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## **Committee on the Peaceful Uses of Outer Space**

**Legal Subcommittee**

**Forty-eighth session**

Vienna, 23 March-3 April 2009

Agenda item 11

**General exchange of information on national legislation  
relevant to the peaceful exploration and use of outer space**

### **Draft report of the Chairperson of the Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space**

1. In accordance with paragraph 8 of General Assembly resolution 63/90, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space, at its 783rd meeting, on 23 March 2009, established a working group on agenda item 11, entitled “General exchange of information on national legislation relevant to the peaceful exploration and use of outer space”. The Working Group on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space was chaired by Irmgard Marboe (Austria).

2. The Working Group held [...] meetings, from [...] March to [...] April 2009. At the 1st meeting, the Chairperson recalled that, in accordance with the workplan adopted by the Committee on the Peaceful Uses of Outer Space at its fiftieth session, in 2007, the Working Group would examine responses received from Member States to requests for information on national legislation relating to governmental and non-governmental space activities in order to develop an understanding of the manner in which Member States had regulated those activities. The Chairperson also recalled the work of the Legal Subcommittee under the previous agenda items “Review of the concept of the ‘launching State’” and “Practice of States and international organizations in registering space objects”, and noted that, under those items, the Subcommittee and its respective working groups had considered information received from Member States on national regulatory frameworks.



3. The Working Group had before it the following:

(a) Note by the Secretariat entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing replies received from China, the Czech Republic, Germany, Mongolia, the Republic of Korea and Turkey (A/AC.105/932);

(b) Conference room paper containing information received from Poland and Saudi Arabia on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.9);

(c) Conference room paper containing information received from South Africa on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.13);

(d) Conference room paper containing information received from the Republic of Korea on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.14);

(e) Conference room paper containing information received from Japan on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.17);

(f) Conference room paper containing information received from France on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2009/CRP.18).

4. The Working Group also had before it the following information provided by Member States during the forty-seventh session of the Legal Subcommittee:

(a) Note by the Secretariat entitled “Information on national legislation relevant to the peaceful exploration and use of outer space”, containing replies from the Czech Republic, Germany, Morocco, Nicaragua, Turkey and Ukraine (A/AC.105/912);

(b) Conference room paper containing information received from the United States of America on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2008/CRP.9);

(c) Conference room paper containing information received from Brazil, Colombia, Germany and the Netherlands on national legislation relevant to the peaceful exploration and use of outer space (A/AC.105/C.2/2008/CRP.14).

5. In order to facilitate the work of the Working Group, the following documents were also made available:

(a) Note by the Secretariat entitled “Review of existing national space legislation illustrating how States are implementing, as appropriate, their responsibilities to authorize and provide continuing supervision of non-governmental entities in outer space”, containing a review of the national space legislation of Argentina, Australia, Japan, the Russian Federation, South Africa, Sweden, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States (A/AC.105/C.2/L.224);

(b) Report of the Secretariat entitled “Review of the concept of the ‘launching State’”, containing a synthesis of State practice in applying the concept

of the “launching State”, including the definition of “space activities”; jurisdiction over space activities; the safety of space activities; liability, including third-party insurance and financial responsibility requirements; indemnification procedures; and the registration of launches (A/AC.105/768).

6. The Working Group noted that national regulatory frameworks generally covered the following main areas: national jurisdiction for regulating space activities of governmental and non-governmental entities; procedures for authorizing and licensing national space activities; liability and indemnification procedures; registration of objects launched into outer space and establishment of national registries; and regulatory frameworks for national space agencies or other national entities mandated to carry out and supervise space activities.

7. The Working Group conducted a review of the following seven main issues for discussion:

- (a) Reasons for States to enact national space legislation;
- (b) Scope of space activities targeted by national regulatory frameworks;
- (c) Scope of national jurisdiction over space activities;
- (d) Competence of national authorities in the authorization, registration and supervision of space activities;
- (e) Conditions to be fulfilled for registration and authorization;
- (f) Regulations concerning liability;
- (g) Compliance and monitoring.

8. The Working Group noted that national regulatory frameworks represented different legal systems with either unified acts or a combination of national legal instruments, ranging from administrative regulations to decrees and laws; that States had adapted their national legal frameworks according to their specific needs and practical considerations; and that national legal requirements depended to a high degree on the range of space activities conducted and the level of involvement of the private sector.

