

Working Paper on the Establishment of a Working Group on Space Resources submitted by Austria, Belgium, Czech Republic, Finland, Germany, Greece, Slovakia and Spain

I. Introduction

Since its 56th session, the agenda item “General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources” at the Legal Subcommittee has provided “an opportunity for a constructive, multilateral exchange of views on such activities, including their economic aspects, among States members and permanent observers of the Committee”.¹

Taking into account the debate at the 58th session of the Legal Subcommittee in 2019 as well as the scheduling of informal consultations on the issue of exploration, exploitation and utilization of space resources to provide written contributions,² we submit a proposal for a Working Group on Space Resources to be established by the Legal Subcommittee at its 60th session in 2021 under a five-year work plan, with a proposal for terms of reference, methods of work and dedicated work plan (see annex).

Recognizing the increased interest in activities on celestial bodies in general, and activities involving space resources in particular, and taking into account various initiatives to develop normative instruments applicable to space resources activities, as well as the desire for legal certainty and international cooperation in this regard, the States members presenting this proposal consider it essential that a Working Group on Space Resources is established at the Legal Subcommittee without further delay.

The Working Group on Space Resources will provide States members and permanent observers at COPUOS with a forum to continue multilateral international dialogue on legal aspects of space resources activities, to develop principles and practical measures for space resources activities and to assess the expected benefits and means of the further development of an international framework for space resources activities.³ The objective is to ensure that space resources activities are conducted in a safe, sustainable and peaceful manner, for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and in accordance with international law.

This proposal builds upon previous working papers submitted on the issue of space resources that have been instrumental in advancing the debate on the establishment of a Working Group on Space Resources, notably the joint proposal by Belgium and Greece,⁴ on the basis of which the Legal Subcommittee decided that scheduled informal consultations were to be held at the 59th Session of the

¹ A/AC.105/1113 para. 250.

² A/AC.105/1203 para. 278 (“The Subcommittee also agreed that the aim of those consultations was to have a broad and inclusive exchange of views on the future deliberations concerning the exploration, exploitation and utilization of space resources, including the possible establishment of a working group under the relevant agenda item, taking into account possible future coordination with the Scientific and Technical Subcommittee, as appropriate.”); OOSA/2019/13 of 25 September 2019, Annex.

³ For the purposes of this working paper, “space resource activities” shall refer to the exploration, exploitation and/or utilization of extractable and/or recoverable abiotic natural resources on celestial bodies.

⁴ A/AC.105/C.2/2019/CRP.26.

Subcommittee in 2020.⁵ The aim of this proposal is to facilitate consensus for a Legal Subcommittee decision to be taken at its 60th session on the mandate of a Working Group on Space Resources including its terms of reference and a clear, results-oriented work plan.

II. Rationale of establishing a working group with the proposed mandate

The Working Group on Space Resources shall serve as a forum where delegations bring forward their views on the legal framework for space resources activities and foster a common understanding of the relevant principles. This shall include in particular an assessment of the provisions of the five United Nations treaties on outer space and other relevant instruments such as principles, resolutions and guidelines adopted within the framework of COPUOS and the United Nations. In addition, the wide range of materials developed in other national and international governmental as well as in non-governmental fora may also be submitted for consideration, as appropriate. This may include, on a voluntary basis, information on actual projects and programs regarding space resources activities.

Based on this assessment, and considering that space resources activities are promising, however still at a very early stage, we suggest that the Working Group shall:

- recommend principles and practical measures to be implemented by States and international organizations planning or conducting space resources activities; and
- assess the expected benefits of the further development of an international framework for space resources activities. This shall include a recommendation on the potential next steps and a possible timeframe.

The above could comprise recommendations on the implementation of the provisions of the United Nations treaties on outer space regarding i.e. information exchange, due regard and mutual assistance. The objective is to ensure that activities on celestial bodies are conducted in a safe, sustainable and peaceful manner, for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and in accordance with international law.

