

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

*Unedited transcript***624th** Meeting

Tuesday, 28 March 2000, 10 a.m.

Vienna

Chairman: Mr. KOPAL (Czech Republic)

The meeting was called to order at 10.20 a.m.

The CHAIRMAN: I declare open the 624th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

Participation of non-Members in the session

The CHAIRMAN: Before we continue with our consideration of agenda item 3, "General exchange of views", I should like to inform the Subcommittee that I have received a communication from Peru requesting participation in our meetings.

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. However, if there is no objection, I would suggest that the representatives of Peru might 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.*

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

The CHAIRMAN: Before giving the floor to the first speaker on my list – and there are a number of speakers under this particular item – I would like to inform delegates that it is my intention to close discussion under this item at this afternoon's meeting. I would therefore urge those delegations still wishing to make a statement to inscribe their names on the list of speakers with the Secretariat as soon as possible.

The first speaker on my list is the distinguished representative of France, to whom I give the floor.

Ms. B. QUINCY (France) (*interpretation from French*): First, I would like to express my delegation's satisfaction at seeing you chair this session. Your experience and authority constitute a valuable asset to help advance the work of the Subcommittee. I would also like to congratulate Ms. Othman on her appointment and to wish her every success in her work.

At this first session of the Legal Subcommittee following UNISPACE III, it seems to us to be useful for us to look at the role of this Subcommittee. We have already had an opportunity to mention, in particular during the UNISPACE III Conference, the exceptional work that has been carried out by the

In its resolution 50/27 of 16 February 1996, the General Assembly endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that, beginning with its thirty-ninth session, the Committee would be provided with unedited transcripts in lieu of verbatim records. This record contains the texts of speeches delivered in English and interpretations of speeches delivered in the other languages as transcribed from taped recordings. The transcripts have not been edited or revised.

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Legal Subcommittee since it was first set up. It is thanks to the quality of this work that we have these universal instruments which constitute the legal framework of outer space activities.

The rapid technological developments that have taken place and the ever-increasing role played by private industry in space activities leads us to look at the possibility of the nature and diversity of space activities, and how these can be developed. Some thought has been given to this, but rather tentatively. Through the Legal Subcommittee, which has the necessary authority and solid base to do this, we need to follow up this activity.

My delegation believes that this is the forum where we must develop the necessary rules and regulations governing space activities in respect of the space environment, the safety of people and goods, and in a framework which promotes fair competition between the main actors, in particular the industries involved.

On this subject, a number of topics were identified for further development during UNISPACE III, in particular within the framework of its technical forum. We are dealing with the protection of intellectual property rights in space, space debris, the regulation and settlement of possible disputes that may arise as a result of the commercialization of space activities and the principles governing remote sensing, the registering of space objects or new launching systems.

As can be seen from the list I have just read out, which is far from exhaustive, the subjects that primarily fall to the Legal Subcommittee and the ones it is especially qualified to deal with are fairly numerous. It is up to us to ensure that the Subcommittee examines these matters and gives them due thought.

In order to achieve this, it is vital to make the best possible use of available resources for carrying out our work, and in particular to try and push forward and complete, at least on a provisional basis, the examination of some items of the agenda on which some very lengthy discussions have taken place, often very rich in substance. In this spirit, my delegation would suggest that under the agenda item relating to the geostationary orbit, we should have a revised version of the reference document presented by Colombia in 1996, in order to finally achieve a consensus this year.

We hope that this proposal, which represents a genuine consolidation effort by the countries concerned and the ITU, meets with broad support.

My delegation is prepared to discuss the major areas of this proposal with each of the delegations concerned. In order to make the best possible use of the resources available to it, the Subcommittee should have a number of days at its disposal in order to deal with the very lengthy agenda before it.

My delegation considers that the matter of the legal framework for intellectual property in space activities is of particular interest. We will, along with any other interested delegations, and in accordance with the recommendations contained in the report of UNISPACE III and the Vienna Declaration, consider the possibility of inviting our Subcommittee to deal further with this matter.

Two years ago, my delegation supported the inclusion of a new item on the concept of the launching State. We are happy to see that this item is now included on the Subcommittee's agenda, within the framework of a three-year plan. An expert in our delegation who is a professor from the law faculty, will make a statement on this important subject, taking into account recent developments in space activities.

My delegation is prepared to work constructively at the present session in order to contribute to the progress of the Subcommittee's work on the items before it.

The CHAIRMAN (*interpretation from French*): Thank you for your statement and for your kind words addressed to the Chair and to the Director of the Office.

(*continues in English*) The next speaker on my list is the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): My delegation is sure that under your guidance this session of the Legal Subcommittee will conclude its work very successfully.

My delegation wishes to associate itself with the congratulations addressed to Ms. Othman on her appointment to the very important post of Director of the Office for Outer Space Affairs. We are convinced that under her leadership that Office and its work will remain the province of all mankind, as stipulated in Article 1 of the 1967 Outer Space Treaty.

In practical terms, the work of the Office is already being carried out very successfully. In particular, a fruitful idea for creating a database has already been implemented, i.e. a database covering

national legislation on space. We have already received a list of those document and now we must put them all together in a single database.

My delegation would like to state once again that we are not only in favour of continuing multilateral cooperation in regulating the peaceful uses of space, but would also like to make this cooperation more active. We welcome the information given on the accession of a number of new States to the basic space treaties, including the statement made by the delegation of Spain, outlining the process under way for Spain's accession to the Rescue Agreement.

We believe that the Legal Subcommittee has far from exhausted its potential in the progressive development of international space law. We have much work ahead of us, and my delegation is thus in favour of enhancing the role of the Legal Subcommittee.

I would like to say a few words on item 4 of our agenda, upon which discussion was opened yesterday. The Members of the Subcommittee are aware of my delegation's position concerning the review of the status of the five basic space treaties. We are convinced, as before, that the introduction of any changes in one or two of these agreements will inevitably have implications for the other of the five agreements.

Today, we believe the time has come to discuss the possibility and appropriateness of developing a single, comprehensive convention on space law, on the analogy of the United Nations Convention on the Law of the Sea. We will take this matter up again under the appropriate agenda item, but would like to point out at this time that only 14 years elapsed from the time of adoption of the Geneva Convention on the Law of the Sea (in 1958) until the development of the comprehensive Convention on the Law of the Sea.

From the moment that the Outer Space Treaty was adopted in 1967, the first treaty of our five major instruments – 33 years have already elapsed. If we look at the date when we adopted the last of the five treaties, i.e. the Moon Agreement, even there more than 20 years have elapsed. It seems that the present situation of space law and the package of new problems requiring resolution require a comprehensive space convention. For a number of reasons, unlike the Convention on the Law of the Sea, we cannot allow ourselves the luxury of awaiting the formation of the conventional norms of space law.

My delegation would like to mention two final points. First, in the year 2001 we will celebrate two jubilees, both of which are connected with the figure 40. It will be the year when we hold the fortieth session of the Legal Subcommittee, which is a good reason to look back and also to look forward to the future. It will also be the fortieth anniversary from the day of the first flight of man into space. Perhaps we could all think together of how we can, in both a solemn and businesslike manner, commemorate those two jubilees.

Secondly, this Subcommittee cannot stand to one side of the implementation of point 7 of General Assembly resolution 54/68 of 6 December 1999. The first world space week will be held during the last year of the outgoing century. The General Assembly will hold a session in the form of a global summit, and my delegation would like to raise the following point. Should we not be thinking of holding in New York, during world space week, a brief special session of the Legal Subcommittee, or even of COPUOS itself?

The CHAIRMAN (*interpretation from Russian*): Thank you for your statement and for your kind words addressed to both the Chair and to the Director of the Office for Outer Space Affairs.

(*continues in English*) I now give the floor to the distinguished representative of the Republic of Korea.

Mr. CHUNG Hae-Moon (Republic of Korea): On behalf of my delegation, I would like to extend to you my warm congratulations on your assumption of the chairmanship of this important Subcommittee. We are confident that under your able guidance the current session of the Legal Subcommittee will produce another successful and fruitful conclusion in tackling the difficult and complicated issues tabled before us. We assure you of our full support and cooperation during your tenure of office.

