the steering committee had achieved consensus on some of those issues and had prepared an alternative version of the draft space assets protocol that reflected the decisions taken at that meeting. The alternative version, together with the results of meetings of the subcommittees of the steering committee on default remedies in respect of components and public service, would be considered by the steering committee at its second meeting, to be held in Paris on 14 and 15 May 2009, with a view to assessing the possibility of reconvening the committee of governmental experts in Rome from 30 November to 4 December 2009 and adopting the draft space assets protocol at a diplomatic conference in the third quarter of 2010.

104. 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.

105. 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 by space equipment.

106. Some delegations stated 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 the Constitution, Convention and Radio Regulations of ITU and that that principle would be explicit in the text of any space assets protocol. Those delegations also stated 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 consideration of requests from States not members of Unidroit that wished to participate.

107. The view was expressed that the United Nations could act as the supervisory authority under the future space assets protocol, which would enhance the role of the United Nations in promoting international cooperation for the benefit of all States and in further developing international law.

108. The view was expressed that, owing to the lack of consensus, further consideration of the possibility of the United Nations serving as the supervisory

authority for the registry under the draft space assets protocol was not deemed useful.

109. 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 frequency spectrum bands.

110. 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.

111. 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.

112. The Subcommittee agreed that this item should remain on the agenda for its forty-ninth session, in 2010.

113. The full text of statements made by delegations during the discussion on agenda item 8 is contained in unedited verbatim transcripts (COPUOS/Legal/T.791-794).

VIII. Capacity-building in space law

114. In accordance with General Assembly resolution 63/90, the Subcommittee considered, as a single issue/item for discussion, agenda item 9, entitled "Capacity-building in space law".

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

(a) Conference room paper containing a directory of education opportunities in space law (A/AC.105/C.2/2009/CRP.4);

(b) Conference room paper containing the preliminary draft education curriculum on space law (A/AC.105/C.2/2009/CRP.5);

(c) Conference room paper containing information submitted by China, the Czech Republic, Germany, Japan, Poland and Saudi Arabia and by the Office for Outer Space Affairs on actions and initiatives to build capacity in space law (A/AC.105/C.2/2009/CRP.7);

(d) Conference room paper containing information submitted by France on actions and initiatives to build capacity in space law (A/AC.105/C.2/2009/CRP.7/Add.1).

116. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology and to increase knowledge of the legal framework within which space activities were carried out, and emphasized the important role of the Subcommittee in that regard.

117. The view was expressed that active dissemination of knowledge, experiences and best practices in space law was needed to provide the necessary basis for supporting the rapid development of space technology.

118. Some delegations expressed the view 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 11, enabled States with effective legal regimes in space law to provide other States with concrete examples and information on space-related legislation, thereby contributing to building capacity in space law.

119. The Subcommittee noted with appreciation that a number of national, regional and international efforts to build capacity in space law were being undertaken by governmental and non-governmental entities and institutions. Those efforts included encouraging universities to offer modules on space law as part of existing international law courses or as specialized programmes; providing fellowships for graduate and postgraduate education in space law; assisting in the development of national space legislation and policy frameworks; organizing workshops, seminars and other activities to promote greater understanding of space law; conducting research and preparing studies, papers and publications; supporting space law moot court competitions; and supporting entities dedicated to the study of and research relating to space law.

120. The Subcommittee welcomed the fact that, in response to its request at its forty-sixth session, the Office for Outer Space Affairs had continued to work with space law educators and representatives of the regional centres for space science and technology education, affiliated to the United Nations, to develop a curriculum on space law and agreed that the preliminary draft of that curriculum, as contained in conference room paper A/AC.105/C.2/2009/CRP.5, was a positive step forward.

121. The Subcommittee expressed its appreciation to the educators and representatives of the regional centres for their work in developing the curriculum and agreed that the curriculum was a tool for the dissemination of knowledge on space law, especially in developing countries, and represented an important contribution to building capacity in space law.

122. The Subcommittee recommended that comments on the preliminary draft curriculum on space law be transmitted by member States in writing, through the Office for Outer Space Affairs, to the educators and representatives of the regional centres participating in the development of the curriculum, for their consideration.

