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COMMITTEE ON THE PEACEFUL
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DRAFT REPORT OF THE FORTY-FIRST SESSION

D. Report of the Legal Subcommittee on the work of its thirty-seventh session (agenda item 7)

1. The Committee took note with appreciation of the report of the Legal Subcommittee on the work of its thirty-seventh session (A/AC.105/698), which contained the results of its deliberations on the items assigned to it by the General Assembly in resolution 52/56.

1. Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

2. The Committee noted that, in accordance with General Assembly resolution 52/56 and as reflected in the report of the Legal Subcommittee (A/AC.105/698, paras. 20-26), the Subcommittee had considered the item relating to the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, adopted by the General Assembly in its resolution 47/68.

3. The Committee agreed that the Principles would remain valid for the time being and that the Scientific and Technical Subcommittee should consider the need for revision in the light of changing technology before the Legal Subcommittee or the Committee undertook any actual revision.

4. The Committee noted that the Legal Subcommittee (A/AC.105/698, para. 24) had agreed that, at the current stage, revision of the Principles was not warranted and that therefore it should not open discussion of the item during its thirty-seventh session.
5. The Committee endorsed the recommendation of the Legal Subcommittee (A/AC.105/698, para. 26) that consideration of the Principles by its Working Group on agenda item 3 should be suspended at its thirty-eighth and thirty-ninth sessions, pending the results of the work in the Scientific and Technical Subcommittee, without prejudice to the possibility of reconvening the Working Group if, in the opinion of the Legal Subcommittee, sufficient progress was made in the Scientific and Technical Subcommittee at its thirty-seventh session, in the year 2000, to warrant the reconvening of the Working Group by the Legal Subcommittee.
6. The Committee recommended that the item concerning nuclear power sources should be retained on the agenda of the Legal Subcommittee to give delegations an opportunity to discuss it in plenary meetings.

2. Matters relating to the definition and delimitation of outer space and to 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. The Committee noted that, in accordance with General Assembly resolution 52/56, the Legal Subcommittee, through its Working Group on agenda item 4, under the chairmanship of G. Maffei (Argentina), had continued to consider matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit.
8. The Committee noted the work carried out by the Legal Subcommittee and the Working Group, as reflected in their reports (A/AC.105/698, paras. 27-45 and annex I).
9. The Committee noted that various views had been expressed on the question of the definition and delimitation of outer space during the thirty-seventh session of the Subcommittee, particularly on the basis of a note by the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from member States" (A/AC.105/635 and Add.1-5), and a note by the Secretariat entitled "Comprehensive analysis of the replies

to the questionnaire on possible legal issues with regard to aerospace objects” (A/AC.105/C.2/L.204), which had been before the Subcommittee at its thirty-sixth session.

10. Some delegations expressed the view that the Legal Subcommittee should continue its consideration of the legal issues relating to aerospace objects and that member States should work towards achieving consensus on the issue by providing responses to the questionnaire prepared by the Secretariat.

11. The view was expressed that the impetus of a new approach to the theme of the definition and delimitation of outer space through consideration of legal aspects of aerospace objects had been exhausted and that the Legal Subcommittee should decide how to proceed further with the item. The same delegation was also of the opinion that the possibility of foregoing further discussion on the item until further progress in the development of aerospace objects became evident could be taken into account.

12. The view was expressed that legal issues before the Legal Subcommittee should be resolved within a reasonable time-frame. In particular, questions relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit should be resolved using a flexible approach, as those questions were important in relation to issues of national sovereignty and to ensuring fair and equitable use of the finite geostationary orbit.

13. The Committee took note of the deliberations on the question of the geostationary orbit as contained in the report of the Legal Subcommittee. The Committee also noted that an exchange of views had taken place on the subject, particularly on the basis of the ideas formulated in working papers entitled “Some considerations concerning the utilization of the geostationary satellite orbit” (A/AC.105/C.2/L.200 and Corr.1), submitted by Colombia to the Legal Subcommittee at its thirty-fifth session (A/AC.105/639, annex III, sect. A); “An analysis of the compatibility of the approach contained in the working paper entitled ‘Some considerations concerning the utilization of the geostationary satellite orbit’ with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit” (A/AC.105/C.2/L.205), prepared by the Secretariat in cooperation with the International Telecommunication Union (ITU) and submitted to the Subcommittee at its thirty-sixth session; and “Examination of the physical nature and technical attributes of the geostationary orbit; examination of its utilization and applications, including, inter alia, in the field of space communications, as well as other questions relating to space communications developments, taking particular account of the needs and interests of developing countries” (A/AC.105/C.1/L.216), submitted by the Czech Republic to the Scientific and Technical Subcommittee at its thirty-fifth session.