In order to ensure that the Working Group on Space Resources takes into account and benefits from relevant scientific and technical expertise, the chair of the Working Group shall regularly report to the Scientific and Technical Subcommittee (STSC) on the deliberations of the Working Group. Before submission of the outcomes of the Working Group by the Legal Subcommittee to the main Committee, the STSC shall be invited to comment on the work of the Working Group (see work plan as proposed in the annex).

Drawing from the distinguished historical record of the Legal Subcommittee's work on the establishment and further development of the international legal regime governing outer space activities and mindful of its mandate, it should be the objective that the United Nations General Assembly adopts, based on the proposal of COPUOS, the output of the Working Group on Space Resources in a dedicated resolution on principles and practical measures for space resources activities.⁶

⁵ A/AC.105/C.2/L.311; A/AC.105/C.2/2019/CRP.22; A/AC.105/C.2/2019/CRP.26; A/AC.105/2019/CRP.17.

⁶ On the occasion of the 50th anniversary of the Outer Space Treaty, the UN General Assembly affirmed that COPUOS together with its subcommittees has a “distinguished historical record in the establishment and further development

III. Including the views of interested stakeholders

As the Working Group is expected to build on previous work on the issue of space resources including but not limited to materials produced by governmental and non-governmental actors forwarded to the Working Group by States members and permanent observers, and in order to include the expertise and views of academia, civil society, institutional and private actors, interested stakeholders shall be provided with an opportunity to present their views. Therefore, States members and permanent observers will be invited to collect and include these views, as appropriate, in their contributions to the work of the Working Group on Space Resources. Alternately, written contributions could also be submitted directly to the chair.

In addition, in 2022 and subject to the availability of appropriate funding, a dedicated international conference under the auspices of the United Nations (i.e. in the line of the United Nations Space Law and Policy Conferences or the Global Space Forum) on space resources shall provide a platform for the presentation of the views of interested stakeholders representing a wide range of academia, civil society, institutional and private actors. Additionally, technical presentations may serve as a means to provide further information.

IV. Expected results of the Working Group on Space Resources

At the end of the five-year workplan, the Working Group on Space Resources is expected to submit to the Legal Subcommittee:

- 1) principles and practical measures for space resources activities on celestial bodies, for possible adoption by the United Nations General Assembly in a dedicated resolution; and
- 2) a report on the legal aspects of space resources activities, including an assessment of the expected benefits and means of the further development of an international framework for space resources activities as well as recommendations for further work at the Legal Subcommittee on this topic.

of the international legal regime governing outer space activities, that under that regime, outer space activities by States, international intergovernmental organizations and non-governmental entities are flourishing and that, as a result, space science and technology and their applications contribute immeasurably to economic growth and improvements in the quality of life around the world” and called upon COPUOS and its Legal Subcommittee to continue “to foster the progressive development of international space law”, see A/RES/72/78 of 7 December 2017.

ANNEX: PROPOSAL FOR A WORKING GROUP ON SPACE RESOURCES

Building upon previous working papers submitted on the issue of space resources,⁷ notably the joint proposal by Belgium and Greece,⁸ and subsequent to its decision on the scheduling of informal consultations on the issue of exploration, exploitation and utilization of space resources,⁹ the Legal Subcommittee is invited to establish, under a five-year workplan a Working Group on Space Resources with the mandate, working methods and dedicated work plan as indicated below. A chair and a vice-chair of the Working Group should be appointed based on consensus by the Legal Subcommittee at its 60th session and in accordance with established COPUOS practices.

The Legal Subcommittee should also invite States members and permanent observers to provide written contributions to the work of the Working Group on Space Resources (according to the work plan below) and ask the Office for Outer Space Affairs to include a dedicated conference on space resources in its workplan for 2022, as well as to explore possibilities to secure its funding.

