



# General Assembly

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**Committee on the Peaceful  
Uses of Outer Space**  
Legal Subcommittee  
Forty-second session  
Vienna, 24 March-4 April 2003

## **Draft report of the Legal Subcommittee on the work of its forty-second session, held in Vienna from 24 March to 4 April 2003**

### **I. Introduction**

#### **A. Opening of the session**

1. The Legal Subcommittee held its forty-second session at the United Nations Office at Vienna from 24 March to 4 April 2003 under the chairmanship of Vladimír Kopal (Czech Republic).
2. At the opening (674th) meeting, on 24 March, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-second session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.674).

#### **B. Adoption of the agenda**

3. At its opening meeting, the Legal Subcommittee adopted the following agenda:
  1. Opening of the session and adoption of the agenda.
  2. Statement by the Chairman.
  3. General exchange of views.
  4. Status and application of the five United Nations treaties on outer space.
  5. Information on the activities of international organizations relating to space law.



6. Matters relating to:
  - (a) The definition and delimitation of outer space;
  - (b) 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.
7. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
8. Examination of the preliminary draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment (opened to signature in Cape Town on 16 November 2001):
  - (a) Considerations relating to the possibility of the United Nations serving as Supervisory Authority under the preliminary draft protocol;
  - (b) Considerations relating to the relationship between the terms of the preliminary draft protocol and the rights and obligations of States under the legal regime applicable to outer space.
9. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-third session.

### **C. Attendance**

4. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Lebanon, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Peru, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Slovakia, South Africa, Spain, Sudan, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Viet Nam.

5. At the 674th and 678th meetings, on 24 and 26 March, the Chairman informed the Subcommittee that requests had been received from the Permanent Representatives of Costa Rica, Finland and Israel to attend the session. The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, it could take no formal decision on the matter, but that the representatives of those States might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.

6. Representatives of the following entities of the United Nations system and other international organizations attended the session as observers: United Nations Educational, Scientific and Cultural Organization (UNESCO), International Civil Aviation Organization (ICAO), European Organization for the Exploitation of

Meteorological Satellites (EUMETSAT), European Space Agency (ESA), International Astronautical Federation (IAF), International Institute for the Unification of Private Law (Unidroit), International Mobile Satellite Organization (IMSO), International Organization of Space Communications (INTERSPUTNIK) and International Law Association (ILA).

7. A list of representatives of States members of the Subcommittee, States not members of the Subcommittee, specialized agencies of the United Nations system and other organizations attending the session and of staff members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.35.

#### **D. Organization of work**

8. In accordance with decisions taken at its opening meeting, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee re-established its Working Group on agenda item 4, "Status and application of the five United Nations treaties on outer space", open to all members of the Subcommittee, and agreed that Vassilios Cassapoglou (Greece) should serve as its Chairperson;

(b) The Subcommittee re-established its Working Group on agenda item 6 (a), open to all members of the Subcommittee, and elected Taous Feroukhi (Algeria) to serve as its Chairperson;

(c) The Subcommittee established a new Working Group on agenda item 8, open to all members of the Subcommittee, and elected Sergio Marchisio (Italy) to serve as its Chairperson;

(d) The Subcommittee began its work each day with a plenary meeting to hear delegations wishing to address it. It subsequently adjourned and, when appropriate, convened a working group;

(e) The Subcommittee agreed that, at the end of each meeting's consideration of an agenda item, delegations would have an opportunity to comment on the statements that had been made.

9. At the opening meeting, the Chairman made a statement concerning the utilization of conference services by the Subcommittee. He drew attention to the importance that the General Assembly and the Committee on Conferences attached to the effective utilization of conference services by all United Nations deliberative bodies. The Chairman also drew attention to the fact that the Legal Subcommittee had been able to achieve real and constant savings in that area, despite the current financial constraints faced by the United Nations. In view of that, the Chairman proposed and the Subcommittee agreed that a flexible organization of work should continue to serve as the basis for organizing the work of the Subcommittee, with a view to making fuller use of the conference services available.