9. In considering the reasons for States to enact national space legislation, the Working Group noted that common grounds for national legislation were the need to fulfil obligations under treaties to which a State had become a party, to achieve consistency and predictability in the conduct of space activities under the jurisdiction of the State, and to provide a practical regulatory system for private sector involvement. The need for improved national coordination and the integration of a wider range of national activities had also provided incentives for regulatory frameworks at the national level.

10. With regard to the issue of the scope of space activities targeted by national regulatory frameworks, the Working Group noted a broad variety of activities, such as the launching of objects into outer space, the operation of a launch or re-entry site, the operation and guidance of space objects, in some cases the design and manufacturing of spacecraft, the application of space science and technology such as that used for Earth observation and telecommunications and exploration activities and research.

11. In terms of the scope of national jurisdiction over space activities, the Working Group noted that most national regulatory regimes required authorization to be obtained for space activities carried out from the national territory. Most regimes also required authorization to be obtained for certain launches outside the national territory in which nationals were involved, such as citizens and non-governmental entities established or incorporated under the laws of the State in question. The Working Group noted that, with a view to balancing public and private interests, in some cases a more complex jurisdictional system was applied in order to regulate private sector involvement.

12. In considering the competence of national authorities in the authorization, registration and supervision of space activities, the Working Group noted that, in most States, there were different national authorities involved in those procedures, ranging from space agencies and other similar authorities up to ministerial-level authority, in some cases involving different governmental entities for different activities requiring a licence. The existence of separate procedures for the licensing of operators conducting space activities and for the authorization of specific projects and programmes was noted in some cases. The Working Group noted that there was a broad variety of means of registering space objects with a national registry, including through a government ministry or through a space agency or similar authority.

13. With regard to the conditions to be fulfilled for registration and authorization, the Working Group noted that ensuring the safety of space activities was an important policy underpinning most national space laws, in particular laws governing the launch of objects into outer space. Most launch-licensing regimes included measures to ensure that the launch did not create a significant risk of personal injury, environmental damage or damage to property. Conditions concerning safety and technological standards were also closely linked to States' concern about meeting space debris mitigation requirements. Other conditions related to the professional and financial qualifications of the applicant. In addition, national security and foreign policy interests were usually involved in authorization and licensing procedures.

14. In terms of regulations concerning liability, the Working Group noted that the outer space treaties contained a unique liability regime without limitations. However, several States had established ways of seeking recourse from operators, which was achieved in most cases by introducing a national liability regime for space operations, if necessary, in addition to general tort law or environmental liability. The Working Group noted the existence of a broad range of solutions for liability obligations and indemnification procedures, as well as insurance requirements.

15. In considering compliance and monitoring, the Working Group noted that most States applied procedures for the supervision and monitoring of licensed space activities, whether a system of in situ inspections or a more general reporting requirement for the fulfilment of obligations under a licence. Most national regulatory regimes operated with a set of administrative measures for minor violations and a sanctions regime, including penal sanctions in some cases, for more serious offences.

16. The Working Group agreed that the exchange of information provided an important basis for its work under the multi-year workplan and allowed it to continue examining the main developments taking place at the national level in order to identify common principles, norms and procedures.

17. The Working Group agreed that at its next session, in 2010, it should be reconvened for the purpose of pursuing its examination of the issues addressed during the current session. The Working Group also agreed that a number of issues needed further consideration, such as the regulation by States of transfers of ownership of space objects and of transfers of authorized space activities to third parties, the participation of private nationals in space flights and the treatment in service-provider contracts of issues of liability and responsibility for collisions of satellites in outer space.

18. The Working Group agreed that Member States should be invited to respond to the questions prepared by the Chairperson for the present session of the Working Group, and that that would provide an opportunity to complement the information available to the Working Group. Member States that had not yet enacted national space legislation should be invited to submit information on the reasons for the absence of such legislation.

19. The Working Group also agreed that the Secretariat, in consultation with the Chairperson, should prepare, for consideration by the Working Group at its next session, a paper providing a schematic overview of existing national regulatory frameworks based on information received from Member States.

20. Some delegations expressed the view that the findings of the Working Group should be summarized and synthesized in order to develop a better understanding of the manner in which States regulated space activities. Such information would be of assistance to Member States in drafting and developing their respective national space laws. It would also represent a valuable contribution to capacity-building in space law and be of particular interest to developing countries.

21. Some delegations expressed the view that that information could also provide a basis for the future harmonization of national space legislation.

22. Some delegations expressed the view that intersessional consultations among the Vienna-based permanent missions, including on the agenda item on national space legislation currently being considered by the Legal Subcommittee, would enhance awareness of the work of the Committee on the Peaceful Uses of Outer Space.