



# General Assembly

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**Committee on the Peaceful  
Uses of Outer Space**  
Legal Subcommittee  
Fifty-fifth session  
Vienna, 4-15 April 2016

## Draft report

### Annex I

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

1. At its 917th meeting, on 4 April 2016, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space under the chairmanship of Bernhard Schmidt-Tedd (Germany).
2. From 5 to [14] April 2016, the Working Group held six meetings. The Working Group considered the following items:
  - (a) Fiftieth anniversary of the United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE+50): theme of the sessions of the Committee on the Peaceful Uses of Outer Space, its Scientific and Technical Subcommittee and its Legal Subcommittee in 2018;
  - (b) Set of questions on the status and application of the five United Nations treaties on outer space;
  - (c) Preparations for marking the fiftieth anniversary of the Outer Space Treaty in 2017.
3. The Working Group had before it the following:
  - (a) Note by the Secretariat entitled “Fiftieth anniversary of the United Nations Conference on the Exploration and Peaceful Uses of Outer Space: theme of the sessions of the Committee on the Peaceful Uses of Outer Space, its Scientific



and Technical Subcommittee and its Legal Subcommittee in 2018” (A/AC.105/L.297);

(b) Conference room paper on the status of international agreements relating to activities in outer space as at 1 January 2016 (A/AC.105/C.2/2016/CRP.3);

(c) Conference room paper entitled “Fiftieth anniversary of the United Nations Conference on the Exploration and Peaceful Uses of Outer Space: the Committee on the Peaceful Uses of Outer Space and global space governance” (A/AC.105/C.2/2016/CRP.4);

(d) Conference room paper containing responses to the set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space (A/AC.105/C.2/2016/CRP.6);

(e) Conference room paper containing an overview and final summary by the outgoing Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space on the responses from States members and permanent observers of the Committee to the set of questions provided by the Chair and contained in the report of the Legal Subcommittee on its fifty-fourth session (A/AC.105/C.2/2016/CRP.7);

(f) Conference room paper entitled “Proposal for a UNISPACE+50 thematic priority to be considered by the Legal Subcommittee” (A/AC.105/C.2/2016/CRP.9);

(g) Conference room paper entitled “Updated proposal for a UNISPACE+50 thematic priority to be considered by the Legal Subcommittee” (A/AC.105/C.2/2016/CRP.20), which was a combination of A/AC.105/C.2/2016/CRP.9 and the proposal by Brazil that was circulated in a non-paper;

(h) Statement by the Director of the Office for Outer Space Affairs on behalf of the UNISPACE+50 Steering Committee;

(i) Conference room paper on the Hague Space Resources Governance Working Group (A/AC.105/C.2/2016/CRP.17).

4. The Working Group had before it a non-paper by Brazil containing a proposal for the UNISPACE+50 thematic priority, as well as a non-paper and a revised non-paper by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space on the set of questions on the status and application of those treaties.

5. At its sixth meeting, on [...] April, the Working Group adopted the present report.

## **I. Fiftieth anniversary of the United Nations Conference on the Exploration and Peaceful Uses of Outer Space: theme of the sessions of the Committee on the Peaceful Uses of Outer Space, its Scientific and Technical Subcommittee and its Legal Subcommittee in 2018**

6. At the opening meeting, the Chair of the Working Group noted the progress made in the process to prepare for UNISPACE+50, in particular the agreement by

the Scientific and Technical Subcommittee upon a set of six thematic priorities contained in the report of the Working Group of the Whole annexed to the report of the Scientific and Technical Subcommittee on its fifty-third session (A/AC.105/1109, annex I, paragraph 8). At the same meeting, the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space also recalled that the Working Group of the Whole had noted that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space could be an appropriate forum to further consider inputs by the Legal Subcommittee to the UNISPACE+50 thematic priorities.

7. The Chair of the Working Group further recalled that it was pertinent to combine the thematic priorities, as endorsed by the Scientific and Technical Subcommittee at its fifty-third session in 2016, with relevant legal perspectives, and that the Committee, its Scientific and Technical Subcommittee and its Legal Subcommittee should coordinate and cooperate in arriving at a common output through the process to prepare for UNISPACE+50.