123. The Subcommittee recommended that the curriculum be structured in such a manner that it might also serve as a basis for other educational institutions and training initiatives.

124. The Subcommittee noted that the regional centres for space science and technology education, affiliated to the United Nations, could play an important role in supporting capacity-building in space law.

125. The view was expressed that, in order for the regional centres for space science and technology education to undertake the additional challenge of building capacity in space law, the current lack of adequate support for their activities, particularly with respect to expertise and material resources, would need to be addressed.

126. Some delegations expressed the view that the regional centres would also need additional financial resources and experts to teach space law.

127. The view was expressed that the Office for Outer Space Affairs should, in cooperation with IISL, develop a short lecture on space law for distance-learning purposes.

128. The Subcommittee noted with satisfaction that the Office for Outer Space Affairs had updated the directory of education opportunities in space law, including information on available fellowships and scholarships.

129. The view was expressed that a consultative group, consisting of educational institutions reflected in the directory, should be established as a network to support the work of the Subcommittee under this item.

130. The Subcommittee noted that the workshops organized by the Office for Outer Space Affairs were a valuable contribution to capacity-building in space law.

131. The Subcommittee noted that the Islamic Republic of Iran would act as host to the next United Nations workshop on space law, to be held in Tehran in November 2009.

132. The Subcommittee also noted that the Office for Outer Space Affairs had continued to provide technical legal advisory support to member States on issues relating to space law and had participated in other initiatives to build capacity in space law, including the Seventeenth ECSL Summer Course on Space Law and Policy, held in Genoa, Italy, from 1 to 12 September 2008, and a regional seminar on space law, hosted by the Government of Ecuador, held in Quito on 26 and 27 August 2008.

133. The Subcommittee noted that ESA and ECSL had supported the organization of space law activities in African countries bordering the Mediterranean.

134. The Subcommittee noted that the scholarship programmes of the German Academic Exchange Service and the Alexander von Humboldt Foundation of Germany offered numerous study and research opportunities in all areas of study and that those programmes were open to students, graduates and academics from developing countries.

135. The Subcommittee noted that the courses on space law offered by public education institutions in France and Greece were free of charge for national and foreign students and that scholarships could be made available for foreign students.

136. Some delegations expressed the view that additional efforts were needed, including by the Office for Outer Space Affairs, to encourage more institutions and organizations from developed countries to provide scholarships for students from developing countries with a view to strengthening space law, in line with the recommendations of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III).

137. Some delegations expressed the view that special measures were necessary to address the lack of opportunities for education in space law in Africa, particularly in sub-Saharan Africa, and the limited availability in the region of local experts to teach space law.

138. The view was expressed that, in order to build capacity in space law, the Office for Outer Space Affairs should consider contributing to, and participating in, the African Leadership Conference on Space Science and Technology for Sustainable Development, including by establishing a practitioners' forum similar to that organized by ECSL.

139. The view was expressed that the creation of centres of excellence to train experts in space law would support capacity-building in space law, particularly in developing countries, and that training opportunities with space-related organizations and institutions should be established.

140. The view was expressed that a regional centre for space science and technology education for the benefit of Arabic-speaking countries should be established.

141. The Subcommittee noted with appreciation that an international centre for space law would be established by the Governments of Argentina and Brazil.

142. The view was expressed that the creation of a dedicated space law database and Web-based electronic resources and the establishment of forums for practitioners would facilitate networking among space law experts.

143. Some delegations expressed the view that the Office for Outer Space Affairs should deepen and strengthen its programme to build capacity in space law, notwithstanding the expected budgetary cut for the biennium 2010-2011.

144. The Subcommittee requested the Office for Outer Space Affairs to prepare a report for the forty-ninth session of the Subcommittee setting out the recommendations relating to capacity-building in space law made to date and the status of their implementation and proposing ways and means of giving practical effect to those recommendations.

145. The Subcommittee recommended that member States and permanent observers of the Committee on the Peaceful Uses of Outer Space inform the Subcommittee, at its forty-ninth session, of any actions taken or planned at the national, regional or international level to build capacity in space law.