Terms of Reference

The Working Group shall, under a five-year workplan:

- (a) assess and report on the legal framework applicable to space resources activities, in particular the provisions of the United Nations treaties on outer space and other relevant instruments, such as principles, resolutions and guidelines governing space activities adopted within the framework of COPUOS and the United Nations;
- (b) recommend principles and practical measures for space resources activities to ensure that they are carried out in safe, sustainable and peaceful manner and in accordance with international law, for possible adoption by the United Nations General Assembly in a dedicated resolution; and
- (c) assess and report on the expected benefits of the further development of an international framework for space resources activities and recommend potential next steps and a possible timeframe.

Proposed Methods of Work

- The Working Group reports to the Legal Subcommittee. The Working Group will be led by a chair and a vice-chair and shall be supported by a secretary from the Office for Outer Space Affairs.
- The meetings of the Working Group are guided by the rules of procedure, methods of work and established practices of COPUOS.
- The Working Group shall be open to all COPUOS States members and will take decisions by consensus. The Working Group shall engage with permanent observers of COPUOS in accordance with its established practices.
- States members and permanent observers will be invited to provide written contributions to the work of the Working Group. The Working Group may take into account previous work

⁷ A/AC.105/C.2/L.311; A/AC.105/C.2/2019/CRP.22; A/AC.105/C.2/2019/CRP.26; A/AC.105/2019/CRP.17.

⁸ A/AC.105/C.2/2019/CRP.26.

⁹ A/AC.105/1203 para. 278-280.

on the issue of space resources including but not limited to materials produced by governmental and non-governmental actors presented to the Working Group by a States member or a permanent observer. In order to make available the expertise and views of academia, civil society, institutional and private actors for consideration by States members participating in the Working Group, interested stakeholders may submit written contributions also directly to the chair. In addition, in 2022 and subject to the availability of appropriate funding, a dedicated international conference on space resources under the auspices of the United Nations shall provide a platform for the presentation of the views of interested stakeholders representing a wide range of academia, civil society, institutional and private actors. Conference recordings shall be made available for consideration by States members participating in the Working Group.

- The Working Group will meet with interpretation services during the sessions of the Legal Subcommittee in 2022, 2023, 2024, 2025 and 2026. The Working Group may hold additional meetings within the margins of the sessions of the main Committee and/or during the intersessional period including in virtual formats in the English language, as appropriate and necessary to advance its work.
- In order to ensure that the Working Group on Space Resources takes into account and benefits from relevant scientific and technical expertise, the chair of the Working Group shall regularly report to the Scientific and Technical Subcommittee (STSC) on the deliberations of the Working Group.
- The Working Group will take advantage of electronic communication via a list of focal points to share information, and of a dedicated Working Group's webpage on the website of the Office for Outer Space Affairs.

Proposed Work Plan (2022-2026)

2022:

- Exchange of views on the legal aspects of space resources activities.
- Preparation of a compilation of these aspects by the chair of the Working Group, supported by the Secretariat.

2023:

- Consideration and revision of the compilation of legal aspects prepared by the chair of the Working Group.
- Discussion of principles and practical measures for space resources activities.
- Consideration of the expected benefits and means of the further development of an international framework for space resources activities.
- Preparation of draft principles and practical measures by the of the Working Group, supported by the Secretariat.

2024:

- Consideration and revision of the revised compilation of legal aspects, and draft principles and practical measures.

- Submission of draft principles and practical measures to the STSC for comments at its 62nd session.
- Consideration and revision of the expected benefits and means of the further development of an international framework for space resources activities.

2025:

- Consideration of the revised compilation of legal aspects.
- Consideration and revision of draft principles and practical measures, taking into account the comments received from the STSC.
- Consideration of the expected benefits and means of the further development of an international framework for space resources activities.

2026:

- Adoption of principles and practical measures for space resources activities on celestial bodies, for submission to the 65th session of the Legal Subcommittee and possible adoption by the United Nations General Assembly in a dedicated resolution.
- Adoption of the report on the legal aspects of space resources activities, including an assessment of the expected benefits and means of the further development of an international framework for space resources activities as well as recommendations for further work at the Legal Subcommittee on this topic, for submission to the 65th session of the Legal Subcommittee.