We welcome the new Director of the Office for Outer Space Affairs and at the same time wish to express my deep appreciation to Ms. Othman and her associates for the thorough preparations for this session of the Sub Committee.

My delegation wishes to recall the historic UNISPACE III Conference, which was held in Vienna in July 1999 with great success. We believe that UNISPACE III has provided us with an opportunity to review the past achievements in space

science and technology, and to draw a roadmap for future cooperation in space-related activities in the new millennium. My delegation is sure that the Vienna Declaration of UNISPACE III will serve as guidance for a concrete framework for future cooperation in developing and utilizing space technology for peaceful purposes. The Government of Korea is fully committed to implementing the recommendations embodied in the Vienna Declaration.

Since its establishment in 1962, the Legal Subcommittee has been playing an essential role in creating and maintaining the current legal regime for activities in outer space. The active discussions in this Subcommittee have made a significant contribution to laying the foundations of space law and have subsequently resulted in the adoption of five international treaties.

In this regard, my delegation welcomes the newly revised agenda structure for the Subcommittee starting from this year. The streamlined reorganization of the agenda items will contribute to systematizing our deliberations, thereby allowing greater opportunity for substantive discussions to take place.

The exploration and use of outer space is the province of all mankind. For the benefit of the present and future generations, reasonable ways and means should be found. My delegation appreciates the initiatives taken by the Colombian and Czech delegations with regard to the geostationary orbit. These initiatives are designed to uphold the principle of equitable access to the GSO. We recognize that the GSO, which is a limited natural resource, creates a need for special consideration for those countries who are yet to be equipped to launch or operate space objects. However, we would like to point out that the practice of designating certain points of the GSO without actually operating satellites is undesirable, as it could hinder the efficient use of the GSO.

As concerns the use of nuclear power sources (NPS) to fuel space objects, we note the possible risks posed by NPS. Accordingly, their use in deep space missions should be accompanied by the necessary safety measures. We believe that the Scientific and Technical Subcommittee has a certain role to play in this regard.

This is the third and final year of our deliberations under the item on the review of the status of the five international legal instruments governing outer space. As the existing five treaties constitute the backbone of outer space law, we feel

that more political will on the part of parties to the treaties is needed to ensure the universal acceptance of and full compliance with these treaties.

With regard to the agenda item "Review of the concept of the 'launching State'", proposed by the German delegation, my delegation hopes that our deliberations under this new agenda item will lead to a unified definition of the notion.

In closing, my delegation would like to remind the Subcommittee that the United Nations General Assembly, in its resolution 54/67 of 1999, took note of the interests of some countries to become Members of COPUOS and requested the continued examination of expanding the membership of the Committee. We hope that the Republic of Korea, with its keen willingness and capabilities to contribute to the peaceful exploration of outer space, might become a full Member of COPUOS in the near future.

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 the Islamic Republic of Iran, to whom I give the floor.

Mr. M. ARAGHI (Islamic Republic of Iran): In the name of God, it is a pleasure for my delegation to take the floor on item 3 of the agenda under your able chairmanship. But before speaking on this item, let me extend the congratulations of my delegation to you on your assumption of the Chair and also welcome Ms. Othman, the new distinguished Director of the Office for Outer Space Affairs, to her office.

Many consider the Legal Subcommittee to be the heart and soul of COPUOS. It seems that this attitude is largely attributable to the achievements of this Subcommittee since its establishment 38 years ago.

During that period, the international community has witnessed that, with the assistance of this Legal Subcommittee, COPUOS has been able to discuss, negotiate and adopt – even during the Cold War – five international treaties and five sets of principles which govern outer space activities today. But in spite of this fact, it should be acknowledged that the existing international space treaties and sets of principles elaborated by this body have met only part of the required international regulations, and my delegation believes that another significant part of the related requirements remains to be profoundly and expeditiously examined.

On the other hand, it is a fact that the process of debating and negotiating new agreements, treaties or principles is not adequately keeping pace with the rapidly evolving technology relating to space science, and we believe that this time-consuming procedure is a matter of real concern. Perhaps one way to approach the difficulties experienced in this regard could be the formulation of international space standards and recommended practices, as has been referred to in this Subcommittee on previous occasions.

The Declaration on Space Benefits adopted by the General Assembly, without a vote, on 13 December 1996 provides that international cooperation, while taking into account the particular needs of the developing countries, be conducted in accordance with international law and be carried out for the benefit and in the interests of all States, irrespective of their degree of economic, social or scientific and technological development.

We believe that this valuable goal cannot be achieved without legal frameworks, and new legal framework can be shaped by examining and including new agenda items as currently proposed for the Legal Subcommittee, along with other proposals that may be forthcoming.

In conclusion, while wishing you and your colleagues success in carrying out this serious task, my delegation hopes that continuous efforts of Member States of the Legal Subcommittee will enable it to fulfil its mandate, namely to undertake the progressive development of space law and its codification.

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 Morocco, to whom I give the floor.

Mr. H. TENSANANI (Morocco) (*interpretation from French*): First of all, on behalf of my delegation, we would like to say how happy we are to see you chairing this session of the Subcommittee, and we assure you of our full support. I would also like to welcome the new Director of the Office for Outer Space Affairs, and also to congratulate Petr Lála and Sergio Camacho on their new duties within the Secretariat.

For several years the Legal Subcommittee has been making great efforts to examine different points falling within its competence, in particular the legal instruments governing outer space, the

geostationary orbit, space debris etc., in order to make the best possible use of space in the interests of all States, and especially the developing countries. The modifications made to the agenda, introducing some vital items on the agenda of the present session, demonstrate Member States' interest in the development of a rapid development of an overall legal regulation of space in order to promote international cooperation in the area of space activities, on the one hand, and to ensure equitable access to all nations, on the other, and to take the greatest advantage of the benefits of space technologies.

My delegation welcomes the inclusion of new items such as the concept of the launching State. We believe this initiative will help to further enrich the Subcommittee's work.

Concerning the two agenda items that have already been discussed at length, in particular the outer space treaties and the geostationary orbit, a number of documents for individual work have been proposed and examined, in particular for the second point. But little progress has been made to achieve a consensus.

My delegation has always expressed a desire, and continues to do, to establish a compromise text bringing together all points of view expressed by Member States on the matter of the geostationary orbit, the definition and delimitation of outer space, and the characteristics and utilization of the geostationary satellite orbit. The allocation of orbits should be entrusted to the ITU, as the majority of Member States have stated.

We are happy to see the establishment of a working group to deal with this matter and we hope that satisfactory results will be achieved. We are ready to support any compromise solution that the working group may come up with.

Morocco has always shown great interest in space activities and its achievements, and we are happy to reinforce international cooperation in this sphere. Four out of the five international space treaties have been ratified by Morocco. The ratification of the 1976 Registration Convention is being examined by government bodies and competent national institutions.

With regard to the introduction of the agenda item on the launching State, it is a good idea to include the examination of other principles dealing with space. The space treaties were originally drawn up when only some States were involved in space activities, whereas today we have private

operators, consortia and international organizations, all of whom are playing an increasingly important role in all fields of space. The privatization and commercialization of space activities, as well as rapid developments in space technology, have created a new situation and have modified the relationship between the various actors. The new elements must be taken into consideration in order to adapt and extend existing regulations to bring them into harmony with the existing situation and future developments.

The examination of these issues, as well as other relevant items such as space debris, nuclear power sources, etc., if carried out efficiently and in harmony with other Member States and international organizations, will ensure that every State will be able to safeguard its interests and to help to have its concerns met in the field of the use of outer space, in respect of the fundamental principles that ensure mutual benefits for all States.

My delegation is convinced that the Subcommittee's work will be successfully achieved on all the matters that are of interest to us today.

The CHAIRMAN (*interpretation from French*): Thank you for your statement. I would also like to thank you on behalf of my colleagues in the Office for Outer Space Affairs for your kind words of congratulation.

(*continues in English*) The next speaker on my list is the distinguished representative of Japan, to whom I give the floor.

Mr. K. KOINUMA (Japan): First, my delegation has complete confidence that this Subcommittee will achieve notable results under your leadership, guidance and your wealth of experience. We wish to assure you that the Japanese delegation will spare no efforts to assist you in accomplishing your very important task. My delegation also wishes to convey its esteem to Ms. Othman, the Director of the Office for Outer Space Affairs, and her staff for all their efforts in the preparatory work for this meeting of the Subcommittee.