146. The Subcommittee recommended that the United Nations University be invited to report on its activities relating to capacity-building in space law.

147. The full text of the statements made by delegations during the discussion on agenda item 9 is contained in unedited verbatim transcripts (COPUOS/Legal/T.790-794).

IX. General exchange of information on national mechanisms relating to space debris mitigation measures

148. In accordance with General Assembly resolution 63/90, the Subcommittee considered agenda item 10, entitled "General exchange of information on national mechanisms relating to space debris mitigation measures", as a single issue/item for discussion.

149. The Subcommittee heard the following presentations:

(a) “Space debris mitigation mechanisms in Japan: the case in JAXA”, by the representative of Japan;

(b) “Implementation mechanisms for space debris mitigation guidelines by DLR”, by the representative of Germany;

(c) “The Russian Federation’s activities on space debris mitigation in near-Earth space: examples of implementation of the COPUOS Space Debris Mitigation Guidelines”, by the representative of the Russian Federation;

(d) “Requirements on space debris mitigation for ESA projects”, by the observer for ESA.

150. The Subcommittee welcomed the inclusion of this item in the agenda, noting that it would assist States in understanding the different approaches that States had taken to mitigating and preventing the increase in space debris.

151. The Subcommittee noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space⁶ was a key step in providing space-faring nations with guidance on how to mitigate the problem of space debris.

152. The delegations of the following States presented information on their national mechanisms governing space debris mitigation and the ways in which they were implementing the Space Debris Mitigation Guidelines of the Inter-Agency Space Debris Coordination Committee and the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space: Canada, China, France, India, Italy, Japan, Russian Federation and United States.

153. The Subcommittee noted that some States had strengthened their national mechanisms governing space debris mitigation through the nomination of governmental supervisory authorities, the involvement of academia and industry and the development of new legislative norms, instructions, standards and frameworks.

154. The view was expressed that space debris posed an obvious danger to all space assets and that the orderly conduct of space activities would depend on the observance of space debris mitigation guidelines by all States.

155. The view was expressed that the problem of space debris was part of the complex issue of the protection and preservation of the outer space environment.

156. The view was expressed that States should exercise greater control over private operators of space telecommunications systems as the activities of those operators largely contributed to the creation of space debris.

157. The view was expressed that the development by the Subcommittee of guidelines for space traffic management could contribute to resolving the problem of space debris.

158. The view was expressed that the taking by States of effective measures to mitigate the problem of space debris, including the implementation of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer

⁶ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 20 (A/62/20)*, paras. 117 and 118 and annex.

Space, would ensure that the future space activities of States, in particular of developing States, would not be negatively affected by space debris.

159. The Subcommittee agreed that the collision and other incidents that had occurred in space in recent years underlined the need for space-faring nations to coordinate their activities in a transparent and responsible manner through the tracking, monitoring and dissemination of information on space debris.

160. The Subcommittee urged States to continue to implement the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space and to study the experience of States that had already established national mechanisms governing space debris mitigation.

161. The Subcommittee requested the Secretariat to explore possibilities for publishing the text of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space in a way that would make the Guidelines more accessible to all Member States.

162. The full text of the statements made during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T.792-796).

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

163. In accordance with General Assembly resolution 63/90, agenda item 11, entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”, was considered in accordance with the multi-year workplan for the period 2008-2011 adopted by the Committee on the Peaceful Uses of Outer Space at its fiftieth session.⁷

164. The Subcommittee recalled that, in accordance with the multi-year workplan, States were to submit information on their respective national space legislation and regulatory frameworks.

165. For its consideration of the item, 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”, containing replies received from China, the Czech Republic, Germany, Mongolia, the Republic of Korea and Turkey (A/AC.105/932);

(b) Conference room paper containing information on the national legislation of Poland and Saudi Arabia relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.9);

(c) Conference room paper containing information on the national legislation of South Africa relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.13);

⁷ Ibid., para. 219.

(d) Conference room paper containing information on the national legislation of the Republic of Korea relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.14);

(e) Conference room paper containing information on the national legislation of Japan relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.17);

(f) Conference room paper containing information on the national legislation of France relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.18).

