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Promotion of international cooperation

Technical Forum

Conclusions and proposals of the Workshop on Space Law in the Twenty-first Century, organized by the International Institute of Space Law

I. Introduction

1. The Workshop on Space Law in the Twenty-first Century, organized by the International Institute of Space Law, noted that the Treaty on Principles Governing the Activities of States on the Exploration and use of Outer Space, including the Moon and Other Celestial Bodies, (General Assembly resolution 2222 (XXI), annex, of 19 December 1966) and other international instruments built upon it had been successful in answering the challenge to create a legal framework for exploration and peaceful uses of outer space and had thereby preserved the space environment for the benefit of humankind. However, the present significant changes in space activities had given rise to a need for further developing that framework, while protecting what the international community had gained.
2. The Workshop also noted that the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, as a vehicle for law-making within the United Nations, was currently in a unique position to take up issues related to space law in an exploratory way. Those issues could be dealt with by the Legal Subcommittee in a flexible manner, subject to decision by the Committee and the General Assembly on the sequence in which they should be included in the agenda of the Subcommittee.
3. The Workshop proposed the recommendations listed below.

II. Conclusions and proposals

4. The rapid expansion of private activities in and related to outer space requires examination of many aspects of existing space law, in particular:
 - (a) With respect to space application services, which give rise to responsibility, liability and jurisdiction issues not currently covered by space law;

- (b) The impact of commercialization and privatization of space activities on the public service aspects of such services;
- (c) Intellectual property rights and technology transfer issues that may require special treatment for global uniformity in practice;
- (d) The protection of investors' rights as regards space objects and space artefacts, which may require totally new approaches in order for it to be effective and enforceable;
- (e) The nationality of spacecraft;
- (f) The protection of the environment, where private entities are currently not held directly accountable.

It is recommended that a new paragraph 319 *bis* be added to the draft report of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (A/CONF.184/3 and Corr.1 and 2) as follows:

“319 *bis*. Member States of the United Nations should initiate discussion of and seek solutions to emerging legal problems of relevance and should, in particular recognize the need to consider the expanding role of private enterprise when making new laws. With regard to the protection of the environment, the establishment of launch standards and environmental impact assessments should be examined. Specialized agencies should consider drafting standards and recommended practices as well as models for partnerships involving public and private enterprises in their respective sectors of space activity. The concept of ‘public service’ and its various manifestations should be developed further, paying particular attention to the global public interest and to the needs of developing countries. The principles of fair trade should be strengthened. Attention should also be paid to the various aspects of the issues of liability and security of ownership in order to arrive at a coherent global framework. The international organizations concerned should make arrangements for effective and focused joint forums.”

5. As the use of outer space expands, it has been proven that many of the resources (orbits, frequencies, access to ground infrastructure, etc.) have turned out to be no longer unlimited. Consequently, such resources should be dealt with by means of coherent frameworks for global resource management. The global public interest in this field can be safeguarded primarily by public institutions. There is currently a need for coordination in this area. It is recommended that a new paragraph 319 *ter* be added to the draft report as follows:

“319 *ter*. Member States of the United Nations should consider possible coordinating frameworks for space-related global resource management. This work should focus on the needs, the potential conflicts, the natural limits, the values, the costs and the growing privatization of space activities. International organizations involved in space activities should seek coordination at an early stage. There is a need to have at least a code of conduct concerning space debris. To this end, previous work in this area should be taken into account with a view to identifying possible models. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, together with its Scientific and Technical Subcommittee, should discuss the topic without delay. The development of a legal regime for low-Earth orbits (LEOs) should be considered, taking into account recent changes in the ITU convention concerning the status of LEOs as limited natural resources. The issue of security of ownership regarding spacecraft should be addressed promptly, for example, by means of an international inventory linked to the Register of space objects maintained by the Secretary-General of the United Nations. The General Assembly should encourage Member States to adhere to the Convention on Registration of Objects Launched into Outer Space (Assembly resolution 3235 (XXIX), annex, of 12 November 1974). In the context of the role of international organizations, the issue of consumer rights should be dealt with. The General Assembly, through the Committee on the Peaceful Uses of Outer Space and/or

through special meetings for this purpose, should consider soon how best to coordinate the burgeoning demands on global resources generated by expanding space activities, both governmental and non-governmental.”

6. The ongoing development of space activities requires the resolution of a growing number of issues. Space activities are increasingly being affected by the expanding body of international economic law, which is blurring the boundaries between public and private law and generating more reliance on recommended standards and practices. In this environment, it is important to have appropriate dispute settlement mechanisms for giving effect to the principles of outer space law in a flexible and timely manner. It is recommended that a new paragraph 319 *quater* be added to the draft report as follows:

“319 *quater*. The General Assembly should consider the development of effective mechanisms for the settlement of disputes arising in relation to space commercialization. Those mechanisms should take into account existing arbitration rules used in international practice for dispute settlement.”

7. The expanding growth in areas such as commercial remote sensing services, commercial complexity, the effect on international cooperation and scientific and industrial applications of services necessitates consideration of appropriate regulations. National restrictions on access to data are emerging. It is recommended that a new paragraph 321 *bis* be added to the draft report as follows:

“321 *bis*. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space should initiate the drafting of a treaty covering remote sensing from outer space on the basis of the Principles Relating to Remote Sensing of the Earth from Outer Space (General Assembly resolution 41/65, annex, of 3 December 1986), taking into particular account the expanding growth in commercial remote sensing services and preserving the principle of non-discriminatory access to data.”

8. Many emerging issues are influenced by rapid advances in space science and technology. Space law should be based upon a solid foundation of scientific and technological facts to ensure effective legal formulation. Interaction among scientific and legal experts will strengthen the relevance of space law. It is recommended that a new paragraph 321 *ter* be added to the draft report as follows:

“321 *ter*. The Legal Subcommittee and the Scientific and Technical Subcommittee should in general meet at the same time so that there can be more interaction involving the work of those two bodies.”

9. One of the most challenging new developments in space activities concerns expanding global navigation satellite services. It is recommended that a new paragraph 175 *bis* be added to the draft report as follows:

“175 *bis*. The recommendations set forth in paragraphs [319 *bis*, 319 *ter*, 319 *quater*, 321 *bis* and 321 *ter*] below should apply, where relevant, to GNSS.”

III. Final remark

10. The proceedings of the Workshop on Space Law in the Twenty-first Century should be referred to for clarification of the above-mentioned issues and recommendations.