Recent topics of discussion in the Legal Subcommittee have included space debris, the review of the space treaties, and the definition of launching State, which indicates that the scope of space activities is widening, and we welcome this trend. In order to improve the efficiency of the Legal Subcommittee, it was reorganized some four years ago resulting, among other things, in a shortened session, and my delegation would like to see this trend continue.

The Vienna Declaration of the UNISPACE III Conference, held in Vienna in July 1999, recommended that COPUOS develop further the legal framework for space in order to meet the increasing needs of the international community. We have been asked to carefully consider these needs as new issues do persistently arise.

I would like to refer briefly to an event that occurred last month, as noted by the delegation of the United States, under the auspices of the current legal framework on space activities, whereby collaboration between the United States in Japan resulted in success. In accordance with Article 5 of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, in cooperation with the United States Government, we recovered and transported part of a United States rocket which drifted ashore on one of the south-west islands of Japan. This successful collaboration is noteworthy as it shows how well the current legal framework can function.

The present session of the Legal Subcommittee will probably see several new proposals, such as those concerning space debris and commercial aspects of space activities. Japan believes it is very important to reach a common understanding on these issues among Member States with previous research experience, including technical research, before the Legal Subcommittee starts to discuss a new agenda item. It is a necessary condition for effective discussion to grasp related information, including technical issues, in particular considering our limited resources.

We must also consider how topics are discussed. We must recognize that the goal of the Legal Subcommittee is not to regulate space activities but rather to assure free and fair space activities. Positive reasons are required to regulate space activities, which should be free in and of themselves.

With this in mind, it is not appropriate to discuss an issue relating to new regulations, including the amendment of the space treaties. The purpose of discussing an issue is to know whether the current legal framework can meet this issue or not. Only if the Subcommittee decides that the current legal framework cannot address this issue should it start to review the rules by consensus to improve the current legal framework.

A discussion in the Subcommittee on issues concerning new regulations, including the amendment of the space treaties, could be futile as many countries fear unfair regulation of their space activities. In pursuing discussions in this direction, the

Subcommittee might be straying from its expected role.

The world will not wait for us. Each day brings new development, and space activities in 2000 were beyond our imagination in 1970. It is both time-consuming and difficult to build an international consensus. The Legal Subcommittee of COPUOS must accomplish just that, and must therefore play a very important role. Its work to further develop the legal framework for space to ensure free and fair space activities. We sincerely hope that the Legal Subcommittee will continue to focus on its original responsibilities within the perimeters of the agreed-upon objectives and procedures.

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 the Czech Republic.

Mr. P. CABAN (Czech Republic): On behalf of the delegation of the Czech Republic, I would like to express our satisfaction at seeing you again chairing this session of the Legal Subcommittee of COPUOS. Being aware of your knowledge of international law and your extensive experience of participating in the progressive development of space law, we are confident that under your guidance this body will make a great deal of progress in considering the points of its mandate as established by the United Nations General Assembly.

I would also like to take this opportunity to congratulate Ms. Othman on her appointment as Director of the Office for Outer Space Affairs. My delegation extends its best wishes for the exercise of her important function.

The Legal Subcommittee begins its thirty-ninth session shortly after the holding of an exceptional event in the development of international space cooperation, namely after the UNISPACE III Conference, held here in Vienna last year. It was the largest United Nations Conference on this subject and was also exceptional from the point of view of its composition. The Conference brought together not only representatives of States and international organizations dealing with space activities, but also representatives of the knowledge, wisdom and courage of humankind.

The conclusions concentrated in its final documents outlined the programme of further activities whose implementation could benefit all nations of our planet. Without doubt, great

importance must be attached in particular to the Vienna Declaration on Space and Human Development, which was adopted by consensus at the closing session of the Conference, and which was later endorsed by the General Assembly at its fifty-fourth session.

In the context of the present session of the Legal Subcommittee, we should recall the paragraph dealing with legal aspects of international space cooperation in space activities. This paragraph calls for the strengthening and repositioning of space activities in the United Nations and for action to be taken:

“To promote the efforts of the Committee on the Peaceful Uses of Outer Space in the development of space law by inviting States to ratify or accede to, and inviting intergovernmental organizations to declare acceptance of, the outer space treaties developed by the Committee and by considering the further development of space law to meet the needs of the international community, taking into particular account the needs of developing countries and countries with economies in transition.”

Bearing in mind this general task of the United Nations in the field of space law, we should now address the agenda of this year’s session of the Legal Subcommittee, which includes a number of important points.

The first of them is the review of the status of the five international legal instruments governing outer space. Our Subcommittee has considered this item for the last two years and a working group established for this purpose has discussed it in greater detail. A number of recommendations were agreed upon in this working group, and the Subcommittee took note of them in its report. But in the opinion of my delegation, further efforts should still be developed at this year’s session of the Subcommittee.

Since the outset of discussions on this item, my delegation shared the view that its consideration has been aimed at achieving the widest and fullest adherence to the United Nations space treaties and that these deliberations should not lead to proposals for their revision. But at the same time, my delegation is convinced that in order to obtain a substantial increase in the number of Parties to these instruments, the real causes of the so far limited numbers of States Parties to these treaties, and also of international organizations involved, should be examined and possible remedies found.

My delegation welcomes the inclusion of a new item on the Subcommittee's agenda, "Review of the concept of the 'launching State'". The agreement to start a discussion on this issue is evidence that the United Nations space treaties, although they established a firm foundation for international space law, must be considered in the light of new phenomena and practices in space activities. The basic notions of the space treaties must be examined and clarified with the aim of their appropriate application to new issues. The best way to achieve this aim in relation to the concept of the launching State is to establish a working group at this session of the Subcommittee. The presentations planned during the first year of our consideration of this item might then be undertaken by such working group.

The agenda of the Legal Subcommittee also includes two other substantive items on which further negotiation seems to be of little use, at least at this stage. The first one is the question of the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space. Notwithstanding a certain movement in the deliberations on this subject in the Scientific and Technical Subcommittee, it does not appear that the progress anticipated in that Subcommittee has been substantive enough to reopen the 1992 Principles for revision in accordance with Principle 11. However, my delegation hopes that with the assistance of the Scientific and Technical Subcommittee, the Legal Subcommittee will be able to fulfil its role concerning these Principles in due course.

The second point, which has reached a stalemate, concerns matters relating to the definition and delimitation of outer space and the geostationary orbit. Despite the examination of legal aspects of aerospace objects which helped to revitalize the old discussion on definition and delimitation of outer space, no views were expressed on this subject at the last session in the working group dealing with this item.

Concerning the second part of this item, which relates to the character and utilization of the geostationary orbit, my delegation shares the view that at the present time, the most useful step to be taken would be to adopt a set of recommendations summarizing the outcome of the discussions to date upon which a general agreement has been reached. At the same time, point 6 of our agenda, including both the definition and delimitation of outer space and the geostationary orbit, although kept on the agenda of the Subcommittee, would be a suspended item which could be reopened for further

examination as and when new developments may require.

Finally, there is a point on our agenda to which my delegation attaches great significance, as its reasonable implementation may be decisive for the future of the Legal Subcommittee. This is agenda item 10, dealing with proposals to COPUOS for new items to be considered by the Legal Subcommittee at its fortieth session. This Subcommittee has been considering this problem in informal consultations for several years, and a number of suggestions have been made. This number was narrowed down when some of the proposals were withdrawn or postponed. However, the present list still includes some topics which deserve the Subcommittee's careful attention at this session. This is particularly important because our discussions on two of its present items have made little progress.

At the last session of the Subcommittee, a working paper on the commercial aspects of space activities was submitted by the delegation of Argentina. This topic has been studied for some time at the level of non-governmental institutions dealing with space law. Commercialization is certainly one of the significant trends in space activities which has raised some specific legal questions which must be examined.