10. The Subcommittee noted with satisfaction that a symposium entitled "Reinforcing the Registration Convention", sponsored by the International Institute of Space Law (IISL) of IAF in cooperation with the European Centre for Space Law (ECSL), had been held during the current session of the Legal Subcommittee, on 24 March 2003. The symposium was coordinated by Tanja Masson-Zwaan of IISL

and chaired by Peter Jankowitsch (Austria). Presentations were made by Frans von der Dunk on “Background and historical context”, Kay-Uwe Hörl on “Change of ownership, change of registry? Which objects to register, what data to be furnished, when, and until when?”, Sylvia Ospina on “Unidroit registration of security interests and the Registration Convention: compatible, complementary or contradictory?”, Joanne Gabrynowicz on “Practice of national States: the United States of America” and Gabriel Lafferranderie on “Practice of international organizations: the European Space Agency”. The Subcommittee agreed that IISL and ECSL should be invited to hold a further symposium on space law at its forty-third session.

11. The Legal Subcommittee recommended that its forty-third session be held from 29 March to 8 April 2004.

### **E. Adoption of the report of the Legal Subcommittee**

12. The Subcommittee held a total of [...] meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.674- [...]).

13. At its [...] meeting, on 4 April, the Subcommittee adopted the present report and concluded the work of its forty-second session.

## **II. General exchange of views**

14. Statements were made by representatives of the following member States during the general exchange of views: Argentina, Brazil, Chile, China, Colombia, Czech Republic, France, Greece, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Netherlands, Morocco, Peru, Republic of Korea, Russian Federation, Ukraine and United States. The representative of Cuba (on behalf of the Group of Latin American and Caribbean States) also made a statement. The observers for ESA and IAF also made statements. The views expressed by those representatives are contained in unedited verbatim transcripts (COPUOS/Legal/T.674- [...]).

15. At the 674th meeting, on 24 March, the Director of the Office for Outer Space Affairs of the Secretariat made a statement reviewing the role and work of the Office relating to space law. The Subcommittee noted with appreciation the information on the activities of the Office aimed at promoting the understanding, acceptance and implementation of international space law.

16. At the 686th meeting, on 1 April, the Executive Director of the United Nations Office on Drugs and Crime and Director-General of the United Nations Office at Vienna made a statement emphasizing the importance of the Legal Subcommittee’s work in the development of space law and the importance of space applications to the work of the United Nations.

17. The Subcommittee expressed its sympathy and solidarity with the families and friends of the international crew of the Space Shuttle Columbia, as well as with the international space community, for the recent tragic loss of Columbia and its crew during re-entry on 1 February 2003, which affected all humanity.

18. The Subcommittee welcomed Algeria as a new member of the Committee and its Subcommittees.
19. Some delegations expressed concern over the ongoing absenteeism among or lack of active participation on the part of some member States. Those delegations expressed the view that the Subcommittee should consider addressing that issue in future years.
20. Some delegations expressed the view that, while the benefits of space science and technology were well known, those benefits were still not reaching many people in developing countries. Those delegations held the view that efforts towards international, regional and subregional cooperation, in particular in relation to space law and education in space law, needed to be increased significantly in order to improve understanding of international space law.
21. The view was expressed that the Subcommittee should rationalize its resources and adapt its working methods in order to respond adequately to the challenges of the rapid development of space activities.
22. The view was expressed that the Legal Subcommittee and the Committee on the Peaceful Uses of Outer Space, as the United Nations bodies responsible for regulating space activities, should look for solutions to emerging legal issues, especially in view of the rapid commercialization of outer space.
23. The Subcommittee was provided with the following information on ongoing activities of NASA with respect to the legal implications of the Columbia tragedy: despite the fact that the accident had occurred over a populated area, damage to third parties appeared to have been extremely limited and, while debris from Columbia fell in Texas, Louisiana and other states, no individuals were hit by any of that debris: the claims reported to NASA had related mostly to property damage, including the death of farm animals, as well as loss of business. There had been no reports of serious injuries to persons and damage reports appeared to be contained within the borders of the United States; no damage from the Columbia tragedy had been reported by any other nations.
24. The Subcommittee was provided with information on the International Code of Conduct against Ballistic Missile Proliferation, which had been adopted at The Hague in November 2002.
25. Some delegations expressed the view that research being conducted in the development of space weapons could lead to the militarization of outer space and impact on international stability and security.
26. The view was expressed that, while space could be used for military purposes, space defence systems could only exist if used to preserve international security and to avoid military conflict. That delegation was of the view that an international agreement should be concluded on the non-use of weapons in outer space.
27. The view was expressed that the Legal Subcommittee should play a more active role in preventing the militarization of outer space, which might include establishment of a comprehensive and effective legal regime.
28. The view was expressed that it was important for the Committee and its Subcommittees to maintain their focus on the international issues that arose in the

