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2024 SWF Statement to UNHQ at Joint Side Event

**Sustainability of Outer Space, Sustainable
Development, and the Pact for the Future**

About Secure World Foundation

The Secure World Foundation strives to be a trusted and objective source of leadership and information on space security, sustainability, and the use of space for the benefit of Earth. We use a global and pragmatic lens to study and evaluate proposed solutions to improve the governance of outer space. While recognizing the complexities of the international political environment, SWF works to encourage and build relationships with all willing stakeholders in space activities, including government, commercial, military, civil society, and academic actors. Central to this approach is increasing knowledge about the space environment and the need to maintain its stability, promoting international cooperation and dialogue, and helping all space actors realize the benefits that space technologies and capabilities can provide.

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2024 SWF Statement to UNHQ at Joint Side Event: Sustainability of Outer Space, Sustainable Development, and the Pact for the Future

Good morning, my name is Christopher Johnson and I am the Director of Legal Affairs and Space Law at the Secure World Foundation. Secure World Foundation is a non-profit organization dedicated to the secure and sustainable use of outer space for the benefit of all peoples.

We work with governments, intergovernmental organizations, industry, academia, and civil society to develop and promote international cooperation aimed at achieving the secure, sustainable, and peaceful uses of outer space. Secure World has participated at the United Nations Committee on the Peaceful Uses of Outer Space, or COPUOS, since 2008, and was granted special consultative status with ECOSOC in 2010.

I'd like to spend some time today to explore one of COPUOS's most recent successes, and especially some lessons learned from that process. I'm speaking about the Guidelines for the Long-term Sustainability of Outer Space Activities, also known as the LTS Guidelines.

In 2019, after an eight-year process, COPUOS finalized and adopted by consensus 21 Guidelines reflecting internationally agreed upon best practices for fostering and maintaining the sustainability of space activities.

There are insights and lessons learned from the process of developing the LTS Guidelines that can be repeated at COPUOS and perhaps elsewhere.

To take a step back, the United Nations has already developed a broad and generalized international regime governing space activities, with the 1967 Outer Space Treaty and four subsequent treaties.

All developed within COPUOS, these treaties create the basic framework of state responsibility, liability, freedom of exploration and use of outer space, protection of astronauts, along with principles of cooperation, mutual assistance, and due regard, and with prohibitions on weaponization, and on the national territorial annexation of celestial bodies.

Nevertheless, by the early 2000s, there were growing concerns about space debris, an emerging realization of the fragility of the space domain, and of the need for the development of new norms fostering the sustainable uses of the Earth's orbital environment.

In 2010, COPUOS established the Working Group on the Long-term Sustainability of Outer Space Activities, tasked with producing a report on the sustainability of space activities, as well as a consolidated set of voluntary best-practice guidelines that could be applied by States, international organizations, national non-governmental organizations, and private sector entities.

The LTS Guidelines are intended to enhance the long-term sustainability of outer space activities for all space actors, and throughout all the phases of a mission life-cycle.

While the guidelines were to be consistent with the existing international legal framework, they were to be voluntary, non-legally binding, and to be based on established practices, operations, procedures, and on technical standards and policies.

The LTS Working Group began with considerations of space debris, space situational awareness, space weather, as well as broader operational and regulatory issues — all of which are components of, or, in fact, challenges to, the long-term sustainability of space activities.

These topics were then clustered into thematically related issues, and, importantly, four Expert Groups were established to consider these related issues in parallel.

These Expert Groups were populated with experts nominated by their national governments. However, these experts served in their personal capacity, and did not necessarily represent their government's positions on the matters under discussion.

The Expert Groups were convened so as to allow experts to come together and discuss, in a non-partisan manner, the actual issues and challenges of space sustainability, to take note of existing technologically and scientifically sound best practices, and to recommend them as standards for wider observance.

Each Expert Group was tasked with writing a report on their topic, and with proposing candidate draft guidelines for considerations of the Working Group as a whole.

In turn, the Working Group was to then consider input from the Expert Groups.

In this way, a clear separation was established between the Expert Groups as technical deliberative fora, and the larger Working Group as a diplomatic negotiation forum.

One Expert Group focused on societal benefits of space activities and their contributions to sustainable development on Earth. This group, Expert Group A, co-chaired by Filipe Duarte Santos of Portugal and Enrique Cabrera of Mexico, proposed 7 candidate guidelines, as well as 4 topics for further consideration by the Working Group.