Another possible topic was proposed as early as 1996, by the delegation of the Czech Republic, namely "Review of existing norms of international law applicable to space debris". The consideration of this point should help to clarify the issues related to the interpretation of the existing norms of international law that might be applied to space debris. The examination of legal tools applicable to space debris does become a logical continuation of the studies carried out in the Scientific and Technical Subcommittee which led to the elaboration of the technical report on space debris.

This need was stressed by a large number of States participating in UNISPACE III last year, and was also discussed at the Workshop on Space Law organized under the Technical Forum of that Conference. It has been in full harmony with the 1999 Vienna Declaration, concerning the improvement of the protection of the near-Earth space and outer space environments through further research in and implementation of mitigation measures for space debris as one of the tasks relating to the nucleus of a strategy to address global challenges in the future. Appropriate legal steps certainly need to accompany those measures

to protect the above-mentioned environments, and should now be considered.

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

Mr. E. LUCERO (Brazil): At the outset, I would like to express my delegation's satisfaction at seeing you presiding over this meeting. We are sure that under your able guidance the Subcommittee will reach fruitful conclusions, and we assure you of our full cooperation and contribution towards that end.

I would also like to commend the introductory statement made yesterday by Ms. Othman, the Director of the Office for Outer Space Affairs, and welcome her to the sessions of the Legal Subcommittee.

My delegation fully supports the statement made by the distinguished ambassador of Guatemala on behalf of GRULAC. In addition, we have some general comments relating to the agenda and workplan before the Subcommittee. Brazil welcomes the new approach in compiling the Subcommittee's agenda and hopes that these improvements in its methods of work will be translated into effective enhancement of the Legal Subcommittee's activities in further developing and strengthening international space law.

A clear and previously defined set of rules is indeed an essential prerequisite of any activity to be undertaken jointly through either bilateral or multilateral initiatives. Such rules should provide the tools needed to address all the challenges posed by new dimensions of human activities. The exploration of outer space is a striking example of a rapidly evolving field which calls for an adequate and up-to-date legal framework. Its object is its changing nature, with the development of new materials, associated technologies, products and services derived therefrom and their wide range of applications.

The players are also changing, for although States are to remain at the centre of the stage, the emerging importance of other actors in the space-faring arena, such as the private initiative, is a fact which merits attention. A natural consequence of this scenario is that only through the elaboration of appropriate principles and rules regulating activities in outer space will the requirements of such a rapidly advancing technological field be met. And

most important, their benefits will be oriented to the well-being of all mankind, and their undertakings will address the interests of all nations, taking into particular account the need of developing countries.

What the Legal Subcommittee has achieved over the last four decades is uncontested. The notions underlying the existing treaties and principles developed by this Subcommittee – such as for example that the exploration and use of outer space is the province of all mankind, and that activities carried out there and any benefits deriving from them should result in the enhancement of the well-being of all countries – are masterpieces of international law and continue to provide the framework within which all space-faring endeavours undertaken at both the national and international levels take place.

Such basic notions were reaffirmed in the final documents of UNISPACE III in July 1999. Brazil believes that the Legal Subcommittee will be able to continue with its most valuable work *pari passu* with the requirements posed by technological innovations and in close interaction with the work being undertaken by the Scientific and Technical Subcommittee.

Brazil recognizes the important role the Subcommittee has played in elaborating the existing legal framework, and as a founding member of COPUOS and a nation implementing its own national space programme, Brazil follows with interest and is ready to make a positive contribution towards the goals of strengthening the work of this Subcommittee.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Director of the Office for Outer Space Affairs and to the Chair. The next speaker on my list is the distinguished representative of Colombia, to whom I give the floor.

Mr. H. CHARRY SAMPER (Colombia) (*interpretation from Spanish*): My delegation extends its congratulation to you on chairing this session. We are all familiar with your skill and experience and are optimistic for the success of our work under your leadership. We also welcome Ms. Othman, the Director of the Office for Outer Space Affairs, and assure her of our full cooperation.

There are various aspects of the UNISPACE III agreements which relate to the work being done by our Subcommittee in general, and also to COPUOS. There is certainly a great degree of consensus on certain key principles and

topics, such as the peaceful uses of outer space for the benefit of mankind, whilst taking particular account of the interests of the developing countries.

My delegation believes that it is necessary to study the developments which came out of UNISPACE III in respect of cooperation in an era when commercialization is taking place, as we are all aware. What is involved here is not merely to take into account the impressive innovations, but above all to develop the right form of things so that all this is reflected in principles which bring together and regulate in an equitable way these contemporary events that are taking place.

Mention has already been made of the accession by States to treaties, and in particular to the five major treaties which form the basis of space law. Ratification of these treaties has not made progress for various reasons, and this is not the moment to discuss this. However, my delegation believes that if an agreement can be reached on certain elements of space law, this would be an opportunity to try and accelerate the ratification of these treaties. We could study an idea that has been expressed as to whether this is not the right moment to look at the appropriateness of having one single convention on space law, a comprehensive convention similar to the Convention on the Law of the Sea. After many isolated efforts and after the many Geneva Conventions, the Convention on the Law of the Sea came into existence as a single Convention in 1982.

My delegation is prepared to analyse the role that COPUOS could play along this route from a scattered series of things to a single, homogeneous thing, and what rhythm we could follow and how this could be addressed. It would therefore be necessary to carefully analyse the role to be played by custom, which is certainly a major role in an old law, such as the Law of the Sea, and how this would fit in with the development of a convention on space.

As concerns the subject of the launching State, we have carefully examined this and are prepared to study this concept with the aim of its inclusion in the overall set of space law agreements. My delegation agrees that a working group should be established on that subject.

We believe it would be very useful to make a distinction among three different but important aspects of the statement made by GRULAC, which we fully support. First, GRULAC is prepared to promote an agreement among all parties, both in the Legal Subcommittee as well as in the Scientific and

Technical Subcommittee, in respect of the items currently being discussed. The second aspect of the GRULAC statement is that that regional group agrees to guarantee equitable access to the geostationary orbit, which is a natural resource which is *sui generis* by nature. Therefore all parties should have access to it, especially the developing countries.

The third point of the GRULAC statement requires careful consideration by the Subcommittee, namely to advance in coordinating the decisions and recommendations of COPUOS and ITU. In that context, there has been much controversy over the various competencies incumbent upon ITU and COPUOS, and we fully respect the competence which is allocated to ITU. We would support the strengthening of the interconnection between COPUOS decisions and those of ITU.

There is no strict frontier between technical and legal aspects. Many technical aspects are mixed in with legal aspects, and vice versa. Therefore cooperation between COPUOS and ITU – one a specialized agency and the other a body created by the United Nations with specific functions based on international cooperation in outer space – is the best way to effect this interaction.

As has been noted by several speakers, progress has been achieved in the presentation of working papers and in the discussion itself, which has been enriched by points brought up from various sources. This has been focused on the character and use of the geostationary orbit. But there seem to have been few changes, nor does there seem to be much interest in the subject of the definition and delimitation of outer space. Until now, these points have been linked together on the Subcommittee's agenda. My delegation does not think it would be prudent to take a decision on maintaining or withdrawing these items which are linked together, but that we should continue our consideration of them until an agreement is reached, which Colombia is prepared at this stage to promote.

In the Scientific and Technical Subcommittee, a paper was put forward by the delegation of the Czech Republic in 1999 concerning the scientific characteristics of the GSO. Therefore one way to make some progress towards reaching an agreement might be if we could come to some kind of agreement in both Subcommittees. This interrelationship of the two Subcommittees is something we must try to achieve in order to make progress on certain substantive items like this one.

Concerning the GSO, my delegation would like to invite the Secretariat to withdraw from document A/AC.105/C.2/2000/CRP.3 of 24 March 2000 the document numbered four, "Working paper: geostationary satellite orbit". In document A/AC.105/C.2/L.192 of 30 March 1993, para-graph 9, this document has been completely replaced by the document entitled "Some considerations concerning the utilization of the geostationary satellite orbit", in document A/AC.105/C.2/L.200 and Corr.1, tabled by Colombia in 1996.

This would help us in a matter referred to by the distinguished representative of France in her statement, i.e. that on the basis of this final document just mentioned, it might be possible to come to an agreement. This should likewise take account of the updated document prepared by the Secretariat and the ITU, which was presented to this Subcommittee. Using all these elements, my delegation is prepared at this session of the Subcommittee to encourage an agreement which would clear up this item, one which has been before us for many years. If possible, this should cover an agreement on the paper tabled in the Scientific and Technical Subcommittee.

