

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Unedited transcript

623rd Meeting

Monday, 27 March 2000, 3 p.m.

Vienna

Chairman: Mr. KOPAL (Czech Republic)

The meeting was called to order at 3.15 p.m.

The CHAIRMAN: I now call to order the 623rd meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

Participation of non-Members in the session

Before we continue with the "General exchange of views" this afternoon, I would like to inform the Subcommittee that earlier this morning (but unfortunately not early enough for me to mention it in my opening statement), I received a communication from Guatemala requesting participation in our meeting. On the basis of that communication, the distinguished representative of Guatemala was given the floor to deliver a statement on behalf of the Group of Latin America and Caribbean Countries (GRULAC) this morning.

I would now kindly request the Subcommittee's indulgence in allowing me to deal formally with this issue. Inasmuch as the granting of observer status is a prerogative of our parent Committee, I feel that we should not take any formal decision on the matter, as I stated this morning in connection with other delegations requesting participation. However, if there is no objection, I would suggest that the representatives of Guatemala might continue to attend the formal meetings of the Subcommittee, and might direct to

the Chair a request for the floor if they wish to make a statement.

This is the practice we have observed in past years when States which are not Members of the Subcommittee have communicated with the Subcommittee requesting participation in its meetings.

If I hear no objections, *it is so decided.*

We will now continue our consideration of agenda item 3.

General exchange of views (cont.) (agenda item 3)

The CHAIRMAN: We have two speakers on the list for this afternoon. Before giving the floor to the first of them, I would like to encourage other delegations to add their names to the list of speakers under this item as soon as possible, if they wish to do so, so we have a better idea of how many delegations wish to speak under this item.

I now give the floor to the distinguished representative of the United States.

Mr. J. CROOK (United States of America): My delegation joins in congratulating you on your position, and on your thoughtful and informative introductory statement. I and some of the members

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Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, within one week of the date of publication, to the Chief, Translation and Editorial Service, room D0708, United Nations Office at Vienna, P.O. Box 500, A-1400, Vienna, Austria. Corrections will be issued in a consolidated corrigendum.

of my delegation have not yet had the pleasure of meeting Ms. Mazlan Othman, the Director of the Office for Outer Space Affairs. We look forward to working with her and her associates in the Secretariat.

I have just a few points to raise as we begin this meeting.

I will begin with a few words about the position of the current outer space legal regime. As we were preparing for this meeting, we were struck by the increasing pace and frequency with which the principles of the outer space treaties are being tested in practice. We are pleased to say that, overall, the treaties appear to be doing their job. Let me mention just one example.

In the last few months my Government has been involved in two situations involving application of the 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. One case involved a space object of United States origin that washed up on the beach in Japan. The second involved an object of apparent French origin that washed up on the beach near Corpus Christi, Texas. In both cases, the 1968 Agreement appears to be providing a workable framework for addressing the situation.

I think this illustrates a broader truth. The system of treaties and agreements that our predecessors created is standing up rather well. It provides a framework of predictability and protection that facilitates types and levels of space activities that would have amazed the members of this Committee three decades ago, including a rapidly expanding volume of private commercial activity.

Given this, I would like to say a few words about the role of the Legal Subcommittee. Both in COPUOS and in this body, delegations have made substantial efforts to improve our agenda and methods of work. Accordingly, we look forward to the work that should be accomplished during this meeting under the new agenda item regarding the concept of the launching State. This new agenda item illustrates the kind of work that we should be pursuing. The mandate for the item has been clearly established by COPUOS, the workplan and timing are clear, and the end objective is well in view.

We hope to make an active contribution to the work under this item, both to acquaint members with the activities being undertaken in the United States that are relevant to it, and to learn from what others are doing. Through such activities, we have

the opportunity to produce work that is of value for our governments. At the same time, we can test and validate the Legal Subcommittee's new agenda and methods of work.

In the same vein, we look forward to the completion this year of the Legal Subcommittee's work under agenda item 8, "Review of the status of the five treaties governing outer space". This item again shows how the Legal Subcommittee should operate. When it was adopted, governments specified a clear schedule and programme of work. This is the last year of that schedule. By the end of our meeting, the Legal Subcommittee will have accomplished the work that COPUOS asked for. This agenda item will come to an end; and that is how it should be.

I must raise one group of concerns with you and the members of the Legal Subcommittee. Among those dealing with issues of space policy in my country, there is a certain scepticism regarding the role of lawyers and bodies composed of lawyers. There is a feeling that lawyers are too prone to seeking solutions without understanding the problems. Our parent body, COPUOS, has created one small mechanism that may be used to address this particular concern in appropriate cases. Where it sees a need to do so, COPUOS can now authorize this body to hold one-year discussions of defined legal topics without any preconception or commitment that such discussions will lead to further work.

But there is another more important concern. This involves something to which all of us who are lawyers must be sensitive. Especially in areas where technology and the forms and focus of commercial activity are evolving rapidly, it is widely – and I think often correctly – felt that the lawyers' solutions may tend to make things worse, not better. Much painful experience has shown that lawyers' answers *a priori* to perceived problems can too often stifle change or force it into unproductive channels.

Considerable scepticism along these lines has been voiced in my capital in response to various proposals that have been put forward to amend or reform the legal framework created by the space treaties. There is a widespread and deeply held feeling among the operators I have spoken to that the existing legal regime has not been broken, and that there is no demonstrated case for repairs.

