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Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Fiftieth session

Vienna, 28 March-8 April 2011

Agenda item 6 (a)

**Matters relating to the definition and
delimitation of outer space**

Draft report of the Chair of the Working Group on the Definition and Delimitation of Outer Space

1. At its 820th meeting, on 28 March 2011, the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space reconvened its Working Group on the Definition and Delimitation of Outer Space under the chairmanship of José Monserrat Filho (Brazil).
2. The Chair drew the attention of the Working Group to the fact that, pursuant to General Assembly resolution 65/97, the Working Group had been convened to consider only matters relating to the definition and delimitation of outer space.
3. The Working Group 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).
4. The Working Group heard a presentation by Olavo Bittencourt (Brazil), summarizing the main ideas and proposals delivered at the symposium on the theme “A new look at the delimitation of airspace and outer space”, organized by the International Institute of Space Law (IISL) and the European Centre for Space

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Law (ECSL) on the margins of the current session of the Subcommittee. The Working Group expressed its appreciation to IISL and ECSL.

5. Some delegations were of the view that it was important to define and delimit outer space at the international level and that that would create certainty in the application of air law and space law, as well as in the sovereignty of States over their airspace.

6. The view was expressed that solutions with regard to the definition and delimitation of outer space could be found at the national level and that they would not necessarily diverge from those, if any, established at the international level.

7. The view was expressed that the definition and delimitation of outer space would also enable the effective application of the principles of the freedom of use of outer space and of non-appropriation of outer space.

8. The view was expressed that it was important to begin thorough discussions on the definition and delimitation of outer space, even at the theoretical level, in order to have certain mechanisms in place before real problems occurred.

9. The view was expressed that States should continue to operate under the current framework, which had functioned well, and that, at the present time, any attempt to define or delimit outer space would be a theoretical and academic exercise that could complicate existing activities and that might not be able to anticipate future technological developments.

10. Some delegations were of the view that alternative approaches to the definition and delimitation of outer space should be given serious consideration.

11. The view was expressed that the problem of the definition and delimitation of outer space was a problem of defining the scope of validity and application of air law and space law and that that legal problem should be resolved by giving consideration to various criteria, in particular to the definition of a stable orbit of a space object.

12. The view was expressed that the final decision on the matter of the definition and delimitation of outer space would be taken on a basis that would suit the interests of all States and that the decision would not necessarily be similar to the current positions taken by States.

13. On the basis of its discussions, the Working Group agreed:

(a) To continue to invite States members of the Committee on the Peaceful Uses of Outer Space to submit information on national legislation or any national practices that might exist or were being developed that related directly or indirectly to the definition and/or delimitation of outer space and airspace, taking into account the current and foreseeable level of development of space and aviation technologies;

(b) To continue to address to the Governments of Member States, through the Secretariat, the following questions:

(i) Does your Government consider it necessary to define outer space and/or to delimit airspace and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies? Please provide a justification for the answer;

(ii) Does your Government consider another approach to solving this issue? Please provide a justification for the answer;

(iii) Does your Government give consideration to the possibility of defining a lower limit of outer space and/or an upper limit of airspace, recognizing at the same time the possibility of enacting special international or national legislation relating to a mission carried out by an object in both airspace and outer space?

14. The Working Group noted that the Chair planned to present to the Legal Subcommittee at its fifty-first session, in 2012, a proposal on possible ways of finding a solution to the matters relating to the definition and delimitation of outer space. The Working Group also noted that the proposal would be based on ideas expressed during the IISL/ECSL symposium at the current session of the Subcommittee and would take into account various positions taken by States and representatives of academia over the past few decades.

15. Some delegations were of the view that the definition and delimitation of outer space remained a topical and important issue that should continue to be considered by the Working Group.