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

Mr. S. PARTO (Indonesia): My delegation is very pleased to see you presiding over our deliberations and hopes that the current session will achieve success in its consideration of all the items before us. On behalf of the Indonesian delegation and myself, I would like to welcome and congratulate Ms. Othman on her new role as Director of the Office for Outer Space Affairs. We are sure that with her expertise, experience and maturity, OOSA will continue to make good progress in the future.

The Government of Indonesia recognizes and respects the five international treaties relating to outer space, in particular the principles concerning the common interest of all countries, and for peaceful purposes. To a certain extent, Indonesia applies those five space treaties as the basis for its space activities. In this connection, Indonesia has ratified three out of the five instruments: the 1972 Liability Convention, the 1975 Registration Convention and the 1968 Rescue Agreement. The 1967 Outer Space Treaty is still in the process of being ratified by the Government.

As concerns the definition and delimitation of outer space, Indonesia's position is that States should seek to take appropriate action in formulating the definition and delimitation of outer space, taking into account the special needs of developing countries. My Government has taken note of the discussion on the questionnaire of possible legal issues with regard to aerospace objects, undertaken at previous session of COPUOS, with a view to the trying to solve the problem of formulation of the definition and delimitation of outer space.

In conclusion, my delegation assures the Subcommittee of its full cooperation in the course of its deliberations, with the earnest hope that the Subcommittee will reach a successful conclusion to its work.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Director of the Office for Outer Space Affairs and to the Chair. I see the distinguished representative of Colombia is asking for the floor: is this on a point of order? I see it is; I give you the floor.

Mr. H. CHARRY SAMPER (Colombia) (*interpretation from Spanish*): I apologize for taking the floor again, but I understand that the translation of what I said into English was in error on one point, which might cause confusion. When I referred to the document submitted by the Czech Republic in the Scientific and Technical Subcommittee, it was translated as if it was a Colombian document. There is no paper prepared by Colombia in that Subcommittee: I was referring to the paper presented by the Czech Republic.

I wanted to clarify that point.

The CHAIRMAN: Thank you for your clarification, which it was helpful to mention. At the same time, the Chair would be grateful if it could receive your statement in writing; this would be very helpful for further discussions on the items you raised in that statement.

The next speaker on my list is the distinguished representative of Australia, to whom I give the floor.

Mr. C. CANNAN (Australia): May I first take this opportunity, on behalf of Australia, to congratulate you on resuming the position of Chairman of the Legal Subcommittee. Under your chairmanship Australia is confident that the Subcommittee's work will progress in a conclusive and effective manner. We would also like to

warmly welcome the new Director of the Office for Outer Space Affairs.

Australia considers this meeting to be important for a number of reasons; we will mention just two of them now. With regard to agenda item 9, "Review of the concept of the 'launching State'", Australia is one of many States that is very interested in this issue. As a country with a growing interest in commercial launch activity, we look forward to this Subcommittee advancing its work on this agenda item over the next three years.

Another concern to Australia is the question of the status of the five international legal instruments governing the use of outer space, and in particular the agreement governing the activities of States on the Moon and other celestial bodies (the Moon Agreement). As some delegations may recall, at the UNISPACE III Conference, Australia foreshadowed its concerns about the Moon Agreement and the need for an international legal framework governing space activities which is relevant to contemporary realities. We consider that it is particularly important given the substantial foreshadowed growth in the commercial uses of outer space.

We believe that an effective legal regime is a prerequisite for the exploration and peaceful use of outer space. Moreover, it should be universally accepted by all nations. Without a clearly defined international legal regime, future exploration of celestial bodies may be shrouded in uncertainty. The Moon Agreement, being far from universal, does not form an effective part of the legal regime; it does not define or assist in clarifying the set of principles governing the space activities of the great majority of States.

Australia has ratified the Moon Agreement, along with only eight other nations. Another five States are signatories. We also note that the major space-faring nations with strong commercial interests are among those countries that have not signed and ratified the Agreement. As such, the low level of ratification of the Moon Agreement seems to indicate that the treaty does not embody a set of principles common amongst States.

Australia notes the important work of this Subcommittee in reviewing the five international legal instruments governing outer space. Given the impending conclusion of this work in this Subcommittee, Australia considers that there may be some scope to build on these efforts by considering the Moon Agreement separately.

My delegation considers that the principles which govern the use of celestial resources should be revisited. Our goal is the development of an appropriate, predictable and inclusive international space law framework which is universally acceptable. Accordingly, Australia is interested in exploring with other delegations the possibility of a new single issue agenda item for the next meeting of the Subcommittee in 2001, that would allow it to re-examine the principles set out in the Moon Agreement. Depending on the level of interest, Australia will distribute a paper later this week outlining this proposal. We look forward to discussing this issue in greater detail under agenda items 8 and 10.

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 China, to whom I give the floor.

Mr. LUI Yinghai (China) (*interpretation from Chinese*): My delegation offers you its warm congratulations on your assumption of the Chair at this session of the Subcommittee. We are confident that under your able leadership this session will be crowned with success and we assure you of our full support. We also offer our congratulations to Ms. Mazlan Othman on her appointment as the Director of the Office for Outer Space and offer her and the Office our full support.

As concerns the definition and delimitation of outer space, we support the efforts of all those members who are contributing to the substantive progress being achieved on this issue. We support the continuation of the Subcommittee's deliberations on this item.

With respect to the character and utilization of the geostationary orbit, my delegation believes that consideration of this issue by COPUOS is not in conflict with the role of the ITU. Rather, the work of both institutions complements each other, and any legal system relating to the GSO should be on the basis of fairness and effectiveness. At the same time, it should take into account the interests of all countries, particularly those of the developing countries. We know the GSO is a limited resource and we should conduct further studies as to how to further improve the use of this resource. My delegation supports the Subcommittee's continued discussion of all issues relating to the legal problems associated with the GSO.

With regard to the Principles relevant to the Use of Nuclear Power Sources in Outer Space, this set of Principles is still valid and there is no need to revise them at the present stage. States that use nuclear power sources in outer space should of course comply with the Principles in all such activities. In terms of procedure for revision, we support that, first, the Scientific and Technical Subcommittee should consider the need for any revision in accordance with technological development. And then the Legal Subcommittee could take up the revision work. We agree that no working group on this item should be set up at this session, but the item should be maintained on the Subcommittee's agenda to enable delegations to discuss it during the plenary sessions.

As concerns the review of the concept of the "launching State", my delegation believes that the inclusion of this new item is of great significance. We support discussions on this subject in the Subcommittee, and we will actively participate in such discussions.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Director of the Office for Outer Space Affairs and to the Chair. This has brought me to the end of my list of speakers under this agenda item. Does any other delegation wish to take the floor at this time? I recognize the distinguished representative of Greece, to whom I give the floor.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): My delegation merely wanted to reserve the right to speak on this agenda item at a later stage, when we take the floor under other agenda items.

The CHAIRMAN (*interpretation from French*): Thank you; I can assure you that your delegation has indeed reserved this right.

(*continues in English*) As no other delegation wishes to speak at the present time, we will continue and hopefully conclude our consideration of this agenda item this afternoon. I would therefore once again encourage all delegations wishing to speak to inscribe their names on the list of speakers for this afternoon's meeting, which will be the last opportunity to present a general statement under this item.

We will now continue our consideration of agenda item 4.

Status of the international treaties governing the uses of outer space (*cont.*) (agenda item 4)

The CHAIRMAN: I have one name on my list of speakers at present, the distinguished representative of the United States, to whom I give the floor.

Mr. J. CROOK (United States of America): My delegation is honoured to be able to begin the discussion of this agenda item. This standing item under our agenda gives each of us the opportunity to comment in a more general way on the status of the space law treaties. My delegation wishes to make three comments.

