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Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

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Agenda item 4

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

Draft 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 820th meeting, on 28 March 2011, 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 Jean François Mayence (Belgium).
2. The Working Group held [...] meetings, from [...] to [...] 2011. At the opening meeting of the Working Group, on 28 March, the Chair recalled the mandate of the Working Group to consider, in 2011, specific themes and issues related to the status, application and/or implementation of the United Nations treaties on outer space (A/AC.105/942, annex I, para. 6).
3. The Chair also recalled the agreement during the forty-ninth session of the Subcommittee that the discussion within the Working Group should continue to include issues related to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies and that it should reflect the actual needs of States conducting activities in outer space vis-à-vis the provisions of the relevant United Nations Treaties (A/AC.105/942, annex I, para. 4).
4. The Chair recalled that the Subcommittee, at its forty-ninth session, had agreed to review at its current session the need to extend the mandate of the Working Group beyond the current session of the Subcommittee (A/AC.105/942, para. 40).
5. The Chair had prepared a questionnaire (A/AC.105/C.2/2011/CRP.12), with the intention of initiating and fostering the discussion, within the mandate of the



Working Group, on relevant matters relating to the status and the application of the five United Nations treaties on outer space.

6. The Working Group welcomed the questionnaire as a good basis for discussion, as it focused on essential questions of practical relevance and served to organize and rationalize the work of the Working Group.

7. The Working Group agreed that States members of the Committee should be invited to provide comments and responses to the questions in the questionnaire prepared by the Chair. The questionnaire would be made available on the website of the Office for Outer Space Affairs of the Secretariat, and any replies received by the Secretariat would be made available in a conference room paper. The Working Group also agreed that the questions presented in the questionnaire were not exhaustive and that they should not limit the discussion of the Working Group during the fifty-first session of the Subcommittee.

8. Some delegations reiterated the view that the Working Group should take a practical rather than a theoretical approach in discussing the provisions of the treaties.

9. Some delegations recalled the validity of the joint statement on the benefits of adherence to the Moon Agreement by some States parties to the Agreement (A/AC.105/C.2/L.272, annex) as a useful contribution for further discussion.

10. The view was expressed that a conceptual discussion of the Moon Agreement would be useful, with a view to examining in particular issues related to the exploitation of natural resources on the Moon.

11. The view was expressed that the notion of “fault” could not be applied in the case of non-compliance by a State with a voluntary instrument adopted by the General Assembly, such as guidelines, because such instruments did not create a legal obligation and were neither obligatory nor recommendatory in nature.

12. The view was expressed that the analysis of the issue of transfer of ownership of objects in outer space was of the utmost importance and deserved in-depth study, given the current and often complex scenarios of transfer of ownership of satellites orbiting in outer space, for example the transfer between co-launching States or the transfer between non-launching States.

13. The Working Group recommended that the Subcommittee at its fifty-first session, in 2012, reconvene the Working Group and review the need to extend the mandate of the Working Group beyond that session.