8. At the opening meeting, the Director of the Office for Outer Space Affairs, in her capacity as Chair of the UNISPACE+50 Steering Committee, informed the Working Group on the progress of the preparations for UNISPACE+50. The Steering Committee had been established pursuant to General Assembly resolution 70/82, and was composed of the members of the bureaux of the Committee and its subsidiary bodies (the Group of 15), the chairs of the working groups of the Committee and its subsidiary bodies, and the Director of the Office.

9. The Working Group also noted that the UNISPACE+50 Steering Committee had adopted its terms of reference, which had been made available to the Subcommittee as an annex to the statement by the Director of the Office on behalf of the Steering Committee.

10. In accordance with the plan of work of UNISPACE+50 endorsed by the Committee at its fifty-eighth session in 2015 (see A/AC.105/L.297), and on the basis of the relevant proposal submitted to the Legal Subcommittee (see A/AC.105/C.2/2016/CRP.20), the Working Group recommended adopting the following thematic priority, summarized below:

*Legal regime of outer space and global space governance: current and future perspectives.*

Objective: Promote the universality of the five United Nations treaties on outer space. Assess the state of affairs of those treaties and their relationship with other relevant international instruments, such as principles, resolutions and guidelines governing space activities. Analyse the effectiveness of the legal regime of outer space in the twenty-first century, with a view to identifying areas that may require additional regulation. Conduct an evaluation by:

(a) Developing the questionnaire of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space to encompass an assessment of the legal regime of outer space as a pillar of global space governance. The questionnaire should be used in the period leading up to 2018 to assist the Legal Subcommittee in addressing the status and scope of, and possible gaps in, the legal regime of outer space;

(b) Studying potential legal and institutional initiatives intended to ensure that outer space is explored and used for peaceful purposes and that access to outer space remains open and free for the benefit of all countries, in order to ensure that international space law is a relevant part of global space governance in the twenty-first century in the light of the significant scientific developments and technical advances that have affected space activities;

(c) Studying legal mechanisms to foster an international regime of responsibility and liability to cope with present and future challenges to the safety, security and sustainability of outer space activities, including mechanisms that govern space traffic management and an enhanced exchange of information on space objects and events. Specific consideration is to be given to current practical concerns of the international community, such as in-orbit collisions and interferences. In particular, there should be an assessment of the need for enhanced registration and notification procedures and their institutional requirements under the registration and notification platform maintained by the Office for Outer Space Affairs;

(d) Identifying, by 2018, the criteria for developing, by 2020, a guidance document to be issued by the Committee on the Peaceful Uses of Outer Space with essential information on the state of affairs of the legal regime governing outer space, including relevant instruments applied through national regulatory frameworks and international mechanisms for cooperation. Such a document should serve as viable guidance for States wishing to become a party to the five United Nations treaties on outer space; and

(e) Considering means to strengthen the Legal Subcommittee as the prime multilateral body with mandate to promote the progressive development of international space law, including procedural and institutional improvements and closer cooperation with the Scientific and Technical Subcommittee.

11. The Working Group noted that this thematic priority would form part of a joint consolidated list of thematic priorities of the Scientific and Technical Subcommittee and the Legal Subcommittee, to be put before the Committee at its fifty-ninth session, to be held from 8 to 17 June 2016, for the Committee's further consideration and final agreement. The Secretariat was requested to prepare a conference room paper containing the thematic priorities, proposals for workplans and deliverables for those thematic priorities.

12. The Working Group commended the Office for Outer Space Affairs for its efficient preparation of the documentation in preparation for UNISPACE+50, including by issuing a conference room paper on the Committee on the Peaceful Uses of Outer Space and global governance (A/AC.105/C.2/2016/CRP.4). That paper contained a historical overview of the UNISPACE conferences and connected the resulting mandates and programmes with the way forward towards UNISPACE+50. The Working Group noted that the paper would be made available at the upcoming session of the Committee on the Peaceful Uses of Outer Space in 2016. It would subsequently be updated to reflect the suggestions made during the sessions of the Committee and its Subcommittees in 2016. The final version of the document would be circulated in the six official languages of the United Nations at the sessions of the Committee and its Subcommittees in 2017.