First, we would like to briefly report some information given to us by the State Department's Treaty Office. The United States has the honour to serve as one of the depositories for three of the space law instruments: the Outer Space Treaty, the Agreement on the Rescue and Return of Astronauts, and the Liability Convention. However, I am struck by how little there is to report regarding actions under those instruments. Since the last meeting of the Legal Subcommittee (March 1999), our Treaty Office has received notice of only one action. China gave notice that the return of Astronauts Agreement will be applied to the Macao Special Administrative Region. No other actions were notified to the United States as one of the several depositories.

I think this gives a clear illustration of the work we have been asked to perform under agenda item 8. It appears that States and international organizations which are not Parties to the core space law instruments do not see a need to adhere to them. We need to think hard about why that is so, and about what can be done to improve matters.

Our second point concerns the overall position and role of the treaties. As we mentioned in our opening statement, and as the distinguished representative of Japan further explained this morning, our overall impression is that the space law treaties are standing up well in today's increasingly complex environment. As mentioned by the distinguished representative of Japan, the United States Government has been liaising with the Government of Japan and other governments concerned to address, in an orderly and amicable way, two cases requiring application of the 1968 Rescue Agreement.

The case involving Japan has already been outlined. The second case involved an object of apparent French origin that washed up on the beach near Corpus Christi, Texas. This morning a conference room paper was distributed reporting the text of the *Note verbale* from the United States Mission to the Secretary-General giving notice of this latter incident pursuant to the Agreement. In these cases, the 1968 Agreement has provided an effective framework for cooperative and efficient management of the situation.

My third point concerns the way in which the space treaties are being implemented. It is simply to observe that we have reached a point where we must all take the treaties seriously in terms of their domestic implementation. Each Party needs to look thoughtfully at its own domestic legal regime, in order to ensure that it is doing what needs to be done to implement the treaties properly.

The outer space treaties offer an effective and predictable framework only to the extent that they are effectively implemented by States Parties. This is especially true as the level of private commercial space activity increases. The space treaties are no longer embodiments of ideals for some remote future. The future is now. The treaties place present-day demands on States to ensure that there are appropriate domestic regulatory mechanisms in place as required to ensure effective compliance.

Under agenda item 9 we will make a presentation that will, among other things, describe the regulatory framework that has been established in the United States to protect public safety and to carry out the United States' responsibilities under the treaties. We look forward to hearing how others are handling these matters as well. The challenge under the outer space treaties today may simply be to ensure that we can all effectively do the things that the treaties require us to do. We look forward to hearing other delegations' views on this matter.

The CHAIRMAN: Thank you for your statement. I have no other names on my list of speakers, but I recognize the distinguished representative of Chile, to whom I give the floor.

Mr. J. CONCHA (Chile) (*interpretation from Spanish*): My delegation would like to congratulate you on your chairmanship of the Subcommittee, which you will carry out with your experience and expertise. We also offer our congratulations to Ms. Othman, the new Director of the Office for Outer Space Affairs.

My delegation associates itself with the statement made by the distinguished representative of Guatemala, who spoke yesterday on behalf of GRULAC. As concerns agenda item 4, my delegation welcomes the discussion of this issue in the Subcommittee and we hope this will lead to a process of signature and ratification of all the treaties involved. Chile is pleased to announce that it has signed and ratified or acceded to the five existing treaties and we urge all States which have not yet done so to do so as soon as possible.

The procedure for such ratification is a domestic procedure in each individual State and for that reason we would invite the Subcommittee to spend some time to try and ensure that all States adopts the international norms during this, the final year of the three-year workplan which was established for this particular topic. We believe that this process of ratification and accession should lead to a consolidation of the legal regime on the use of outer space, which is the best possible guarantee for the peaceful uses of outer space and for the equitable participation of all States in that endeavour.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Director of the Office for Outer Space Affairs and to the Chair. Does any other delegation wish to take the floor at this time? I see none. We will therefore continue our consideration of agenda item 4 this afternoon, and again I urge all delegations to inscribe their names on the list of speakers with the Secretariat.

We will now begin our consideration of agenda item 5.

Information on the activities of international organizations relating to space law (agenda item 5)

The CHAIRMAN: As I mentioned in my opening statement yesterday, this is a new regular agenda item agreed upon at the 1999 session of the Committee on the Peaceful Uses of Outer Space, and subsequently endorsed by the General Assembly in resolution 54/67.

I have been informed that the Secretariat has invited various international organizations, intergovernmental and non-governmental, which might have activities related to space law, to present written or oral reports on their activities to the Subcommittee for the information of delegates. Delegations have before them a conference

room paper (document A/AC.105/C.2/2000/CRP.4) which contains the reports of some international organizations which were provided to the Secretariat in response to this invitation.

In addition, I am informed that some international organizations will present oral reports to the Subcommittee on their activities under this agenda item. I will shortly open the floor to delegations wishing to make statements under this item. I would urge delegations to consider the reports submitted by the representatives of these international organizations and to additionally comment on these reports as they may deem appropriate.

If I see no objections, we will proceed accordingly. The first speaker on my list is the representative of the European Space Agency/European Centre for Space Law, to whom I give the floor.

Mr. G. LAFFERRANDERIE (European Space Agency (ESA)) (*interpretation from French*): I am delighted to have this opportunity to take the floor, for which I thank the Subcommittee. How can we fail to be delighted to see you chairing the Legal Subcommittee, one which has played such an important role in the history of space law, and especially at such a crucial time in the development of that law. I associate myself with other delegations in saying that I am sure that with your help the Subcommittee will become revitalized.

We are also happy to congratulate Ms. Othman on her appointment as Director of the Office for Outer Space Affairs. We are convinced that she will make a major contribution to this process of revitalization, bringing in a measure of sensitivity and awareness.

We are dealing with a new agenda item that is now before us for the first time. I think this was as a result of the initiative of a European delegation and we feel that this is an important issue for all of us, and it is especially important that we have a useful exchange of opinion and information so that everyone can be better aware of what is happening outside this room, in other fora and international meetings. It is most important that in the Subcommittee, as is the case in other international bodies, the work and discussions that take place should also be disseminated to ensure there is an element of "cross-fertilization" which is vital for the development of space activities.

In particular, we are referring to the document just cited by the Chair (document

A/AC.105/C.2/2000/CRP.4 of 22 March 2000) which contains primarily two contributions, one from the European Centre for Space Law and one from the European Space Agency (ESA). I would like to introduce those two presentations jointly; I will present that of the ESA first, followed by that of European Centre for Space Law.

I think that everyone here knows what ESA is but I would like to mention a few new issues. Portugal has signed an agreement for accession which will enable it to become the fifteenth Member State of ESA. The ESA Council is also presently examining the modalities for expanding the Agency still further. We have received four requests for membership, States that would like to become parties to the Convention of the Agency; we are talking here of non-Member States who have concluded cooperation agreements with ESA and we have therefore already had very close links with these States. Some of them have already participated in the activities and programmes of ESA.

The expansion of ESA is a great challenge for us, and a challenge for Europe and for the whole realm of space itself. I am sure that this will help to strengthen and further develop space law. European interest in space law has been instant; this might be history but I would like to mention the work that took place in the 1960s in the European space conference within ESRO and ELDO. At the beginning of the 1970s we were granted the status of observer to those two organizations. Following that, ESRO provided the framework for the European Space Agency, firstly as ESRA. We participated in the Rescue Agreement, the Registration Convention and the Liability Convention, and so we were one of the first such organizations to take this step at that time.

In our international relations and the treaties that we have concluded, we have taken into account all the work that is carried out here in the Legal Subcommittee. I say here "we", because this is not only ESA itself but also all its Member States. There is a striking example of great importance, which is the international agreement on the international space station, which has made Europe an important partner in this new construction. This in itself has given rise to some interesting prospects.

We are also party to many bilateral and multilateral agreements. Here again, we always take into account the work of the Legal Subcommittee. So ESA itself has thus become an actor in the construction and development of space law and

space activities, and in the preparation of new areas of work. We have a consultative body in ESA, the Committee on International Relations, which is the forum for all activities for developing joint proposals that could subsequently form the basis for European documents. In this forum there is the possibility to exchange information and ideas, which is an important element in coming up with appropriate space laws and regulations.