context of the peaceful uses of outer space and should not be drawn into politicized discussions about issues that would be better addressed in other multilateral forums.

29. Some delegations expressed the view that the Subcommittee should have competence to consider certain political issues, since it would be inappropriate to separate the further development of international space law from politics, especially where other forums mandated to deal with such matters had failed to make progress.

30. The view was expressed that the principles contained in the key space law instruments had established a framework encouraging the exploration of outer space that benefited both space-faring and non-space-faring countries. That delegation was of the view that the Subcommittee should focus on identifying legal issues that arose in the context of civil and commercial space activities and address those through a consensus-based process.

### **III. Status and application of the five United Nations treaties on outer space**

31. The Legal Subcommittee recalled that the General Assembly, in its resolution 57/116 of 11 December 2002, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee consider this agenda item as a regular item and had agreed that the Subcommittee should reconvene its Working Group, which would meet for three years, from 2002 to 2004.

32. In accordance with the agreement reached by the Legal Subcommittee at its fortieth session, in 2001, the terms of reference of the Working Group included the status of the treaties, review of their implementation and obstacles to their universal acceptance, as well as promotion of space law, especially through the United Nations Programme on Space Applications (A/AC.105/763 and Corr.1, para. 118). In accordance with the agreement reached by the Legal Subcommittee at its forty-first session, in 2002, the Working Group would also review the application and implementation of the concept of the “launching State”, as reflected in the conclusions of the Subcommittee’s consideration of the three-year work plan on “Review of the concept of the ‘launching State’”, as well as any new, similar issues that might be raised in discussions in the Working Group, provided that those issues fell within the existing mandate of the Working Group (A/AC.105/787, paras. 138 and 140).

33. The Subcommittee had before it a booklet containing the text of the United Nations treaties and principles on outer space (ST/SPACE/11). The information, as at 1 January 2003, on States Parties and additional signatories to the United Nations treaties and other international agreements relating to outer space had been updated and distributed by the Secretariat (ST/SPACE/11/Add.1).

34. The Subcommittee noted that the current status of the five United Nations treaties on outer space was as follows:

(a) The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the “Outer Space Treaty”, General Assembly resolution 2222 (XXI), annex) had 98 States parties and had been signed by 27 additional States;

(b) The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the “Rescue Agreement”, Assembly resolution 2345 (XXII), annex) had 88 States parties and had been signed by 25 additional States;

(c) The Convention on International Liability for Damage Caused by Space Objects (the “Liability Convention”, Assembly resolution 2777 (XXVI), annex) had 82 States parties and had been signed by 25 additional States;

(d) The Convention on Registration of Objects Launched into Outer Space (the “Registration Convention”, Assembly resolution 3235 (XXIX), annex) had 44 States parties and had been signed by 4 additional States;

(e) The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the “Moon Agreement”, Assembly resolution 34/68, annex) had 10 States parties and had been signed by 5 additional States.