I hope that through useful and professional work on matters such as our work on the concept of the launching State over the next two weeks that we can show that lawyers do have a contribution to

make in today's circumstances. I hope that we can show our political masters in COPUOS – as well as those at home involved in space, both governments and the private sector – that this Subcommittee can respond in useful ways to the tasks it is given and can make a useful contribution to increased, mutually beneficial peaceful use of outer space.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Chair and to the Director of the office for Outer Space Affairs. I now give the floor to the distinguished representative of Egypt.

Mr. E. ZNATY (Egypt) (*interpretation from Arabic*): Mr. Chairman, distinguished delegates, representatives of Member States, representatives of specialized and international bodies, and observers, first of all I would like to convey my delegation's best wishes to the Chairman of the Legal Subcommittee, and also to welcome Ms. Othman to her new role.

At this meeting as well as at UNISPACE III, we must draw our inspiration from these conferences as far as the activity of mankind is concerned in the peaceful uses of outer space. We wish to point out that the development of an integrated legal framework for activities in outer space through the Legal Subcommittee should meet the necessary requirements to continue outer space activities, and to grant all States free access to outer space.

The instruments that have been developed by the United Nations, including the 1967 Outer Space Treaty, the Registration Convention, and all other treaties, as well as agreements on principles on satellite transmissions, the declaration of principle on the use of nuclear energy sources in space: all these agreements should be used to reaffirm that we must consider some of the principles set out in these agreements.

Outer space should be used for the benefit and in the interests of all mankind, and to improve our scientific and technical knowledge. The Moon and other celestial bodies are the inheritance of all mankind and we must ensure that the uses are purely peaceful and that no military use is made of outer space. Free access to outer space, as stipulated in the 1967 Outer Space Treaty and the Moon Agreement, should be granted with no priority given to any particular States, while respecting the requirements of the non-space States as well as the developing countries.

I would like to make a few general comments on the agenda, as follows. As far as the

issue of the launching State is concerned, this agenda item is a very important one. We must develop control measures on the basis of this item, as well as provisions for the Liability Convention, as well as some of the provisions on the registration of objects launched into outer space, and this should be carried out in a more equitable and clear manner.

Outer space activities often are not based in only one State; several efforts should be made at the international level, as in the case of launching objects and the follow-up and ownership of these bodies. This item has been included on the agenda with a view to it leading to a re-examination of the definition of the launching State, as referred to in the Liability Convention. We must look for a mechanism which will make it possible to settle any possible conflicts in the case of damage being inflicted, and to integrate this in the Liability Convention, rather than to have optional clauses in the compensations agreement.

Outer space activities could lead to pollution of the environment; it could also lead to increased risk not only for astronauts but could even affect the environment of mankind as a whole. Therefore in examining the principles in such peaceful activities, all this is very important and must be translated into proper provisions in a text which could be the object of a future international convention.

There are some technical difficulties concerning the development of a definition of outer space itself, and in taking a decision on airspace and outer space. This may lead us to come up with a provisional definition, given the latest scientific developments, in order to keep free access to outer space and to limit any possibility of ownership of outer space sectors.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Chair and to the Director of the Office for Outer Space Affairs.

The next speaker on my list is the distinguished representative of Cuba.

Ms. A. LOPEZ (Cuba) (*interpretation from Spanish*): The Cuban delegation is very happy to see you chairing our work, as has already been stated by the ambassador of Guatemala on behalf of GRULAC.

My delegation attaches great importance to the work of this Subcommittee, which has before it some important challenges: strengthening legal

principles that are already in existence and contributing to the development of new ones on international cooperation aimed at guaranteeing the access of developing countries to the benefits of such cooperation. We therefore believe it is necessary to establish a legal regime which would define those conditions under which countries which possess space technology would have to transfer that technology and the resources associated with it.

However, the main challenge we face at this point is to prevent space technology from being used for non-peaceful purposes, to hold up the arms race in outer space and to promote strict respect for the existing bilateral agreements in this whole sphere. We consider it is necessary to reaffirm the principle of the exploration the use of outer space for the benefit of all States, and bearing in mind in particular the needs of the developing countries.

The CHAIRMAN: Thank you for your statement. The list of speakers on this item has been exhausted; are there any other speakers wishing to take the floor at this time under this agenda item? I see none. We will continue our discussion under this agenda item tomorrow morning.

We still have some time remaining this afternoon, and I would therefore suggest that we might continue our consideration of agenda item 4, "Status of the international treaties governing the uses of outer space". Do we have any speakers under this item at this time? I see none. We will therefore continue our consideration of this item tomorrow morning.

I intend to adjourn this meeting of the Subcommittee to allow for the beginning of the IISL/ECSL symposium, as I announced this morning – a symposium on the legal aspects of the commercialization of space activities, schedule to begin in this conference room at 4 p.m. However, as we will be adjourning a little earlier than originally planned, I would propose that we could begin in approximately 15 minutes' time (at 3.50 p.m.). I hope that the chairman of this particular session, Dr. Fasan of Austria, is here. I also recognize at least some of the speakers: Dr. Doyle, Dr. van Fenema, Dr. Ram Jakhu, and the fourth speaker should be Professor Grosso of Italy, who will probably arrive at 4 p.m. as previously advised, and who will present her own report.

Before adjourning the session, I would like to inform delegates of our schedule of work tomorrow morning. We will resume our discussion of agenda item 3, "General exchange of views". I have already urged delegates to inscribe their names on the list for that item. We will then continue with agenda item 4, "Status of the international treaties governing the uses of outer space". Time permitting, we may also begin our consideration of agenda item 5, "Information on the activities of international organizations relating to space law".

Are there any questions or comments on this proposed schedule? I see none. This meeting is therefore adjourned and we will resume in 15 minutes' time for the symposium.

The sitting adjourned at 3.35 p.m.