166. The Subcommittee heard the following presentations:

(a) “French space law”, by the representative of France;

(b) “Belgian space law”, by the representative of Belgium;

(c) “Japan’s basic space law”, by the representative of Japan;

(d) “Comments from EUTELSAT IGO on French space law”, by the observer for the European Telecommunications Satellite Organization (EUTELSAT IGO).

167. The Subcommittee noted with satisfaction that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space provided States with a comprehensive overview of the current status of national space laws and regulations. The Subcommittee also noted that the information was considered valuable; that it allowed all States, in particular developing States, to gain an understanding of existing national regulatory frameworks; and that it could assist States in their efforts to establish their own national regulatory frameworks in accordance with their specific needs and level of development.

168. The Subcommittee noted with appreciation that, as space activities continued to increase in number and scope and as they were carried out by governmental and non-governmental actors, a growing number of developing countries had adopted national space policies and had included legal provisions dealing with outer space in their national legal regimes.

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

170. The Subcommittee noted with satisfaction the strengthening of efforts by States to promote and develop international space law, in particular in view of the increase in problems associated with the exploration and uses of outer space, such as the problem of space debris.

171. The Subcommittee took note with satisfaction of the database maintained by the Office for Outer Space Affairs, on its website (<http://www.unoosa.org>), on national space legislation and multilateral and bilateral agreements related to the peaceful exploration and use of outer space. 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 of policy and other legal documents, related to space activities.

172. The view was expressed that States should be encouraged to make available, for inclusion in the database, official translations in English, in French or in both languages of their national laws.

173. The Subcommittee agreed that the 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, especially 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.

174. The view was expressed that the sharing of information on national legislation and the possible harmonization of such information could help States to improve the legal framework of international cooperation in space activities and could also facilitate consensus on the direction for the development of international space law.

175. The view was expressed that, in the further development of international space law, full consideration should be given to bilateral and regional agreements, as those legal instruments provided an essential foundation for international cooperation in the exploration and use of outer space.

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

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

178. The view was expressed that the examination of existing legislation and practices would help States to identify common principles, norms and procedures, as well as the solutions best suited to different national interests, needs and specificities. That delegation was of the view that such exchanges of information on national legislation could also contribute to the further development and strengthening of the international space law regime.

179. Some delegations expressed concern about the lack of regulation, in view of the increasing number of space activities carried out by commercial entities and non-governmental organizations, and thus felt that, if warranted, the issue could be further considered by the Subcommittee under this agenda item.

180. At its 783rd meeting, the Subcommittee established the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, under the chairmanship of Irmgard Marboe (Austria). In accordance with the multi-year workplan, the Working Group examined responses received from Member States in order to develop an understanding of the manner in which Member States regulated governmental and non-governmental space activities.

181. The Working Group held six meetings. The Subcommittee, at its 802nd meeting, on 3 April, endorsed the report of the Working Group contained in annex III to the present report.

182. The full text of the statements made during the discussion on agenda item 11 is contained in unedited verbatim transcripts (COPUOS/Legal/T.792-796 and 802).

XI. 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

183. The Subcommittee recalled that the General Assembly, in its resolution 63/90, had noted that the Subcommittee, at its forty-eighth 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-ninth session, in 2010.

184. The Chairman recalled the proposals for new items to be included in the agenda of the Subcommittee that had been considered by the Subcommittee at its forty-seventh session and retained by their sponsors with a view to discussing them at subsequent sessions of the Subcommittee (see A/AC.105/917, para. 160).

185. The Subcommittee agreed to retain all the single issues/items currently on the agenda for consideration at its forty-ninth session.

186. 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-ninth session:

Regular items

1. Opening of the session, election of the Chairman 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.

2010: Continued examination, by a working group, of responses received and initiation of drafting of the working group's report, including conclusions.

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 fiftieth session.

187. The Subcommittee also agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, the Working Group on Matters Relating to the Definition and Delimitation of Outer Space and the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space should be reconvened at its forty-ninth session.