I would like to mention two examples that illustrate this method of our work, within the framework of the ESA, in preparing an appropriate legal documentary basis in the field of space debris, for example. In this particular area we have our own expertise, our own internal working group that addresses this subject. We also benefit from the expertise of our member States and have available to us the expertise obtained through international cooperation. In particular, we have in mind here the work carried out by the IADC, where many of the national agencies of our member States play an important role.

Another recent example is a draft convention on mobile large-scale equipment which has specific demands and which requires a high level of investment. These are discussions that have been carried on within the framework of UNIDROIT, together with the ESA, concerning a specific protocol dealing with such equipment. I would like to draw your attention to the fact that we have a draft protocol; it is still in a very preliminary stage but I think a presentation will be made by Mr. Stanford on recent progress and the current situation.

This brings together international private and public law. There is cooperation between various international organizations; the Member States of these organizations are getting together to take into account the needs of the community, the investors and the users, as well as the responsibilities and liabilities of the various actors, be they the international sector or the private sector. Each has its own field but there are great many areas where they cross over. This mutual exchange of information and points of view is vital if we want to create harmonious texts that take into account the interests of all. This point is stated clearly in Article I of the Outer Space Treaty.

There is another point that has not been mentioned to date here but it was raised at interact with them. To highlight a few points which may be of particular interest, the Centre has set up a summer school to provide courses for students and professors who come from Member States of the

UNISPACE III; at the symposium a statement was made by the International Astronautical Federation which was very useful for our future deliberations. Among the various use made of space was the astronomical aspect and those activities carried out from the ground, which is very interesting. This is to the benefit of the international community as a whole. Here again we could possible work in cooperation with such institutions to define a framework, which does not exist at present, but which would enable the community itself to continue to benefit in the best possible conditions from astronomical data and observation carried out from the ground.

I hope that this is something that will be borne in mind in the future as it as an important issue for the international community, and will help us to understand the universe as a whole much better.

Turning now to the European Centre for Space Law, this is not an intergovernmental organization but one that has its own peculiarities and special cases, but it does achieve some results. The Centre works together with the Agency; it is a flexible mechanism that helps to promote exchanges of opinion between a nuclear centre and a number of other bodies among the Member States. We find we are all working along the same lines: we keep each other informed, exchange points of view and assist each other in organizing events such as conferences and symposia. This exchange is therefore both important and useful for our better awareness and promotion of space in general.

I think this point has already been mentioned, but it is very important to ensure that space law is both adequate and well known. Today it is not yet sufficiently well known or recognized, which is why there is a need to establish space law. By "establish" this does not mean we must set it up; it already exists, but it must be established in terms of it becoming recognized by all bodies and communities, be they legal, scientific or other. That is the important aspect we should concentrate on.

Document A/AC.105/C.2/2000/CRP.4 gives information on the activities carried out by the European Centre for Space Law and the work currently under way. There are also some examples of cooperation between our cooperation with the International Institute of Space Law and how we Agency. We are also favourably inclined towards applications from non-Member States who are willing to assist; we are very flexible.

The next symposium will include Professor Bockstiegl from Cologne, who will take part in July and August. The Centre represents an appropriate forum for launching new ideas and introducing novel points of view. We also address some subjects that have already been mentioned; such as commercialization, privatization and its impact in the intergovernmental context. It is interesting to see intergovernmental organizations becoming private bodies. Problems can occur in this process as far as interaction is concerned; private and national law as compared to international and intergovernmental law. There are therefore certain issues that need further clarification.

There are the various aspects of public law and private law and how they interact. Space activities can no longer take place within the framework of public law only; there is now mixture of both public and private law that come into play. This does not affect the fundamental responsibility of States, which remains as it was. But the new actors must be taken into account. There are problems of insurance, of intellectual property: all these are new issues which must be addressed.

Another subject that has already been mentioned by the distinguished representative of the United States is the role of national legislation. Unfortunately there is little national space law that exists; some efforts are being made in Europe to develop this but many interesting questions arise. We must complement the intergovernmental structure with national legislation.

Over the weeks we have had to answer questions from journalists and television as a result of what has been done regarding trademarks in Europe, granting parts of the lunar surface to private investors. Each time the same question arises: to whom does the Moon belong? What is the value of the document that gives the right of ownership of some part of the Moon to various individuals? This is further proof of the inadequate knowledge of space law by the public at large. It is something people are not aware of and we must make it clearer to them. Space law must be reflected in national laws and legislation.

I apologize for speaking at length but I would be happy to answer any questions or give any further information that may be required.

The CHAIRMAN (*interpretation from French*): Thank you for your detailed report on what is taking place in ESA and the European Centre for Space Law (of which you are the Chairman). I would like to mention that much of

the information you referred to is contained in document A/AC.105/C.2/2000/CRP.4.

I now give the floor to the distinguished representative of the International Mobile Satellite Organization.

Mr. J. VONAU (International Mobile Satellite Organization): I would like to congratulate you on chairing this session of the Subcommittee, and also to offer our congratulations to the newly appointed Director of the Office for Outer Space Affairs, Ms. M. Othman.

The establishment of Inmarsat was based on two international public law instruments developed under the auspices of the International Maritime Organization (IMO). These are the Convention on the International Maritime Satellite Organization (Inmarsat) between States Parties to the Convention, and the Operating Agreement between telecommunications entities public or private (one per Party) called "Signatories" designated by a State. Both instruments entered into force on 16 July 1979.

The purpose of Inmarsat, well known in this forum, was to make provision for the space segment necessary for improved maritime communications and, in particular, for improved safety of life at sea communications and the Global Maritime Distress and Safety System (known as GMDSS in the maritime community). This purpose was later extended, through amendments to the Convention and Operating Agreement, to provide the space segment for land mobile and aeronautical communications, and the name of the organization was changed to the International "Mobile" Satellite Organization.

Inmarsat was structured with three principal organs:

- (a) the Assembly of Parties (one State, one vote), which dealt with general policy matters and the long-term objectives of the Organization;
- (b) the Council, composed of 22 Signatories, or groups of Signatories, which exercised the real power. It decided on all financial, operational, technical and administrative matters, and made provision for the space segment for carrying out the work of the Organization. Signatories' voting rights were linked to their utilization of the system;

- (c) the Directorate, which was the executive body of the Organization headed by the Director General, who was the Chief Executive and legal representative of the Organization.

That was the history. After 20 years of successful operation, Member States and Signatories of the intergovernmental organization Inmarsat decided to challenge rapidly growing competition from private providers of satellite communications services and pioneered the first ever privatization of all assets and business carried on by the intergovernmental organization, while adhering to the continuous provision of the public service obligations and government oversight on a *condicio sine qua non* principle for the privatization requested by governments.

At its Twelfth Session in April 1998, the Inmarsat Assembly adopted amendments to the Inmarsat Convention and Operating Agreement which were intended to transform the Organization's business into a privatized corporate structure, while retaining intergovernmental oversight of certain public service obligations and, in particular, the GMDSS. The Assembly and Council of Inmarsat subsequently decided to implement the amendments as from 15 April 1999, pending their formal entry into force in accordance with the requirements of the Convention. In doing so, it was recognized that early implementation of the new structure was needed to maintain the commercial viability of the system in a rapidly changing satellite communications environment, and thereby ensure continuity of GMDSS services and other public service obligations, namely: peaceful uses of the system, non-discrimination, service to all geographical regions and fair competition.

The restructuring of Inmarsat involved the incorporation of holding and operating companies, located in the United Kingdom and registered under British law, on 15 April 1999 as planned. On the same day, the Headquarters Agreement between the United Kingdom Government and the IMSO was signed. A Public Services Agreement between IMSO and the privatized Inmarsat was also signed with immediate effect.

The Operating Agreement was terminated and the signatories received ordinary shares in the systems with more capabilities, but including the robust operation that is the essential hallmark of systems used for distress and safety satellite communications. But that is in the future. At present Inmarsat Ltd., with its maritime

privatized Inmarsat in exchange for their investment shares. Future capital requirements will be met from existing shareholders, strategic investors and public investments through a listing of the shares on a stock exchange (IPO) within about two years from the date of privatization.

The Inmarsat satellites and all other assets of the former IGO have been transferred to the privatized operating company, which continues to manage the global satellite communications system in the future.

