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# **Definition and Delimitation of Outer Space – a Deadlock Discussion?**



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50th  
Anniversary



**The definition and delimitation of outer space is celebrating its 50th anniversary as an agenda item of the UNCOPUOS Legal Subcommittee (LSC).**

**Without solution or perspectives of solution so far.**

A photograph of a staircase with a yellow brick wall in the background. The stairs are made of light-colored wood or concrete and lead upwards. The text "And if we open a door?" is overlaid in red on the lower left side of the image.

**And if we open a door?**

**The question arose in the first moment of the Space Age.**

**What kind of space was that in which the pioneer Sputnik-1 was flying?**

**Air space or some other?**



**As no State protested against the invasion of its airspace, it was inferred naturally that it was not air space, but something new.**

**Sputnik-1 was flying in outer space**





**Implicitly, all nations recognized:  
any human-made artifact is permitted to fly  
in outer space without permission  
of the subjacent States –  
as the 1944 Chicago Convention requires.**



**Only in 1966, was the issue included in the LSC agenda, thanks to France.**

**But the topic referred only to *definition*, not to *delimitation* of outer space.**

**The word “delimitation” appeared later, in the 1972 LSC report.**

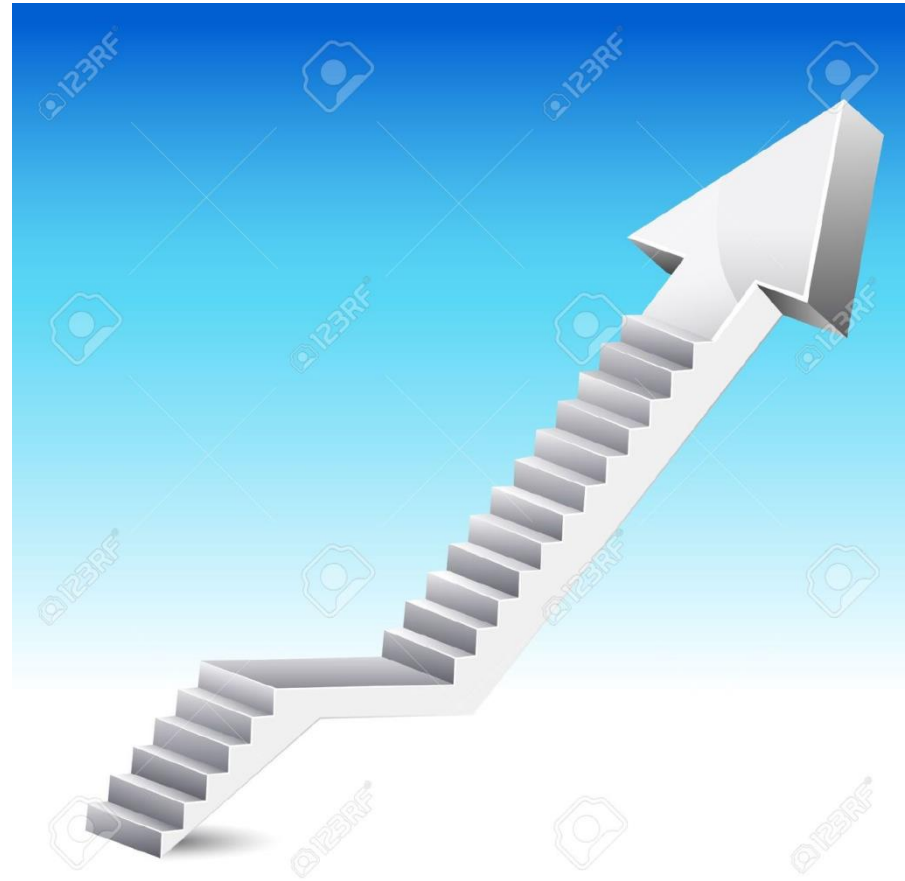
**The topic was renamed “definition and/or delimitation of outer space...”.**

**In 1984, the LSC created a Working Group to consider, on a priority basis, matters relating to the definition and delimitation of outer space.”**

**(UN General Assembly Res. 38/80, of December 1983)**



**The Resolution also  
asked the States  
to take account of the  
different legal regimes  
governing outer space  
and airspace.**



**In 1979, the former USSR proposed to LSC a conventional boundary between air space and outer space at the height of 100-110 km above sea level.**

**This idea remains until today the operational reference among space professionals.**



# Arguments against the definition and delimitation of outer space



**1) “The defining and delimiting outer space is not necessary.”**

**2) It is more important to define the function of the flight – flying in airspace or to outer space.**

**3) “No legal or practical problems have arisen in the absence of such a definition.”**

**4) The differing legal regimes applicable in airspace and outer space have operated well in their respective spheres.**

**5) “The lack of a definition or delimitation of outer space has not impeded the development of activities in either sphere.”**

**6) No issue of state sovereignty would be solved by defining [and delimiting] outer space.**

**7) Whatever definition or delimitation would be arbitrary and constrained by the current state of technology.**

# Arguments in favor of the definition and delimitation of outer space.





**1) Space law is the only branch of International Law without a legally delimited area of application. The area of application is vital to any kind of law.**

**2) Scientific and technological advances, the increasing use of outer space, its strategic-military uses, its commercialization, the international responsibility of States, the participation of the private sector, new legal questions have made it indispensable for the LSC to consider the definition and delimitation of outer space.**

**3) The definition and delimitations of outer space will bring clarity, certainty and security – today and tomorrow – to the application of Space Law or Air Law.**

**4) A boundary between airspace and outer space will clarify crucial issues of the State sovereignty.**

**5) The needed international and national regulation of suborbital flights for scientific missions and/or for human transportation requires the definition and delimitation of outer space.**

**6) Such definition and delimitation can create a single legal regime regulating the movement of aerospace objects, in order to have a right and just implementation of Space Law and Air Law.**

**7) It also would enable the effective application of the principles of the freedom of use of outer space and of its non-appropriation.**

**The current deadlock can be overcome by national laws limiting the airspace of each country.**

**It does not seem to be the best solution.**

**The most secure and beneficial way is surely that of cooperation and agreement among all countries.**



**It is possible and promising to agree a solution of reconciliation in this hard case.**

**The positions in confront today don't necessarily exclude each other forever.**

**We can delimit outer space, and at the same time create a special legal regime for airspace objects.**



**Or, we can create a special legal regime for airspace objects, and at the same time delimit outer space**

**Such an agreement certainly will require intense and detailed negotiation.**

**In compensation, it can be a good chance to attend the interests and concerns of both sides.**





**Conclusion:**  
**We need a good stair.**

THANK

YOU