



# General Assembly

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## Committee on the Peaceful Uses of Outer Space

Legal Subcommittee  
Fortieth session  
Vienna, 2-12 April 2001

### **Draft report of the Legal Subcommittee on the work of its fortieth session, held in Vienna from 2 to 12 April 2001**

#### **Addendum**

#### **V. 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**

1. At the 642nd meeting, on 3 April, the Chairman made an introductory statement on agenda item 6.
2. The Chairman drew attention to the fact that the General Assembly, in its resolution 55/122, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space<sup>1</sup> that the Legal Subcommittee, at its fortieth session, taking into account the concerns of all countries, in particular those of developing countries, continue 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 had before it the following documents:
  - (a) Report of the Legal Subcommittee on its thirty-ninth session (A/AC.105/738);
  - (b) Report of the Scientific and Technical Subcommittee on its thirty-eighth session (A/AC.105/761);

(c) 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), which had been before the Legal Subcommittee at its thirty-seventh session;

(d) 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.

4. Some delegations expressed the view that a definition and delimitation of outer space were indispensable for member States to have a legal basis on which to regulate their national territories and to resolve issues arising from collisions that could occur between aerospace objects and aircraft. Some delegations also expressed the view that recent technological developments and emerging legal questions made it necessary for the Legal Subcommittee to consider the question of the definition and delimitation of outer space without delay.

5. The view was expressed that, in considering the delimitation of outer space, the right of innocent passage through the airspace of other States for objects launched into and returning from outer space be envisaged.

6. The view was expressed that it was not necessary to develop any definition or delimitation of outer space when the absence of such a definition had not resulted in any legal or practical problems. That delegation believed that the differing legal regimes applicable in respect of airspace and outer space operated well in their respective spheres and that the lack of a definition and delimitation of outer space had not impeded the development of activities in either sphere.

7. The view was expressed that the replies to the questionnaire and the comprehensive analysis of those replies prepared by the Secretariat (A/AC.105/635 and Add.1-5 and A/AC.105/C.2/L.204) provided the basis for moving towards consensus on the issue of the delimitation and definition of outer space.

8. The view was expressed that the provision of replies to the questionnaire on aerospace objects would not necessarily contribute to the discussion on the question of defining and delimiting outer space. Although it was acknowledged that questions of choice of law, liability and sovereignty in relation to the term “aerospace object” did exist, no direct link between the nine questions and the question on the definition and delimitation of outer space was apparent. That delegation believed that the Subcommittee’s efforts should focus more on the improvement of space activities rather than on the consideration of the particular character and nature of outer space as, even if all the member States were to reply to the questionnaire, it would be difficult to determine the technical characteristics for delimitation of outer space.

9. The Legal Subcommittee welcomed the agreement adopted at its thirty-ninth session on the question of the character and utilization of the geostationary orbit. Some delegations expressed the view that the agreement was an important basis for promoting international cooperation, to ensure that the principle of equity would be applied and that all States would have access to the geostationary orbit.

10. While noting the work undertaken by ITU relating to the scientific and technical aspects of the utilization of the geostationary orbit, some delegations

expressed the view that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee continued to be the competent bodies to discuss the legal and political aspects of the geostationary orbit. Another delegation expressed the view that ITU and the Committee on the Peaceful Uses of Outer Space should work in harmony to ensure that the principle of equity was recognized in the assignment of the frequency bands of ITU. The view was expressed that the practice of “paper” satellites in the geostationary orbit hindered the equitable and efficient use of that orbit.

11. Some delegations expressed the view that the geostationary orbit was a limited natural resource and that equitable access to it should be guaranteed for all States, taking particular account of the needs of developing countries. Some of those delegations expressed the view that such a regime should take into account the needs of the equatorial countries in particular because of their special geographical characteristics.

12. The view was expressed that the geostationary orbit constituted an integral part of outer space and that it was governed by the provisions of the Outer Space Treaty.

13. The Legal Subcommittee noted that ITU had not been able to attend its current session and expressed the hope that, in view of its positive contribution to the work of the Legal Subcommittee, ITU would continue to be represented at future sessions of the Subcommittee.

14. As mentioned in paragraph [...] above, at its [...] meeting, on [...] April, the Legal Subcommittee re-established its Working Group on agenda item 6 under the chairmanship of Socorro Flores Liera (Mexico). In accordance with the agreement reached at the thirty-ninth session, endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, the Working Group would convene to consider only matters relating to the definition and delimitation of outer space.

15. The Working Group on agenda item 6 held three meetings. At the [...] meeting, on [...] April, the Legal Subcommittee endorsed the report of the Working Group, which is contained in annex I to the present report.

16. The full text of the statements made by delegations during the discussion on agenda item 6 is contained in unedited verbatim transcripts (COPUOS/Legal/ T.642- [...]).

#### *Notes*

<sup>1</sup> *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 20 (A/55/20), para. 167.*