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

189. The Subcommittee further agreed that IISL and ECSL should again be invited to organize a symposium, to be held during the first week of its forty-ninth session.

190. Some delegations proposed a new agenda item on regulation of the dissemination of Earth observation satellite images through the World Wide Web. Those delegations were of the view that irresponsible dissemination of space-based images, in particular through the World Wide Web, seriously undermined the privacy of citizens worldwide, as well as the sovereignty and national security of States.

191. Some delegations expressed the view that, while those concerns were valid and relevant to the discussions of the Committee on the Peaceful Uses of Outer Space, it was too early to consider them in the Legal Subcommittee.

192. The Subcommittee noted a proposal by Colombia that, under the existing regular agenda item 6 (b), entitled "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", the Subcommittee should play a role in a contribution to be made by the Committee to the work of ITU, in particular to (a) the ITU workshop to be organized on the use of spectral orbit resources; (b) the study to be carried out by Working Party 4A of the ITU Radiocommunication Sector

in 2011; and (c) the ITU World Radiocommunication Conference to be held in the second half of 2011.

193. The view was expressed that the consideration of those issues by the Committee would infringe on the role and mandates of ITU.

194. 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 subsequent sessions of the Subcommittee:

(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);

(g) Regulation of the dissemination of Earth observation satellite images through the World Wide Web (proposed by Saudi Arabia).

195. The full text of the statements made during the discussion on agenda item 12 is contained in unedited verbatim transcripts (COPUOS/Legal/T.796-799).

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 63/90, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its 786th meeting, on 24 March 2009, reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Vassilis Cassapoglou (Greece).

2. The Working Group held six meetings, from 24 March to 3 April 2009. At the 1st meeting, on 24 March, the Chairman recalled that the Subcommittee, at its fortieth session, in 2001, 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 the Subcommittee, at its forty-first session, in 2002, 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 documents:

(a) 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, Corr.1 and Add.1);

(b) 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).

4. The Chairman recalled the agreement of the Subcommittee relating to the work to be conducted by the Working Group at its meetings held during the forty-eighth session of the Subcommittee, namely:

(a) That the Working Group would not discuss the list of questions contained in the questionnaire on the possible options for future development of international space law (A/AC.105/C.2/L.259), but would instead discuss the current state of international space law and possible options for its future development, as necessary;

(b) That, 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 the Working Group could:

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

- (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 addressed activities on the Moon and other celestial bodies.
5. The Chairman also recalled that the Subcommittee would review the need to extend beyond its forty-eighth session the mandate of the Working Group (A/AC.105/917, para. 44).
6. The Working Group welcomed the fact that the milestone of 100 States parties to 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 had been reached.
7. The Working Group requested the Secretariat to retransmit the letter encouraging Governments to consider adherence to the United Nations treaties on outer space, dated 9 December 2004, to the ministries of foreign affairs of Member States that had not yet become party to the five United Nations treaties on outer space and agreed that a similar letter should be sent to international intergovernmental organizations conducting space activities, seeking clarification on their possible declaration of acceptance of the rights and obligations under the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,^c the Convention on International Liability for Damage Caused by Space Objects,^d the Convention on Registration of Objects Launched into Outer Space^e and the Moon Agreement.
8. Some delegations expressed the view that, although the Moon Agreement contained provisions that reiterated or elaborated on the provisions contained in the Outer Space Treaty, certain provisions of the Moon Agreement were unique and provided more detailed regulations for the implementation of activities on the Moon.
9. Some delegations expressed the view that there were certain inconsistencies between the principle of “common heritage of mankind” expressed in article 11 of the Moon Agreement and the principle of “province of all mankind” enshrined in article I of the Outer Space Treaty and expressed the need for a clarification of those principles.
10. Some delegations expressed the view that the principle of “common heritage of mankind” and the principle of “province of all mankind” had separate scopes and targeted different activities, relating to the exploitation of resources on the Moon and other celestial bodies on the one hand, and to the general exploration and use of outer space on the other.

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

^c Ibid., vol. 672, No. 9574.

^d Ibid., vol. 961, No. 13810.

