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**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Fiftieth session
Vienna, 28 March-8 April 2011

Draft report

V. Matters relating to the definition and delimitation of outer space and 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. Pursuant to General Assembly resolution 65/97, the Subcommittee considered agenda item 6, entitled “Matters relating to the definition and delimitation of outer space and 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”, as a regular item of its agenda.
2. The representatives of Indonesia, Morocco, the Russian Federation, Saudi Arabia, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 6. Statements were also made by the representative of Peru on behalf of the Group of Latin American and Caribbean States and the representative of Indonesia on behalf of the Group of 77 and China. During the general exchange of views, statements relating to that item were made by representatives of other member States.
3. At its 820th meeting, on 28 March, the Subcommittee reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil). In accordance with the agreement reached by the Subcommittee at its thirty-ninth session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-third session, the Working Group was

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convened to consider only matters relating to the definition and delimitation of outer space.

4. The Working Group held four meetings. The Subcommittee, at its [...] meeting, on [...] March, endorsed the report of the Working Group, contained in annex [...] to the present report.

5. For its consideration of the item, the Subcommittee had before it the following:

(a) Note by the Secretariat entitled “National legislation and practice relating to the definition and delimitation of outer space” (A/AC.105/865 and Add.8-10);

(b) Note by the Secretariat entitled “Questions on the definition and delimitation of outer space: replies from Member States” (A/AC.105/889/Add.7-9);

(c) Conference room paper entitled “Questions on the definition and delimitation of outer space: replies from Member States”, containing the replies of Austria and El Salvador (A/AC.105/C.2/2011/CRP.10).

6. Some delegations expressed the view that scientific and technological progress, the commercialization of outer space, the participation of the private sector, emerging legal questions and the increasing use of outer space in general had made it necessary for the Subcommittee to consider the question of the definition and delimitation of outer space.

7. Some delegations expressed the view that the lack of a definition or delimitation of outer space created legal uncertainty concerning the applicability of space law and air law and that matters concerning State sovereignty and the boundary between airspace and outer space needed to be clarified in order to reduce the possibility of disputes among States.

8. The view was expressed that the definition and delimitation of outer space would ensure the effective implementation of the principle of freedom of use of outer space for peaceful purposes.

9. The view was expressed that the definition and delimitation of outer space was important in relation to the issue of the liability of States and other entities engaging in space activities. That issue had become particularly topical in the light of the current intensification and diversification of space activities.

10. The view was expressed that current and foreseeable civil aviation operations would not exceed altitudes of 100-130 kilometres, where there was a potential danger of collision with numerous spacecraft. The delegation expressing that view proposed that the boundary between airspace and outer space be established in that range.

11. The view was expressed that States should continue to operate under the current framework, which presented no practical difficulties, until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. The delegation expressing that view was also of the view that at the present time any attempt to define and delimit outer space would be a theoretical exercise that could complicate existing activities and that might not be able to anticipate future technological developments.

12. The view was expressed that the discussion on the definition and delimitation of outer space had not only a legal but also a political character.
13. The view was expressed that the Legal Subcommittee, when considering matters relating to the definition and delimitation of outer space, should take into account recent and future technological developments and that the Scientific and Technical Subcommittee should also consider that subject.
14. Some delegations were of the view that the geostationary orbit — a limited natural resource clearly in danger of saturation — must be used rationally and should be made available to all States, irrespective of their current technical capacities. That would provide States with the possibility of having access to the orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries, as well as the geographical position of certain countries, and taking into account the processes of the International Telecommunication Union (ITU) and relevant norms and decisions of the United Nations.
15. The view was expressed that the geostationary orbit should be used rationally, efficiently and economically.
16. Some delegations expressed the view that in using the geostationary orbit it was important to give priority to the contributions of space activities to sustainable development and the achievement of the Millennium Development Goals.
17. Some delegations were of the view that the geostationary orbit was part of outer space, was not subject of national appropriation by claims of sovereignty or by means of use, including repeated use, and that its use was governed 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, and ITU treaties.
18. The Legal Subcommittee noted the information provided by the United States on the actions of that Government to further the use of the geostationary orbit and other uniquely situated orbits, such as the free provision of the signal from the global positioning system, information from the polar meteorological satellites of the National Oceanic and Atmospheric Administration (NOAA) of the United States and data from the geostationary operational environmental satellites (GOES). The Subcommittee also noted the cooperation of the Governments of Canada, France, the Russian Federation and the United States in the International Satellite System for Search and Rescue (COSPAS-SARSAT).
19. The view was expressed that the principle of “first come, first served” was unacceptable with regard to the utilization by States of the geostationary orbit and that therefore the Subcommittee should develop a legal regime guaranteeing equitable access to orbital positions for States, in accordance with the principles of peaceful use and non-appropriation of outer space.
20. The view was expressed that the geostationary orbit could not be appropriated by States or by international intergovernmental or non-governmental organizations. The delegation expressing that view also stated that coordination between the Committee, its subcommittees and ITU should be established in order to facilitate the access of developing States to orbits.

