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## Committee on the Peaceful

### Uses of Outer Space

Legal Subcommittee

Forty-first session

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## **Draft Report of the Chairman of the Working Group on agenda item 6 (a), “Matters relating to the definition and delimitation of outer space”**

1. At its 656th meeting, on 2 April, the Legal Subcommittee re-established its Working Group on agenda item 6 (a), entitled “Matters relating to the definition and delimitation of outer space”. At its 663rd meeting, on 5 April, the Subcommittee elected Manuel Alvarez (Peru) Chairman of the Working Group.

2. The Chairman drew the attention of the Working Group to the fact that, in accordance with the agreement reached at the thirty-ninth session of the Legal Subcommittee, 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.

3. The Working Group had before it the following documents:

(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.1-6);

(b) Report of the Secretariat entitled “Historical summary on the consideration of the question on the definition and delimitation of outer space” (A/AC.105/769 and Corr.1);

(c) 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).

4. The Working Group also had before it a conference room paper submitted by the Russian Federation entitled “Some differences between legal regimes of air space and outer space” (A/AC.105/C.2/2002/CRP.10).



5. Some delegations expressed the view that, in order to make progress on the question of the definition and delimitation of outer space, international organizations should be invited to submit replies to selected and appropriately amended questions from the questionnaire on possible legal issues with regard to aerospace objects. The replies received would serve to broaden the information available to the Working Group and would be useful to the Working Group in its consideration of the question of the definition and delimitation of outer space.

6. Some delegations expressed the view that, while they valued the contributions that international organizations could make to the work of the Working Group and the Legal Subcommittee, it would not be appropriate to distribute the questionnaire on aerospace objects to international organizations. Those delegations were of the view that the questionnaire was aimed at collecting information on States' positions concerning questions related to issues of territorial boundaries and involved complex political questions that could only be addressed by States.

7. The view was expressed that the question on the definition and delimitation of outer space remained a topical and important issue to be considered by the Working Group. That delegation believed that the question could be resolved, as had been done in the case of the United Nations Convention on the Law of the Sea,<sup>1</sup> by developing a single comprehensive convention on space law.

8. The view was expressed that there was a right of innocent passage through airspace for space objects launched into or returning from outer space. However, in that delegation's view, in the case of an object capable of manoeuvring in and out of airspace and outer space, passage of the object through a State's airspace would require permission of the State concerned and would be subject to that State's laws applicable to its airspace.

9. The Working Group reviewed the questionnaire on aerospace objects and agreed that questions 7 and 8 should read as follows:

Question 7: Are there precedents with respect to the passage of aerospace objects during take-off and/or re-entry into the Earth's atmosphere and does international customary law exist with respect to such passage?

Question 8: Are there any national and/or international legal norms with respect to the passage of aerospace objects during take-off and/or re-entry into the Earth's atmosphere?

10. The Working Group also agreed to add the following new question to the questionnaire on aerospace objects:

Question 10: What are the differences between the legal regimes of airspace and outer space?

11. The Working Group agreed that the questionnaire, as amended by the Working Group, should be circulated to all Member States.

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<sup>1</sup> United Nations, *Treaty Series*, vols. 1833-1835, No. 31363.