



# General Assembly

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**Committee on the Peaceful  
Uses of Outer Space**  
Legal Subcommittee  
Forty-third session  
Vienna, 29 March-8 April 2004

## **Draft report of the Legal Subcommittee on the work of its forty-third session, held in Vienna from 29 March to 8 April 2004**

### **I. Introduction**

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

1. The Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space held its forty-third session at the United Nations Office at Vienna from 29 March to 8 April 2004 under the chairmanship of Sergio Marchisio (Italy).
2. At the opening (693rd) meeting, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its forty-third session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.693).

#### **B. Election of the Chairman**

3. At the 693rd meeting, on 29 March 2004, Sergio Marchisio (Italy) was elected Chairman of the Subcommittee for a two-year term of office.

#### **C. Adoption of the agenda**

4. At its opening meeting, the Legal Subcommittee adopted the following agenda:
  1. Opening of the session.
  2. Election of the Chairman.



3. Adoption of the agenda.
4. Statement by the Chairman.
5. General exchange of views.
6. Status and application of the five United Nations treaties on outer space.
7. Information on the activities of international organizations relating to space law.
8. 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.
9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
10. Examination of the preliminary draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment, opened for signature at Cape Town, South Africa, 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.
11. Contributions by the Legal Subcommittee to the Committee on the Peaceful Uses of Outer Space for the preparation of its report to the General Assembly for its review of the progress made in the implementation of the recommendations of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III).
12. Practice of States and international organizations in registering space objects.
13. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-fourth session.

#### **D. Attendance**

5. Representatives of the following States members of the Legal Subcommittee attended the session: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia,

Iraq, Italy, Japan, Kazakhstan, Kenya, Malaysia, Mexico, Morocco, Netherlands, Nigeria, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam and [...].

6. At the 693rd and 696th meetings, on 29 and 30 March, the Chairman informed the Subcommittee that requests had been received from the permanent representative of the Libyan Arab Jamahiriya, Thailand and Yemen to attend the session as observers. 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.

7. Representatives of the following organization of the United Nations system, intergovernmental organizations and other entities attended the session as observers: United Nations Educational, Scientific and Cultural Organization (UNESCO), European Space Agency (ESA), International Astronautical Federation (IAF), International Institute for the Unification of Private Law (Unidroit), International Law Association (ILA), International Mobile Satellite Organization (IMSO), International Space University (ISU) and Space Generation Advisory Council (SGAC).

8. A list of the representatives of States members of the Subcommittee, States not members of the Subcommittee, specialized agencies of the United Nations system, intergovernmental organizations and other entities attending the session and of members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.36.

## **E. Organization of work**

9. 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 6, "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 8 (a), "The definition and delimitation of outer space", open to all members of the Subcommittee, and agreed that Déborah Salgado Campaña (Ecuador) should serve as its Chairperson;

(c) The Subcommittee re-established its Working Group on agenda item 10, "Examination of the preliminary draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment, opened for signature at Cape Town, South Africa, on 16 November 2001", open to all members of the Subcommittee, and agreed that Vladimír Kopal (Czech Republic) should 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.

10. 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.

11. The Subcommittee noted with satisfaction that a symposium entitled “New developments and the legal framework covering the exploitation of the resources of the Moon”, 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 Subcommittee, on 29 March 2004. The symposium was coordinated by Tanja Masson-Zwaan of IISL and chaired by Peter Jankowitsch (Austria). Presentations were made by Leslie Tennen on “Article II of the Outer Space Treaty, the status of the Moon and resulting issues”, Armel Kerrest de Rozavel on “Exploitation of the resources of the high sea and Antarctica: lessons for the Moon?”, Stephan Hobe on “ILA resolution 1/2002 with regard to the CHM principle in the Moon Agreement” and Rajeev Lochan on “The Moon treaty: the road ahead”. The Subcommittee agreed that IISL and ECSL should be invited to hold a further symposium on space law at its forty-fourth session.