^e Ibid., vol. 1023, No. 15020.

11. Some delegations recognized that the joint statement on the benefits of adherence to the Moon Agreement by States parties to the Agreement, contained in document A/AC.105/C.2/L.272, was a useful basis for further discussion.
12. Some delegations expressed the view that some of the aspects of the Moon Agreement emphasized in the joint statement needed further clarification, in particular the scope of application of article 10 (on safeguarding the life and health of persons on the Moon), article 12 (on the use of and jurisdiction over personnel, vehicles, equipment, facilities, stations and installations) and article 15 (on compliance).
13. The view was expressed that the reasons preventing States from becoming parties to the Moon Agreement needed to be explored more fully in order to find appropriate solutions to overcome those obstacles.
14. The view was expressed that, although the impact of the Moon Agreement was limited owing to the low number of States parties, the Agreement nevertheless maintained its legal validity.
15. The view was expressed 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 legal frameworks.
16. The Working Group noted with appreciation that an interdisciplinary seminar on issues related to the Moon Agreement would be organized by Austria in connection with the forty-ninth session of the Subcommittee, in 2010.
17. The Working Group agreed to continue its discussion on the issues referred to in paragraph 4 (b) above at its meetings to be held during the forty-ninth session of the Subcommittee, in 2010.
18. The Working Group recommended that the Subcommittee, at its forty-ninth session, in 2010, 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 783rd meeting, on 23 March 2009, 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 63/90, 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/Add.17);
 - (b) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865/Add.4);
 - (c) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.2 and 3);
 - (d) Conference room paper entitled “Questions on the definition and delimitation of outer space”, containing replies from Qatar and Saudi Arabia (A/AC.105/C.2/2009/CRP.11);
 - (e) Conference room paper entitled “National legislation and practice relating to definition and delimitation of outer space: reply from Mexico” (A/AC.105/C.2/2009/CRP.15).
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 growing number of activities of States and private entities in the exploration and use of outer space.
5. The view was expressed 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 airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.
6. The view was expressed that, despite the absence of certain important definitions in international air law, aviation activities continued to develop well.
7. 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, any attempt to define or delimit outer space would be a theoretical exercise

that could complicate existing activities and that might not be able to anticipate future technological developments.

8. The view was expressed that no definition or delimitation of outer space was needed for practical purposes and that it would be more useful to determine the scope of application of international space law by analysing the purpose of space missions.

9. The view was expressed that it was important to strengthen existing international space law, in particular with regard to responsibility for and supervision of space activities, and that an international specialized space agency should be established for that purpose.

10. The view was expressed that the definition and delimitation of outer space would strengthen security and confidence in outer space activities.

11. The view was expressed that the defining and delimiting of outer space should not lead to revision or amendment of the United Nations treaties on outer space, which provided a solid and effective basis for the regulation of space activities.

12. Some delegations were of the view that alternative approaches to the definition and delimitation of outer space should be given serious consideration.

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

(a) To continue to invite States members of the Committee on the Peaceful Uses of Outer Space 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 airspace, taking into account the current and foreseeable level of development of space and aviation technologies;

(b) To continue to address the following questions, through the Secretariat, to the Governments of Member States:

(i) Does your Government consider it necessary to define outer space and/or to delimit airspace 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.

14. The Working Group noted the proposal of the Chairman that the topic for the symposium to be organized by the International Institute of Space Law and the European Centre for Space Law in the framework of the forty-ninth session of the Subcommittee, in 2010, could relate to the issue of the definition and delimitation of outer space.

15. 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.