The second Expert Group focused on risks from space debris, and measures to strengthen space situational awareness, and proposed 8 candidate guidelines and 3 topics for further discussion.

The third Expert Group focused on risks posed by space weather phenomena, and ways to mitigate those risks. This group of experts proposed 5 candidate guidelines, and 2 topics for further discussion.

Lastly, the fourth Expert Group discussed national and international regulatory instruments and practices promoting long-term space sustainability. They proposed 11 candidate guidelines and 5 topics for further discussion.

The four Expert Groups concluded their work in 2014 and submitted their reports to the larger LTS Working Group. This Expert Group's report contained a total of 31 proposed draft guidelines and a list of 14 topics for future consideration.

Early in the process, there was some suspicion amongst emerging space-faring nations that the promotion measures to protect the "sustainability" of space activities was a ruse to preserve the advantage of the established spacefaring nations — by using space environmental concerns to raise barriers to entry for newcomers to the space arena.

There were also sentiments that the historical spacefaring nations had caused space debris, so those nations should clean up their mess in space, rather than to make it a multilateral issue in COPUOS.

The Expert Groups comprised national experts from countries with a wide range of space capabilities and helped to dispel the misconceptions that space sustainability was the concern of only a few nations.

Decisions on candidate rules were taken by the larger Working Group, but delegations were already apprised of what had been discussed and deliberated on at the lower, technical level in the Expert Groups.

Based on the recommendations of the four Expert Groups, the Working Group then developed and adopted the full set of guidelines.

These methods of work from the LTS Working Group serve as a process lesson that COPUOS can continue to benefit from.

It's true that this process by the Working Group took a few additional years, including the consolidation into 29 draft guidelines, in a process that often moved at the pace of the slowest participants.

However, this feature of the process was necessary – as some countries needed more time to understand issues and to get up to speed in developing their national positions.

This building of collective common understanding of complex issues such as space sustainability is not a process that can be circumvented or rushed.

To do so would run the risk of raising questions about motivations by States, or of losing State support, motivation, or participation.

In the end, the LTS Expert Group and Working Group structure were able to finalize their guidelines within the working method and structure of COPUOS, a committee that has now grown to over 100 Member States as of 2024.

Structurally, the value of Expert Groups should be highlighted.

These Expert Groups were deliberative, but not decision-making. By that I mean that the Expert Groups did not make any decisions best left to the larger Working Group. And on the decisions they did make, they adhered to the rule of consensus, a general rule of COPUOS.

I should briefly note that there are also intangible benefits of the LTS process. Chiefly, these include the development of a common understanding of what “space sustainability” means, and this common understanding will continue to assist future negotiations across and beyond the UN.

As we look toward the future, there are already elements in Policy Brief 7 for Summit of the Future, titled For All Humanity – the Future of Outer Space Governance, that can be mapped onto topics already deliberated on in the LTS Guidelines.

For example, space traffic management, discussed in Policy Brief 7, has been addressed to some degree in the various LTS Guidelines on the safety of space operations.

We can also remember that the LTS Guidelines are not, and were not meant to be, legally binding. There was then, and likely remains now, no international appetite to develop comprehensive and binding rules for a variety of space activities.

However, non-binding does not mean non-legal. States can now choose which of the LTS Guidelines to implement into their national policies and laws. If enough States do this, the LTS Guidelines will grow in influence over time.

And while there remains a lack of enthusiasm for new legally-binding rules for space, experience has shown that States see internationally non-binding rules, especially those developed at COPUOS, as politically binding.

In conclusion, and beyond the substance of the LTS Guidelines, the processes and structures that were implemented in their development can also be remembered and replicated in a variety of fora, including at COPUOS — which is and should remain the principal international forum for the development of norms governing the peaceful uses of outer space.

I thank you for your time and attention.

SWF statement, given by Christopher D. Johnson

Director, Legal Affairs and Space Law

Secure World Foundation

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New York City



525 Zang Street, STE. D
Broomfield, CO 80021 USA
v: + 1 303 554 1560

1779 Massachusetts Ave. NW
Washington, DC 20036 USA
v: + 1 202 568 6212

e: info@swfound.org