12. The Subcommittee noted that the Secretariat had scheduled the forty-fourth session of the Subcommittee to be held from 4 to 15 April 2005.

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

13. The Subcommittee held a total of [...] meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.693- [...]).

14. At its [...] meeting, on [...] April 2004, the Subcommittee adopted the present report and concluded the work of its forty-third session.

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

15. The Subcommittee welcomed the election of Sergio Marchisio (Italy) as its new Chairman and expressed its gratitude to Vladimír Kopal (Czech Republic), its former Chairman, for his outstanding achievements during his tenure.

16. Statements were made by representatives of the following member States during the general exchange of views: Brazil, Canada, China, France, Germany, Hungary, India, Indonesia, Italy, Japan, Morocco, Nigeria, Republic of Korea, Romania, Russian Federation, Ukraine and United States. The representative of

Colombia made a statement on behalf of States Members of the United Nations that are members of the Group of Latin American and Caribbean States. The observers for IAF and IISL also made statements. The views expressed by those speakers are contained in unedited verbatim transcripts (COPUOS/Legal/T.693-696).

17. At the 693rd meeting, on 29 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.

18. At the 694th meeting, on 29 March, 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 in the global development agenda of the United Nations.

19. The Subcommittee offered its congratulations to China on the success of its first manned space mission. It was noted that China was the third country, and the first developing country, to achieve such a capability.

20. The Subcommittee also congratulated the United States and ESA on the recent success of their missions to Mars.

21. The Subcommittee expressed its solidarity with Brazil and sympathy for the accident that occurred prior to the launching of the VLS-1 satellite launch vehicle in Alcântara, Brazil.

22. Some delegations expressed the view that the militarization of outer space risked undermining strategic stability and international security and could lead to an arms race.

23. The view was expressed that, while outer space could be used for defensive purposes, such defence systems should only exist if used to support strategic stability and to help in arms reduction. That delegation was of the view that an international agreement should be concluded on the non-stationing of weapons in outer space.

24. The view was expressed that the success of the Subcommittee in its work could be attributed to its avoidance of debating extraneous political issues.

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

25. The Legal Subcommittee recalled that the General Assembly, in its resolution 58/89 of 9 December 2003, 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 noted that the Subcommittee would reconvene its Working Group with the terms of reference agreed upon by the Subcommittee, to meet for three years, from 2002 to 2004.

26. In accordance with the agreement reached by the Subcommittee at its fortieth session, in 2001, the terms of reference of the Working Group included the status of

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).

27. The Subcommittee noted with satisfaction that the Secretariat had updated and distributed a document containing information, as at 1 January 2004, on States parties and additional signatories to the United Nations treaties and other international agreements relating to activities in outer space (ST/SPACE/11/Add.1/Rev.1).

28. The Subcommittee noted that the status of the five United Nations treaties on outer space, as at 1 January 2004, 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 45 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;

(f) 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.

29. The Subcommittee welcomed ratification by Greece of the Registration Convention in 2003. The Subcommittee also welcomed the reports from member States indicating their progress in developing national space laws.

30. The view was expressed that the United Nations treaties on outer space established a coherent and useful framework for increasingly widespread and complex activities in outer space carried out by both governmental and private entities. That delegation welcomed further adherence to the treaties and hoped that States that had not yet accepted those treaties would consider becoming parties in 2004.

31. Some delegations expressed the view that, although the provisions and principles of the United Nations treaties on outer space constituted the regime to be observed by States and more States should be encouraged to adhere to them, the current legal framework for outer space activities required modification and further development to keep pace with advances in space technology and changes in the nature of space activities. Those delegations expressed the view that the lacunae resulting from the current legal framework not keeping pace with developments in space activities could be addressed by the development of a universal, comprehensive convention on space law without disrupting the fundamental principles contained in the treaties currently in force.

32. The view was expressed that a questionnaire should be devised to gather opinions on the process by which international space law should be developed.