## II. The set of questions on the status and application of the five United Nations treaties on outer space

13. The Chair of the Working Group recalled the Subcommittee's agreement at its fifty-fourth session, in 2015, that the outgoing Chair of the Working Group, together with the Secretariat, present to the Working Group, for consideration at its current session, an updated overview of the responses to the set of questions contained in the report of the Legal Subcommittee on its fifty-fourth session (see A/AC.105/1090, annex I, appendix).

14. The Working Group heard an overview report by the outgoing Chair, as contained in conference room paper A/AC.105/C.2/2016/CRP.7, and noted that the final summary included, in addition to previous submissions, a written contribution contained in A/AC.105/C.2/2016/CRP.6 and a summary of the submissions received during the fifty-fourth session of the Subcommittee, in 2015, which had not yet been included (A/AC.105/C.2/2015/CRP.21 and A/AC.105/C.2/2015/CRP.25). The Working Group also noted additional contributions provided as oral statements at the meetings of the Working Group during the fifty-fourth session of the Legal Subcommittee, in 2015.

15. The Working Group expressed its sincere gratitude to the outgoing Chair, Jean-François Mayence (Belgium), for the updated overview and final summary of the responses to the set of questions received during his chairmanship, as well as for his able guidance and leadership in chairing the Working Group.

16. The Working Group further noted that the set of questions presented a valuable basis for discussion of the Working Group and could be further expanded to address the objective of the thematic priority for UNISPACE+50 proposed in paragraph 10 above. In this regard, the Chair of the Working Group presented a revised set of questions on the status and application of the five United Nations treaties on outer space, in relation to the process to prepare for UNISPACE+50.

17. The Working Group agreed to the revised proposal by the Chair on the set of questions, as contained in the appendix to the present report of the Working Group, and agreed that States members of the Committee and international intergovernmental and non-governmental organizations having permanent observer status with the Committee should be invited to provide comments and responses to the questionnaire. Any replies received would be made available in a conference room paper.

18. The Working Group also noted that continued discussions would benefit from more written contributions from member States and international intergovernmental and non-governmental organizations having permanent observer status with the Committee, in particular in view of the preparations for UNISPACE+50 and the thematic priority proposed in paragraph 10 above.

### **III. Preparations for marking the fiftieth anniversary of the Outer Space Treaty in 2017**

19. The Working Group endorsed the following proposals, presented by the Chair of the Working Group, to mark the fiftieth anniversary of the Outer Space Treaty in 2017:

(a) A joint symposium of the International Institute of Space Law and the European Centre for Space Law, to be held at the fifty-sixth session of the Legal Subcommittee in 2017, dedicated to the fiftieth anniversary of the Outer Space Treaty;

(b) A high-level panel discussion, to be held on the afternoon of the opening day of the sixtieth session of the Committee on the Peaceful Uses of Outer Space in 2017, to provide legal, policy and scientific and technical perspectives related to the Outer Space Treaty, to be organized by the Office for Outer Space Affairs;

(c) A joint half-day panel discussion by the First and Fourth Committees of the General Assembly, to be held at United Nations Headquarters in New York in 2017 during the seventy-second session of the Assembly and organized jointly by the Office for Outer Space Affairs and the Office for Disarmament Affairs. It has been recommended that the discussion be held in a plenary meeting with interpretation and that it constitute a joint contribution by the First and Fourth Committees to the fiftieth anniversary of the Outer Space Treaty;

(d) The World Space Week events to be held in Vienna in 2017, to be organized by the Office for Outer Space Affairs and dedicated to the fiftieth anniversary of the Outer Space Treaty;

(e) A commemorative edition of the classic treaty booklet, to be published by the Office for Outer Space Affairs, containing all of the instruments set out in document ST/SPACE/61/Rev.1.

20. The Working Group noted the appropriateness of the International Astronautical Congress in 2017 to mark the fiftieth anniversary of the Outer Space Treaty and encouraged the organizer, together with the host country, to identify suitable events in connection with the Congress.

21. The Working Group also noted that the Secretariat would enquire of the Office of Legal Affairs whether the five United Nations treaties on outer space could be included in the United Nations annual treaty event in 2017.