Annex III

Report of the Chairperson of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space

1. In accordance with paragraph 8 of General Assembly resolution 63/90, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its 783rd meeting, on 23 March 2009, established a working group on agenda item 11, entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”. The Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space was chaired by Irmgard Marboe (Austria).
2. The Working Group held six meetings, from 31 March to 3 April 2009. At the 1st meeting, the Chairperson recalled that, in accordance with the workplan adopted by the Committee on the Peaceful Uses of Outer Space at its fiftieth session, in 2007, the Working Group would examine responses received from Member States to requests for information on national legislation relating to governmental and non-governmental space activities in order to develop an understanding of the manner in which Member States had regulated those activities. The Chairperson also recalled the work of the Subcommittee under the previous agenda items “Review of the concept of the ‘launching State’” and “Practice of States and international organizations in registering space objects”, and noted that, under those items, the Subcommittee and its respective working groups had considered information received from Member States on national regulatory frameworks.
3. The Working Group 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”, containing replies received from China, the Czech Republic, Germany, Mongolia, the Republic of Korea and Turkey (A/AC.105/932);
 - (b) Conference room paper containing information received from Poland and Saudi Arabia on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.9);
 - (c) Conference room paper containing information received from South Africa on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.13);
 - (d) Conference room paper containing information received from the Republic of Korea on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.14);
 - (e) Conference room paper entitled “National legislation and practice relating to the definition and delimitation of outer space: reply from Mexico” (A/AC.105/C.2/2009/CRP.15);
 - (f) Conference room paper containing information received from Japan on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.17);

(g) Conference room paper containing information received from France on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.18).

4. The Working Group also had before it the following information provided by Member States during the forty-seventh session of the Subcommittee:

(a) Note by the Secretariat entitled "Information on national legislation relevant to the peaceful exploration and use of outer space", containing replies from the Czech Republic, Germany, Morocco, Nicaragua, Turkey and Ukraine (A/AC.105/912);

(b) Conference room paper containing information received from the United States of America on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2008/CRP.9);

(c) Conference room paper containing information received from Brazil, Colombia, Germany and the Netherlands on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2008/CRP.14).

5. In order to facilitate the work of the Working Group, the following documents were also made available:

(a) Note by the Secretariat entitled "Review of existing national space legislation illustrating how States are implementing, as appropriate, their responsibilities to authorize and provide continuing supervision of non-governmental entities in outer space", containing a review of the national space legislation of Argentina, Australia, Japan, the Russian Federation, South Africa, Sweden, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/AC.105/C.2/L.224);

(b) Report of the Secretariat entitled "Review of the concept of the 'launching State'", containing a synthesis of State practice in applying the concept of the "launching State", including the definition of "space activities"; jurisdiction over space activities; the safety of space activities; liability, including third-party insurance and financial responsibility requirements; indemnification procedures; and the registration of launches (A/AC.105/768).

6. The Working Group noted that national regulatory frameworks generally covered the following main areas: national jurisdiction for regulating space activities of governmental and non-governmental entities; procedures for authorizing and licensing national space activities; liability and indemnification procedures; registration of objects launched into outer space and establishment of national registries; and regulatory frameworks for national space agencies or other national entities mandated to carry out and supervise space activities.

7. The Working Group conducted a review of the following seven main issues for discussion:

- (a) Reasons for States to enact national space legislation;
- (b) Scope of space activities targeted by national regulatory frameworks;
- (c) Scope of national jurisdiction over space activities;

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- (d) Competence of national authorities in the authorization, registration and supervision of space activities;
 - (e) Conditions to be fulfilled for registration and authorization;
 - (f) Regulations concerning liability;
 - (g) Compliance and monitoring.

8. The Working Group noted that national regulatory frameworks represented different legal systems with either unified acts or a combination of national legal instruments, ranging from administrative regulations to decrees and laws; that States had adapted their national legal frameworks according to their specific needs and practical considerations; and that national legal requirements depended to a high degree on the range of space activities conducted and the level of involvement of the private sector.

9. In considering the reasons for States to enact national space legislation, the Working Group noted that common grounds for national legislation were the need to fulfil obligations under treaties to which a State had become a party, the need to achieve consistency and predictability in the conduct of space activities under the jurisdiction of the State and the need to provide a practical regulatory system for private sector involvement. The need for improved national coordination and the integration of a wider range of national activities had also provided incentive for regulatory frameworks at the national level.

10. With regard to the issue of the scope of space activities targeted by national regulatory frameworks, the Working Group noted a broad variety of activities, such as the launching of objects into outer space, the operation of a launch or re-entry site, the operation and guidance of space objects, in some cases the design and manufacturing of spacecraft, the application of space science and technology such as that used for Earth observation and telecommunications, and exploration activities and research.