14. The Committee welcomed the agreement that had been achieved concerning universal acceptance of the scientific principles formulated in the working paper presented by the Czech Republic to the Scientific and Technical Subcommittee at its thirty-fifth session (A/AC.105/C.1/L.216), as reflected in paragraph __ above, and expressed the view that such an agreement should serve as a progressive step towards the successful outcome of future deliberations of the Legal Subcommittee on issues relating to the utilization of the geostationary orbit.

15. The Chairman of the Group of Latin American and Caribbean States expressed the view that the item on the character and utilization of the geostationary orbit was of particular interest to the countries of that regional group and that the item should continue to be considered by the Committee and by the Legal Subcommittee. The Group was also of the view that the working paper submitted by Colombia to the thirty-fifth session of the Legal Subcommittee (A/AC.105/200 and Corr.1) could serve as the basis for further progress in the consideration of the item.

16. Some delegations reiterated the view that the geostationary orbit, because of its particular characteristics, required a special, *sui generis* legal regime to regulate access and utilization by all States, taking into account the needs of developing countries.

17. Some delegations reaffirmed the view that the roles of ITU and of the Legal Subcommittee were complementary and that the Subcommittee should contribute to the establishment of a special legal regime to regulate the use of the geostationary orbit. However, the view was reiterated that ITU was the appropriate body to address questions concerning the use of the geostationary orbit and was addressing those questions effectively.

18. The view was also reaffirmed that because the geostationary orbit was an integral part of outer space, the legal regime established by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex, of 19 December 1966) adequately covered activities in and related to the geostationary orbit.

19. The Committee recommended that the Legal Subcommittee should continue its consideration of the item at its thirty-seventh session, in 1999.

3. Review of the status of the five international legal instruments governing outer space

20. The Committee noted that, in accordance with General Assembly resolution 52/56, and as reflected in the report of the Legal Subcommittee (A/AC.105/698, paras. 46-64), the Subcommittee, began its review of the status of the five international legal instruments governing outer space.

21. The Committee was of the view that the review by the Legal Subcommittee of the status of the five international legal instruments governing outer space was a significant development in the revitalization of its work.

22. The Committee noted that some delegations had informed the Legal Subcommittee of the current status of, and further intended actions concerning, their accession to the five international legal instruments governing outer space. Some delegations submitted similar information to the Committee.

23. The Committee noted that an exchange of views had taken place in the Legal Subcommittee on the status of the five international legal instruments governing outer space, particularly on the basis of the ideas formulated in a note by the Secretariat on the review of the status of the five international legal instruments governing outer space (A/AC.105/C.2/L.210), as well as in sections I and II of the working paper on the same subject submitted by Germany on behalf of the member States of the European Space Agency (ESA) and States having signed cooperation agreements with ESA (A/AC.105/C.2/L.211).

24. Some delegations reiterated that the purpose of item 5 of the agenda of the Legal Subcommittee was not in any way to reopen substantive debate on or to revise or amend the five international legal instruments governing outer space, and that the Legal Subcommittee should restrict itself to reviewing the current status of the accession and adherence of States to those instruments with a view to maximizing such accession and adherence.

25. Some delegations stated that the review by the Legal Subcommittee of the status of the international legal instruments governing outer space could lead to the identification of additional agenda items aimed at the substantive review of those instruments. Other delegations reiterated the view that the five international legal instruments governing outer space were, by their nature, interdependent and that an overall approach should therefore be taken in any substantive review of the instruments. The view was expressed that the methodology identified in the working paper submitted by the Russian Federation to the Legal Subcommittee at its thirty-seventh session (A/AC.105/698, annex II) could serve as a practical basis for such an approach.

26. Some delegations reiterated the view that greater practical adherence to the principles embodied in the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777

(XXVI), annex, of 29 November 1971) could be achieved if more States were to make declarations in accordance with paragraph 3 of Assembly resolution 2777 (XXVI), thereby binding themselves on a reciprocal basis to the decisions of a Claims Commission established in accordance with article XIV of the Convention. Those delegations also expressed the view that such declarations by States parties would enhance the effectiveness and credibility of the Convention and called upon States parties to the Convention to make such declarations.

27. The Committee endorsed the recommendation of the Subcommittee that the Secretariat should be requested to prepare, within existing resources, a list of international agreements and other legal documents relevant to activities in outer space, and where they might be found, as a working document for member States.

28. The Committee recommended that the Legal Subcommittee should continue its consideration of the item at its thirty-eighth session, in 1999, and establish a working group for that purpose in accordance with the previous recommendation made at the fortieth session of the Committee.

4. Other matters

(a) New agenda items

29. The Committee noted that the Legal Subcommittee had continued to conduct its informal consultations with a view to coming up with a list of annotated items agreed upon by consensus that could be considered by the Committee for possible inclusion in the agenda of the Subcommittee. The views of the Subcommittee on the matter are contained in its report (A/AC.105/698, paras. 66-72).