22. The Working Group requested the Secretariat to prepare a first draft declaration on the fiftieth anniversary of the Outer Space Treaty, to be made available as a working document of the fifty-sixth session of the Legal Subcommittee in all of the official languages of the United Nations in advance of the session. The draft declaration would be considered by the Legal Subcommittee and put before the Committee on the Peaceful Uses of Outer Space for endorsement at its sixtieth session. The declaration, the purpose of which would be to raise awareness of the benefits of the Outer Space Treaty, could then be annexed to the General Assembly resolution on international cooperation in the peaceful uses of outer space in 2017.

23. The Working Group recommended that the Subcommittee, at its fifty-sixth session, in 2017, reconvene the Working Group and that the Working Group continue to consider, on a priority basis, the preparations for UNISPACE+50.

## **Appendix**

### **Set of questions provided by the Chair of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, taking into account the UNISPACE+50 process**

#### **1. The legal regime of outer space and global space governance**

1.1 What is the main impact on the application and implementation of the five United Nations treaties on outer space of additional principles, resolutions and guidelines governing outer space activities?

1.2 Are such non-legally binding instruments sufficiently complementing the legally binding treaties for the application and implementation of rights and obligations under the legal regime of outer space? Is there a need for additional actions to be taken?

1.3 What are the perspectives for the further development of the five United Nations treaties on outer space?

#### **2. United Nations treaties on outer space and provisions related to the Moon and other celestial bodies**

2.1 Do the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty), constitute a sufficient legal framework for the use and exploration of the Moon and other celestial bodies or are there legal gaps in the treaties (Outer Space Treaty/Moon Agreement)?

2.2 What are the benefits of being a party to the Moon Agreement?

2.3 Which principles or provisions of the Moon Agreement should be clarified or amended in order to allow for wider adherence to it by States?

#### **3. International responsibility and liability**

3.1 Could the notion of “fault”, as featured in articles III and IV of the Convention on International Liability for Damage Caused by Space Objects (Liability Convention), be used for sanctioning non-compliance by a State with the resolutions related to space activities adopted by the General Assembly or its subsidiary bodies, such as Assembly resolution 47/68, on the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space. In other words, could non-compliance with resolutions adopted by the General Assembly or with instruments adopted by its subsidiary bodies related to space activities be considered to constitute “fault” within the meaning of articles III and IV of the Liability Convention?

3.2 Could the notion of “damage”, as featured in article I of the Liability Convention, be used to cover loss resulting from a manoeuvre performed by an operational space object in order to avoid collision with a space object or space debris not complying with the Space Debris Mitigation Guidelines of the Committee?

3.3 Are there specific aspects related to the implementation of international responsibility, as provided for in article VI of the Outer Space Treaty, in connection with General Assembly resolution 41/65, on the Principles Relating to Remote Sensing of the Earth from Outer Space?

3.4 Is there a need for traffic rules in outer space as a prerequisite of a fault-based liability regime?

#### **4. Registration of space objects**

4.1 Is there a legal basis to be found in the existing international legal framework applicable to space activities and space objects, in particular the provisions of the Outer Space Treaty and the Convention on Registration of Objects Launched into Outer Space (Registration Convention), which would allow the transfer of the registration of a space object from one State to another during its operation in orbit?

4.2 How could a transfer of activities or ownership involving a space object during its operation in orbit from a company of the State of registry to a company of a foreign State be handled in compliance with the existing international legal framework applicable to space activities and space objects?

4.3 What jurisdiction and control are exercised, as provided for in article VIII of the Outer Space Treaty, over a space object registered by an international intergovernmental organization in accordance with the provisions of the Registration Convention?

4.4 Does the concept of mega-constellations raise legal and/or practical questions, and is there a need to react with an adapted form of registration?

4.5 Is there a possibility, in compliance with the existing international legal framework, based on the existing registration practices, of introducing a registration “on behalf” of a State of a launch service customer, based on its prior consent? Would this be an alternative tool to react to mega-constellations and other challenges in registration?

#### **5. International customary law in outer space**

5. Are there any provisions of the five United Nations treaties on outer space that could be considered as forming part of international customary law and, if yes, which ones? Could you explain the legal and/or factual elements on which your answer is based?

#### **6. Proposal for other questions**

6. Please suggest additional questions that could be inserted into the set of questions above to meet the objective of the UNISPACE+50 thematic priority on the legal regime of outer space and global space governance.