11. In terms of the scope of national jurisdiction over space activities, the Working Group noted that most national regulatory regimes required authorization to be obtained for space activities carried out from the national territory. Most regimes also required authorization to be obtained for certain launches outside the national territory in which nationals were involved, such as citizens and non-governmental entities established or incorporated under the laws of the State in question. The Working Group noted that, with a view to balancing public and private interests, in some cases a more complex jurisdictional system was applied in order to regulate private sector involvement.

12. In considering the competence of national authorities in the authorization, registration and supervision of space activities, the Working Group noted that, in most States, there were different national authorities involved in those procedures, ranging from space agencies and other similar authorities up to ministerial-level authority, in some cases involving different governmental entities for different activities requiring a licence. The existence in some cases of separate procedures for the licensing of operators conducting space activities and for the authorization of specific projects and programmes was noted. The Working Group noted that there was a broad variety of means of registering space objects with a national registry,

including through a government ministry or through a space agency or similar authority.

13. With regard to the conditions to be fulfilled for registration and authorization, the Working Group noted that ensuring the safety of space activities was an important policy underpinning most national space laws, in particular laws governing the launch of objects into outer space. Most launch-licensing regimes included measures to ensure that the launch did not create a significant risk of personal injury, environmental damage or damage to property. Conditions concerning safety and technological standards were also closely linked to States' concern about meeting space debris mitigation requirements. Other conditions related to the professional and financial qualifications of the applicant. In addition, national security and foreign policy interests were usually involved in authorization and licensing procedures.

14. In terms of regulations concerning liability, the Working Group noted that the Convention on International Liability for Damage Caused by Space Objects^a contained a liability regime with no ceiling. However, several States had established ways of seeking recourse from operators, which was achieved in most cases by introducing a national liability regime for space operations, if necessary, in addition to general tort law or environmental liability. The Working Group noted the existence of a broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements.

15. In considering compliance and monitoring, the Working Group noted that most States applied procedures for the supervision and monitoring of licensed space activities, whether a system of in situ inspections or a more general reporting requirement for the fulfilment of obligations under a licence. Most national regulatory regimes operated with a set of administrative measures for minor violations and a sanctions regime, including penal sanctions in some cases, for more serious offences.

16. The Working Group agreed that the exchange of information provided an important basis for its work under the multi-year workplan and allowed it to continue examining the main developments taking place at the national level in order to identify common principles, norms and procedures.

17. The Working Group agreed that at its next session, in 2010, it should pursue its examination of the issues addressed during the current session. The Working Group also agreed that a number of issues needed further consideration, such as the regulation by States of transfers of ownership of space objects and of transfers of authorized space activities to third parties, the participation of private individuals in space flights and the treatment in service-provider contracts of issues of liability and responsibility for collisions of satellites in outer space.

18. The Working Group agreed that Member States should be invited to respond to the questions prepared by the Chairperson for the present session of the Working Group, and that that would provide an opportunity to complement the information available to the Working Group. Member States that had not yet enacted national space legislation should be invited to submit information on the reasons for the absence of such legislation.

^a United Nations, *Treaty Series*, vol. 961, No. 13810.

19. The Working Group also agreed that the Secretariat, in consultation with the Chairperson, should prepare, for consideration by the Working Group at its next session, a paper providing a schematic overview of existing national regulatory frameworks based on information received from Member States.

20. Some delegations expressed the view that the findings of the Working Group should be summarized and synthesized in order to develop a better understanding of the manner in which States regulated space activities. Such information would be of assistance to Member States in drafting and developing their respective national space laws. It would also represent a valuable contribution to capacity-building in space law and be of particular interest to developing countries.

21. Some delegations expressed the view that that information could also provide a basis for the future harmonization of national space legislation.

22. Some delegations expressed the view that intersessional consultations among the Vienna-based permanent missions, including on the agenda item on national space legislation currently being considered by the Subcommittee, would enhance awareness of the work of the Committee on the Peaceful Uses of Outer Space.