In addition, one international intergovernmental organization had declared its acceptance of the rights and obligations under the Rescue Agreement; two international intergovernmental organizations had declared their acceptance of the rights and obligations under the Liability Convention; and two international intergovernmental organizations had declared their acceptance of the rights and obligations under the Registration Convention.

35. The Legal Subcommittee welcomed the reports concerning recent accessions to or ratifications of the five United Nations treaties on outer space or the progress made towards such accession or ratification by several member States, including Brazil, Greece, Indonesia, Italy, Morocco and Peru. The Subcommittee also welcomed the reports from member States indicating their progress in developing national space laws.

36. The Legal Subcommittee agreed that the merits and substance of the proposed separate General Assembly resolution on the application of the legal concept of the “launching State” (A/AC.105/C.2/L.242) should be further considered by the Committee on the Peaceful Uses of Outer Space at its forty-sixth session (11-20 June 2003).

37. The Subcommittee urged those delegations having comments on the proposed resolution to consider communicating those comments in writing to the Secretariat prior to the forty-sixth session of the Committee.

38. The view was expressed that, in the event that the General Assembly took action on the proposed resolution, that that delegation would declare that the spirit and the letter of the Outer Space Treaty, the Liability Convention and the Registration Convention would guide its activities in outer space.

39. Some delegations expressed the view that there was an increasing need for technical assistance for States interested in developing national space legislation, in particular legislation implementing provisions in the United Nations treaties on outer space, and that the Subcommittee should give greater attention to that issue.

40. The view was expressed that, despite the fact that the provisions of the United Nations treaties on outer space were flexible and well conceived, they did not always keep pace with the development of space technologies and changes in the character of space activities. That delegation expressed the view that the

Subcommittee should identify norms of international law that required immediate development to keep pace with those changes and should promote exchange of information on national space laws and application of laws during international and national space projects. That delegation believed that the Subcommittee, as well as intergovernmental and non-governmental organizations, could study various definitions in the United Nations treaties that lacked clarity, as well as discrepancies between provisions of international space law and some national legislation.

41. Some delegations expressed the view that issues arising from developments in space activities could be addressed by the preparation of a universal, comprehensive convention on space law, which would give increased legal significance to the agenda item on “Status and application of the five United Nations treaties on outer space”. Such a universal comprehensive convention might, among other things, transform certain United Nations legal principles on outer space into binding obligations and could further develop the principles contained in the five United Nations treaties on outer space, without reopening discussion on any of the existing principles in those treaties.

42. Other delegations expressed the view that the United Nations treaties had proved over the years to be an effective framework for facilitating increasingly complex activities in outer space. Those delegations expressed the view that emphasis should be placed on encouraging States to give serious consideration to becoming party to those treaties in the coming years.

43. The view was expressed that to entertain the possibility of the negotiation of a new, comprehensive space law convention could only serve to undermine the existing space law regime.

44. However, the view was also expressed that the development of such a universal, comprehensive convention would instead serve to reaffirm those principles.

45. The view was expressed that recent measures taken by the United States to clarify the criteria for the inclusion of space objects on that country’s national registry were welcome and could form an important precedent for similar initiatives in other countries.

46. The view was expressed that cases were becoming more common of satellites being launched and subsequently abandoned in orbit because of a lack of commercial success. That delegation expressed the view that it was necessary to develop legal measures to address that problem.

47. As mentioned in paragraph [...] above, at its 674th meeting, on 24 March, the Legal Subcommittee established a Working Group on agenda item 4 under the chairmanship of Vassilios Cassapoglou (Greece). The Working Group held [...] meetings. At its [...] meeting, on [...] April, the Subcommittee endorsed the report of the Working Group, which is contained in annex [...] to the present report.

48. The full text of the statements made by delegations during the discussion on agenda item 4 is contained in unedited verbatim transcripts (COPUOS/Legal/T.675-679 and [...]).