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

IX. General exchange of information on national mechanisms relating to space debris mitigation measures

22. Pursuant to General Assembly resolution 65/97, the Subcommittee considered agenda item 10, entitled “General exchange of information on national mechanisms relating to space debris mitigation measures”, as a single issue/item for discussion.

23. The representatives of Belgium, Brazil, China, the Czech Republic, Germany, India, Italy, Japan, the Netherlands, Portugal, Saudi Arabia, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 10. Statements were also made by the representative of Colombia on behalf of the Group of Latin American and Caribbean States and the representative of Indonesia on behalf of the Group of 77 and China. During the general exchange of views, statements related to that item were made by representatives of other member States.

24. The Subcommittee noted that the general exchange of information under agenda item 10 would assist States in understanding the different approaches, including development of national regulatory frameworks, that States had taken to mitigate and prevent the increase in space debris.

25. The Subcommittee expressed concern over the increasing amount of space debris and noted that the future of space activities largely depended on space debris mitigation.

26. Some delegations expressed the view that the issue of mitigation of space debris should continue to be treated as a priority, with a view to further increasing research in the areas of technology for space debris observation, space debris environmental modelling and technologies to protect space systems from space debris and to limit substantially the creation of additional space debris.

27. The Subcommittee noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space was a key step in providing all space-faring nations with guidance on how to mitigate the problem of space debris.

28. The Subcommittee noted with satisfaction that some States were implementing space debris mitigation measures consistent with the Space Debris Mitigation Guidelines of the Committee and/or the Inter-Agency Space Debris Coordination Committee (IADC) Space Debris Mitigation Guidelines and that other States had developed their own space debris mitigation standards based on those guidelines. The Subcommittee also noted that some States were using the IADC Guidelines, the European Code of Conduct for Space Debris Mitigation and International Organization for Standardization (ISO) standard 24113 (Space systems: space debris mitigation requirements) as references in the regulatory framework established for national space activities.

29. The Subcommittee noted that some States had strengthened their national mechanisms governing space debris mitigation through the nomination of

governmental supervisory authorities, the involvement of academia and industry and the development of new legislative norms, instructions, standards and frameworks.

30. Some delegations expressed the view that the Legal Subcommittee should undertake a review of the effectiveness of the Space Debris Mitigation Guidelines of the Committee.

31. Some delegations expressed the view that a legal review and an analysis of the Space Debris Mitigation Guidelines of the Committee were also required.

32. Some delegations were of the view that the Scientific and Technical Subcommittee and the Legal Subcommittee should cooperate with the aim of developing legally binding rules relating to space debris.

33. Some delegations expressed the view that technical research should be carried out with a view to improving the Space Debris Mitigation Guidelines of the Committee and keeping them up to date with new technologies and capabilities of detection and reduction of space debris, in accordance with General Assembly resolution 62/217.

34. Some delegations were of the view that there was a need for a review of the legal aspects of the Space Debris Mitigation Guidelines of the Committee, with a view to transforming the Guidelines into a set of principles on space debris.

35. The view was expressed that the review of the Space Debris Mitigation Guidelines of the Committee should focus on the legal and regulatory aspects of the Guidelines and that the content of the technical norms of the Guidelines should not be reviewed.

36. The view was expressed that, although the technical aspects of space debris had been discussed in the Scientific and Technical Subcommittee, the Legal Subcommittee should also thoroughly examine the issue of space debris.

37. The view was expressed that duplication in the work of the Scientific and Technical Subcommittee and its Working Group on the Long-term Sustainability of Outer Space Activities and the Legal Subcommittee should be avoided.

38. Some delegations expressed the view that member States should report to the Subcommittee and disseminate information on action taken to reduce the generation of space debris.

39. The view was expressed that the exchange of timely, actionable information on space debris was a key part of maintaining the long-term sustainability of outer space activities.

40. The view was expressed that the involvement of all stakeholders, including academia, industry and concerned authorities, was necessary for the development of standards and criteria aimed at the development of common guidelines to be applied by all States.

41. The Subcommittee urged States and organizations to continue to implement the Space Debris Mitigation Guidelines of the Committee and to study the experience of States that had already established national mechanisms governing space debris mitigation.

42. The full text of the statements made during the discussion on agenda item 10 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]-[...]).