30. The Committee noted that a working paper entitled "Review of the status of the five international legal instruments governing outer space" (A/AC.105/C.2/L.211/Rev.1) had been submitted by Germany on behalf of the member States of ESA and States having signed cooperation agreements with ESA to the Legal Subcommittee at its thirty-seventh session, section III, of which "Improving the Registration Convention", contained a proposal for a new item to be included in the agenda of the Subcommittee.

31. Some delegations expressed the view that the Committee should recommend the inclusion of that new item in the agenda of the Legal Subcommittee at its thirty-ninth session, in 2000.

32. [The view was expressed that the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, of 12 November 1974) currently served well the function for which it had been created and that the addition of the new agenda item prior to the conclusion of current items before the Legal Subcommittee would be inappropriate. That delegation also expressed the view that fundamental responsibility for the evaluation and amendment of the Convention lay with the States parties to it, and that attention within the Legal Subcommittee should rather be focused on maximizing the application of and adherence to the Convention.]

33. [The Committee recommended that consideration of the proposal contained in section III of the working paper submitted by Germany on behalf of the co-sponsors (A/AC.105/C.2/L.211/Rev.1) be continued by the Legal Subcommittee at its thirty-eighth session, with a view to reaching consensus on including it as a new item on its agenda.]

34. The view was reiterated that with the rapid evolution of technology and organization of space activities, the Legal Subcommittee would be called upon to formulate new legal instruments in the near future. Furthermore, the view was expressed that the Subcommittee should give consideration to the need for the progressive development of international space law and its codification. Therefore, the role of the Legal Subcommittee should be strengthened.

35. The view was further expressed that the work of the Legal Subcommittee should be revitalized, including the development of additional agenda items for its consideration.

36. The view was reiterated that the issue of conversion into legally binding instruments of the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting (General Assembly resolution 37/92, annex) and the Principles Relating to Remote Sensing of Earth from Outer Space (General Assembly resolution 41/65, annex) should be listed among other items for possible inclusion in the agenda of the Legal Subcommittee.

37. The Committee endorsed the recommendation of the Legal Subcommittee that further informal consultations on specific proposals already made for possible new agenda items for the Legal Subcommittee should continue at its next session, in 1999.

(b) Contribution of the Legal Subcommittee to the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space

38. The Committee welcomed the fact that the Legal Subcommittee had agreed to make a contribution to the deliberations of UNISPACE III on issues relating to the promotion of international cooperation in space-related activities and the development of space law, as well as on other legal issues.

39. The Committee endorsed the recommendation of the Legal Subcommittee that the Chairman of the Legal Subcommittee should report to UNISPACE III on the work of the Subcommittee, including its past achievements, current work and new challenges in the development of space law.

E. Spin-off benefits of space technology: review of current status
(agenda item 8)

40. In accordance with paragraph 33 of General Assembly resolution 52/56, the Committee continued its consideration of spin-off benefits of space technology.

41. The Committee agreed that spin-offs of space technology were yielding many substantial benefits and took note of the efforts in many Member States to develop such spin-off benefits and to disseminate information on such activities to interested countries.

42. The Committee noted that spin-off technologies have evolved into many new and improved products and processes, particularly in agriculture, where new seeds developed in microgravity had led to higher quality and yield of crops; health and medicine, where new materials had led to cushions that slowed progressive deformities in severely disabled people; satellite remote sensing, which significantly reduced the cost of building railroads; and industrial productivity, where a new laser developed for space applications was finding use in commercial applications in diamond marking, fluorescence microscopy, chromosome surgery and semi-conductor line cutting.

43. The Committee agreed that in promoting spin-off benefits and effective space applications, particularly in the case of developing countries, it was essential that the capacity to understand the technology and to develop it were considered to be of primary importance. The Committee was of the view that developing countries should enhance their potential in basic and advanced research in order to promote capacity-building for space applications and to benefit from spin-offs of space technology.

44. The view was expressed that efforts to enable developing countries to participate in activities pertaining to technology development should be intensified in order to narrow the gap between technologically developed and

developing countries. In that context, the delegation noted that the General Assembly, in its resolution 51/123, paragraph 39, had requested the Committee to continue its work in accordance with that resolution, considering, as appropriate, new projects in outer space activities, and to submit a report to the General Assembly at its fifty-second session, including views on which subjects should be studied in the future. That delegation also noted that the Committee had agreed that the Scientific and Technical Subcommittee, beginning with its thirty-fifth session, in 1998, might deliberate on projects or programmes which might be considered appropriate to be undertaken under the auspices of the United Nations, so long as it did not interfere with the planning and preparations for UNISPACE III. That delegation, further noting that the request was not considered at the thirty-fifth session of the Scientific and Technical Subcommittee in view of the large amount of work necessary for the preparations for UNISPACE III, was of the view that the Subcommittee and the Committee should take up the matter at future sessions as appropriate.

45. The Committee recommended that further consideration of the item be postponed until the year 2000 in view of its abbreviated schedule of work at its forty-second session, in 1999, and the preparatory work to be carried out for UNISPACE III.