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COMMITTEE ON THE PEACEFUL
USES OF OUTER SPACE
Legal Subcommittee
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Vienna, 23 March-3 April 1998

DRAFT REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTY-SEVENTH SESSION (23 MARCH-__ APRIL 1998)

II. 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 (AGENDA ITEM 4)

1. The Chairman made an introductory statement on agenda item 4 at the 605th meeting, on 23 March 1998. He referred to the work of the Legal Subcommittee at its thirty-sixth session, in 1997.
2. The Chairman drew attention to the fact that the General Assembly, in its resolution 52/56, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working group, its consideration of 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 ITU.
3. The Legal Subcommittee noted that the subject of the geostationary orbit had been considered by the Scientific and Technical Subcommittee at its thirty-fifth session, in 1998, as reflected in the report of that Subcommittee (A/AC.105/697 and Corr.1, paras. 113-122).

4. The Legal Subcommittee had before it a working paper prepared by the Secretariat in cooperation with ITU entitled “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), submitted to the Subcommittee at its thirty-sixth session, and a working paper 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 Subcommittee at its thirty-fifth session. The Subcommittee also had before it a conference room paper containing a compendium of relevant sections and/or documents referred to in the working paper submitted by Colombia (A/AC.105/C.2/1997/CRP.3/Rev.1), which had been before the Subcommittee at its thirty-sixth session.

5. At its thirty-fourth session, the Legal Subcommittee had finalized the text of a questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/607 and Corr.1, annex I, appendix) and had agreed that the purpose of the questionnaire was to seek the preliminary views of States members of the Committee on the Peaceful Uses of Outer Space on various issues relating to aerospace objects (A/AC.105/607 and Corr.1, para. 38). At its current session, the Subcommittee had before it 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). The Subcommittee also had before it 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. In the discussion that took place in the Subcommittee at its current session, reference was made to a working paper entitled “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), which had been submitted by the Czech Republic to the Scientific and Technical Subcommittee at its thirty-fifth session.

6. The view was expressed that consideration of legal issues relating to aerospace objects could be conducted in two stages. During the first stage, from the year 2000 to 2005, when the use of aerospace objects would not be intense, legal issues associated with aerospace objects could be dealt with by directly applying space and air laws that had already been accepted or, if necessary, by creating certain new combined norms of international space and air law, for example, relating to innocent passage through airspace. During the second stage, from 2005 to 2010, when there would be intense use of aerospace objects, a proposal to enhance the international space and air laws

could be developed, based on the experience that would be accumulated by that time in solving legal issues related to aerospace objects. That delegation was of the view that the Legal Subcommittee should recommend that the Committee on the Peaceful Uses of Outer Space should request its Scientific and Technical Subcommittee to examine scientific and technological aspects of aerospace objects, including their physical and functional features. While some delegations noted the above proposals with interest, other delegations were of the view that neither such a work plan nor such a recommendation to the Committee would be necessary.

7. Some delegations expressed the view that the Legal Subcommittee should establish a legal regime governing aerospace objects, taking into account the needs of users of the geostationary orbit.

8. Some delegations expressed the view that it was premature to develop any definition of or rules governing aerospace objects when the lack of such a definition or rules had not caused any problems in conducting space activities.

9. Some delegations, while noting the work conducted by ITU relating to the utilization of the geostationary orbit, expressed the view that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee were the competent bodies to discuss legal and political aspects of the matter, particularly in ensuring equitable access to the geostationary orbit, and that the Subcommittee should continue its consideration of the matter. Those delegations were of the view that progress could be made in the consideration of the matter based on the ideas contained in the working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1). Others were of the view that ensuring equitable access to the geostationary orbit was the responsibility of ITU.

10. Some delegations expressed the view that the Legal Subcommittee might provisionally defer the consideration of questions relating to relations between the Subcommittee and ITU and that the consideration by the Subcommittee of the utilization of the geostationary orbit should concentrate instead on the examination of ideas contained in the working paper submitted by Colombia, based on the progress made in the discussions on the subject at previous sessions of the Subcommittee.

11. Some delegations expressed the view that the effective utilization of the geostationary orbit should also be examined.

12. Some delegations expressed the view that the paper submitted by the Czech Republic to the Scientific and Technical Subcommittee provided a scientific and technical basis for further discussions in the Legal Subcommittee on the utilization of the geostationary orbit.

13. Some delegations were of the view that the consideration of agenda item 4 should be concluded. Other delegations were of the view that the Subcommittee should continue its consideration of the item.

14. The full texts of the statements made by delegations during the discussion on agenda item 4 are contained in verbatim (unedited) transcripts COPUOS/Legal/T.____.

15. As mentioned in paragraph [8](c) above, the Subcommittee, at its 605th meeting, re-established the Working Group on agenda item 4 under the chairmanship of Gabriel Maffei (Argentina).

16. The Working Group on agenda item 4 held [4] meetings. At the 60_th meeting, on _ April 1998, the Chairman of the Working Group reported to the Subcommittee. The Subcommittee took note of the report of the Working Group, which is set out in annex I to the present report.