33. At its 693rd meeting, on 29 March, the Legal Subcommittee re-established its Working Group on agenda item 6 under the chairmanship of Vassilios Cassapoglou (Greece). The Working Group held [...] meetings. At its [...] meeting, on [...], the Subcommittee endorsed the report of the Working Group, which is contained in annex [...] to the present report. At the 703rd meeting of the Subcommittee, on 5 April, the Chairman of the Working Group reported to the Subcommittee that agreement had been reached on a draft resolution on the application of the concept of the “launching State”, for consideration by the General Assembly. The Subcommittee noted with great appreciation the agreement reached on the draft resolution, as set out in appendix II to the report of the Working Group (see annex [...] to the present report).

34. The Legal Subcommittee endorsed the recommendation that the mandate of the Working Group be extended for one additional year. It was agreed that the Subcommittee, at its forty-fourth session, in 2005, would review the need to extend the mandate of the Working Group beyond that period.

35. The full text of the statements made by delegations during the discussion on agenda item 6 is contained in unedited verbatim transcripts (COPUOS/Legal/T.[...]).

#### **IV. Information on the activities of international organizations relating to space law**

36. At the 695th meeting, on 30 March, the Chairman made an introductory statement on agenda item 7 and drew the attention of the Subcommittee to the fact that it was a regular agenda item agreed upon by the Subcommittee at its forty-first session and endorsed by the Committee on the Peaceful Uses of Outer Space at its forty-fifth session.

37. The Legal Subcommittee noted with satisfaction that various international organizations had been invited by the Secretariat to report to the Subcommittee on their activities relating to space law and agreed that a similar invitation should be extended by the Secretariat for the forty-fourth session of the Subcommittee, in 2005.

38. The Subcommittee had before it a document (A/AC.105/C.2/L.248) and a conference room paper (AC.105/C.2/2004/CRP.15) containing reports from the following international organizations on their activities relating to space law: the European Centre for Space Law (ECSL), the European Space Agency (ESA), the International Institute of Space Law (IISL) and the International Law Association (ILA).

39. In the course of the debate, observers for the following international organizations reported to the Subcommittee on their activities relating to space law: the United Nations Educational, Scientific and Cultural Organization (UNESCO), ESA and ILA.

40. The Subcommittee agreed that the specialized agencies of the United Nations system and other international organizations with permanent observer status with the Committee on the Peaceful Uses of Outer Space had an important role to play in strengthening the work of the Subcommittee and should be encouraged to participate actively in that work.

41. The Subcommittee agreed that international intergovernmental organizations conducting space activities could enhance the legal framework applicable to space activities by encouraging their member States, if they had not yet become parties to the international treaties governing outer space, to give consideration to ratifying or acceding to the treaties in order to enable those international organizations to declare their acceptance of the rights and obligations under those treaties.

42. The Subcommittee was informed that the recommendations of the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) of UNESCO on the ethics of outer space would be revised in order to elaborate more specific and concrete proposals. To that end, a working group had been established at UNESCO to consider the feasibility of implementing those recommendations and exploring the potential for international action in the area of space ethics.

43. The Subcommittee noted with appreciation that the Secretariat had made available, in document A/AC.105/C.2/2004/CRP.4, a directory of institutions teaching space law, containing information on courses and educational opportunities in space law offered worldwide.

44. The Subcommittee expressed its appreciation to the Government of the Republic of Korea and the Korean Aerospace Research Institute for co-sponsoring the second United Nations/Republic of Korea Workshop on Space Law entitled "United Nations treaties on outer space: actions at the national level", held from 3 to 6 November 2003 in Daejeon, Republic of Korea. The Subcommittee agreed that the Workshop had contributed to clarifying important issues regarding the outer space treaties and had increased awareness among government and public officials, especially those from countries in Asia and the Pacific, of the importance of adherence to and implementation of those treaties, as well as of incorporating them in their national legislation.



45. The Subcommittee noted with appreciation that the next United Nations Workshop on Space Law would be hosted by Brazil in November 2004.
  46. The full text of the statements made by delegations during the discussion on agenda item 7 is contained in unedited verbatim transcripts (COPUOS/Legal/T.695-698 and 700).
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