The intergovernmental organization (IMSO) continues with 87 Parties, operating through the Assembly of Parties, its Advisory Committee and a small Secretariat, headed by the Director, who is the legal representative of the Organization. Under the relevant provisions of the Convention, as amended, the Public Services Agreement and the Articles of Association of the company, IMSO is charged with overseeing – and under some circumstances may enforce fulfilment of – some of the company's public service obligations and, in particular, GMDSS services. In performing this role, IMSO acts as the natural ally of IMO and the watchdog for proper provisions and implementation of IMO's requirements in respect of GMDSS by Inmarsat Ltd.

The horizons of mobile satellite communications capability are expanding with ever-increasing speed, and there are several different options for the design and capability of new services. The adoption by the IMO Assembly of Resolution A.21/888, "Criteria for the Provision of Mobile Satellite Communication Systems in the Global Maritime Distress and Safety System (GMDSS)", has provided a clear indication of IMO's intention to consider opening up provision of GMDSS services in the future to other satellite operators. This is most likely to happen in the context of a revision of Chapter IV (radio-communications) of the International Convention on the Safety of Life at Sea, known as SOLAS, and will provide the opportunity to specify more effective services in a way that permits the use of evolutionary capabilities and non-geostationary satellite constellations.

In this scenario, Inmarsat Ltd. and other potential operators are challenged to develop new

communications system which it operates, is the sole global provider of these services and its position in the marketplace is, for the time being, unrivalled.

At present, privatization of global satellite communications is a fact of life. It is encouraging to note that in this context, IMO has not been able to detect any reduction or deterioration in the level and quality of the provision of GMDSS services by the company under the new regime, compared with the situation prior to privatization. All other public service obligations have also been observed or have received due attention by the company. It may therefore be concluded that after almost one year of distinct but workable interfacing between IMSO and Inmarsat Ltd., the restructuring has paid off and the principles under which the process of restructuring took place have proved to be effective.

The CHAIRMAN: Thank you for your excellent report on the process of privatisation of this international organization. In the meantime, I have received a request to speak on this item from the distinguished representative of Brazil, to whom I give the floor.

Mr. E. LUCERO (Brazil): Regarding the activities of international organizations relating to space law, on behalf of the Government of Brazil I am pleased to announce two important events scheduled to take place this year, in parallel to the fifty-first IAF Congress, to be held in Rio de Janeiro, Brazil, from 2 to 6 October 2000.

These events are the forty-third Colloquium on the Law of Outer Space, and the ninth Manfred Lachs Space Law Moot Court Competition, which has been taking place since 1958 and counts on the participation of the judges of the International Court of Justice. The Brazilian Government is honoured to host such events and expects that they will contribute to the international debate on important space-related legal issues, such as the role of space law in bringing the benefits of space to humanity, including consideration of the needs and interests of developing countries; responsibility and liability of States with regard to activities in space by non-State entities (such as private corporations); interaction between private-law aspects of space activities with regard to insurance, finance and related issues, as well as private property rights in space, etc.

The Brazilian Government invites delegations and representatives to enjoy the hospitality of Brazil in October and looks forward to seeing everyone there.

The CHAIRMAN: Thank you for giving us this information on these important events.

I would like to inform the Subcommittee that in document A/AC.105/C.2/2000/CRP.4, some of

the reports that have been presented here have been included. Some of them have been elaborated in the oral presentations but there are also some other reports which could not be delivered here – for example, the report of the International Institute of Space Law (IISL). However, I understand that the representative of the International Astronautical Federation (IAF) will report on the activities of the Federation. As you may know, the IISL is an autonomous part of the IAF and I therefore hope that he will also report on the activities of IISL as well. The written report on the IISL activities is in any event contained in the conference room paper.

I would like to emphasize that in this document, there is a report on the activities of the International Law Association (ILA). Usually we have had the privilege of having one of their representatives here: generally it is Professor Karl-Heinz Bockstiegl from the University of Cologne, Chairman of the Space Law Committee of the ILA. He has apologized that he is unable to attend this session of the Subcommittee. However, he has submitted a thorough report on the ILA Space Law Committee, drafted by its rapporteur (Professor Maureen Williams of Argentina), which is included in the conference room paper.

Finally, there is a report from the World Intellectual Property Organization (WIPO), to which I would also like to draw delegates' attention. We may receive additional reports, in which case they will be made available to Members of the Subcommittee at a later stage during this session.

Does anyone else wish to speak on item 5 at this time? I see none. We will continue our consideration of this agenda item this afternoon.

Some time is still available to us at this morning's session, and I would suggest that we take up our consideration of the regular agenda item "Matters relating to the definition and delimitation of outer space, and to 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".

Matters relating to the definition and delimitation of outer space, and to 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
(agenda item 6)

The CHAIRMAN: With regard to the chairmanship of the working group on this agenda item, I have been informed that informal consultations are currently ongoing. Therefore, unless there are any objections, I would propose that we postpone election of such chairman to allow for such consultations amongst interested delegations. However, I would urge delegations to try and reach some agreement on the nomination of the new chairman of the working group so that we could start discussion within the working group.

Before opening the floor to any delegations wishing to make statements on this item in the plenary of the Subcommittee, I would like to draw the attention of delegates to the documents on this item which are before the Subcommittee, along with the report of the Legal Subcommittee at its thirty-eighth session (document A/AC.105/721), and the report of the thirty-seventh session of the Scientific and Technical Subcommittee (document A/AC.105/736). These documents are now available.

Delegates have before them those documents that were before the Subcommittee at its last session. These included, inter alia, notes from the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: Replies from Member States" (document A/AC.105/635 and Add.1-5). Furthermore, a note from the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (document A/AC.105/C.2/L.204).

In addition, there is a working paper prepared by the Secretariat in cooperation with the ITU entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit" (document A/AC.105/C.2/L.205).

Furthermore, there is a working paper by Colombia entitled "Some considerations concerning the utilization of the geostationary orbit" (document A/AC.105/C.2/L.200 and Corr.1). There is a conference room paper (document A/AC.105/C.2/1997/CRP.3/Rev.1) which contained a compendium of relevant sections and/or documents referred to in the working paper submitted by Colombia entitled "Some considera-

tions concerning utilization of the geostationary satellite orbit" (document A/AC.105/C.2/L.200 and Corr.1).

Delegations will also recall that at its thirty-eighth session in 1999, the Subcommittee requested the Secretariat, in cooperation with the International Telecommunication Union, to prepare updates of two of the documents I have just mentioned: an update of document A/AC.105/C.2/L.205 entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit". This has been distributed at this session as document A/AC.105/C.2/L.205/Rev.1.

The update of the conference room paper A/AC.105/C.2/1997/CRP.3/Rev.1, which contains documentation on the subject of the geostationary orbit, has been distributed for this session as conference room paper A/AC.105/C.2/2000/CRP.3.

I will now open the floor to delegations wishing to make statements on this item. Does any delegation wish to speak on this subject at the present time? It would be most welcome if this was the case, as we could make use of the time remaining to us. Unfortunately I see none. We will therefore continue our consideration of agenda item 6 this afternoon.

I will shortly adjourn this meeting of the Subcommittee, but before doing so I would like to inform delegates of our schedule of work for this afternoon. We will continue and hopefully conclude consideration of agenda item 3, "General exchange of views". We will also continue our consideration of agenda item 4, "Status of the international treaties governing the uses of outer space", and agenda item 5, "Information on the activities of international organizations relating to space law". Time permitting, we will also continue our consideration in the plenary of agenda item 6, as I have just announced.

Are there any questions or comments on this proposed schedule? I see none. Before I adjourn this meeting of the Subcommittee, there is an announcement that I would ask the Secretary to make.

Mr. P. LÁLA (Secretary): The GRULAC task force on COPUOS matters is scheduled to meet immediately following the conclusion of

this meeting of the Legal Subcommittee, in Room C0713.

The CHAIRMAN: I have one final note before I adjourn this meeting. I have been asked by the Secretariat to remind delegations who have not already done so to communicate to the Office for Outer Space Affairs the names of their representatives to this session of the Legal Subcommittee as soon as possible, in order that the "Provisional list of participants" can be prepared. Unless there are any other comments, this meeting is adjourned.

The sitting adjourned at 12.50 a.m.