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Legal Subcommittee

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Agenda item 7 (a)

**Matters relating to the definition and delimitation of outer
space**

Draft report of the Chair of the Working Group on the Definition and Delimitation of Outer Space

1. At its 805th meeting, on 23 March 2010, 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 Chair drew the attention of the Working Group to the fact that, pursuant to General Assembly resolution 64/86, 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 “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865 and Add. 6 and 7);
 - (b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.5 and 6);
 - (c) Conference room paper entitled “Concept of suborbital flights: information from the International Civil Aviation Organization” (A/AC.105/C.2/2010/CRP.9);
 - (d) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of the Netherlands” (A/AC.105/C.2/2010/CRP.10);
 - (e) Conference room paper entitled “Matters relating to the definition and delimitation of outer space: reply of Tunisia” (A/AC.105/C.2/2010/CRP.13).

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4. Some delegations were of the view that the absence of a definition and delimitation of outer space in international space law could lead to establishment by States of relevant norms and definitions in their respective national legislation and that could lead to substantial divergence in the positions of States on the matter.
5. 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.
6. 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 that connection, the delegation expressing that view proposed that the boundary between airspace and outer space be established in that range.
7. Some delegations were of the view that a functional approach would be efficient for determining the scope of application of air law and space law.
8. The view was expressed that zero gravity above a certain altitude over the Earth could not be used as an argument for the establishment of a border, as that condition could also be created under certain circumstances in the Earth's atmosphere.
9. 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.
10. Some delegations were of the view that alternative approaches to the definition and delimitation of outer space should be given serious consideration.
11. On the basis of its discussions, the Working Group agreed:
 - (a) To continue to invite States members of the Committee to submit information on national legislation or any national practices that might exist or were being developed that related directly or indirectly to the definition and/or delimitation of outer space and airspace, taking into account the current and foreseeable level of development of space and aviation technologies;
 - (b) To continue to address to the Governments of Member States, through the Secretariat, the following questions:
 - (i) Does your Government consider it necessary to define outer space and/or to delimit 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;
 - (c) To also address to the Governments of Member States, through the Secretariat, the following question:

(i) Does your Government give consideration to the possibility of defining a lower limit of outer space and/or an upper limit of airspace, recognizing at the same time the possibility of enacting special international or national legislation relating to a mission carried out by an object in both airspace and outer space?

12. The view was expressed that the Working Group should take into account recent and future technological developments while considering the matters relating to the definition and delimitation of outer space.

13. Some delegations were of 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.
