

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Unedited transcript

625th Meeting

Tuesday, 28 March 2000, 3 p.m.
Vienna

Chairman: Mr. KOPAL (Czech Republic)

The meeting was called to order at 3.20 p.m.

The CHAIRMAN: I declare open the 625th Meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

We will shortly continue our consideration of agenda item 3, "General exchange of views". As I informed delegations at this morning's meeting, it is my intention to close discussions under this item at this afternoon's meeting. I would therefore urge those delegations still wishing to make statements under this agenda item to inscribe their names on the list of speakers with the Secretariat as soon as possible.

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

The CHAIRMAN: I have no delegations inscribed on my list of speakers. Does any delegation wish to take the floor at this time? I see none. We have thus concluded our consideration of agenda item 3.

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 speaker on my list, the distinguished representative of Mexico, to whom I give the floor.

Mr. J. HIDALGO (Mexico) (*interpretation from Spanish*): As this is the first time my delegation has taken the floor, we would like to congratulate you on chairing the work of this Subcommittee once again. We would also like to express our pleasure at seeing Ms. Othman in her new role as Director of the Office for Outer Space Affairs.

My delegation appreciates the reaction of the Subcommittee to the initiative it took some time ago, the result of which was the formal inclusion of this issue being discussed as agenda item 4, including the presentation of reports to the Subcommittee concerning the status of the international treaties governing the uses of outer space.

We would like to emphasize the commitment of our Government to respect the principles and standards of international space law, and that all events in outer space be regulated under the auspices of the United Nations. My delegation hopes that the consideration and examination of the five legal instruments which govern outer space law will lead to more positive results.

The CHAIRMAN: Thank you for your statement, which is certainly valid. However, I would like to draw the attention of the distinguished representative of Mexico to the fact that it might have been more appropriate to make this statement during the Subcommittee's discussion of agenda

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.

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

item 8, "Review of the status of the five international legal instruments governing outer space". Under agenda item 4, we are discussing a different item which sounds similar but whose actual meaning is different: the status of the international treaties governing the uses of outer space, which implies a mutual exchange of information and eventual discussion of the present situation of States Parties that have adhered to the treaties.

I understood that the contribution of Mexico relates more to the points that we have been discussing for the third year, and which was initiated by that delegation three years ago.

I have no other delegation on my list of speakers on this item. Does any other delegation wish to take the floor under this particular item? I see none. We will therefore continue and perhaps conclude our consideration of agenda item 4 tomorrow morning. We will now continue our consideration of agenda item 5.

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

The CHAIRMAN: I have one delegation and one observer on my list who have applied to speak on this item. I now give the floor to the distinguished representative of the United States.

Mr. J. CROOK (United States of America): This is a useful new item on our agenda and we welcome the opportunity to learn from others about developments involving the space activities of international organizations. We also thank the Secretariat for preparing conference room paper CRP.4, which we find is a very useful compendium of information on activities of international organizations relating to space law. My delegation has studied it and found it most useful and would like to record our appreciation.

We have three points to make. The first concerns the overall position of international organizations that carry out space activities under two of the major outer space treaties: the Liability and Registration Conventions. The two initial space law instruments – the 1967 Outer Space Treaty and the 1968 Rescue Agreement – are by definition limited to States. However, by the time of the 1972 Liability Convention and the 1975 Registration Convention were negotiated, it was already apparent that States would not be the only actors in space; international organizations would also have a role.

Hence both the Liability and Registration Conventions provide that their core Articles can be deemed to apply to an international inter-governmental organization which conducts space activities, but only if two requirements are met. First, the organization must declare its acceptance of the rights and obligations under the Convention, which is a perfectly appropriate requirement. However, the second requirement poses more of a problem: both the Liability and Registration Conventions require that a majority of the members of the organization must have adhered to both the Outer Space Treaty, or to the Liability or Registration Conventions, as the case may be.

The consequence of this requirement is that several extremely important intergovernmental organizations conducting space activities cannot elect to bring those activities within the framework of the Liability and Registration Conventions. We believe that INTELSAT and ARABSAT may be in this position; so may others. The result is a potentially significant gap in the coverage of key treaties.

We would encourage any organizations that may be in this position, and their members, to consider this problem. Can steps be taken to encourage wider adherence by such organizations' member countries to the Outer Space Treaty and to the Liability and Registration Conventions so as to make it possible for the organizations to accept the principles of those Conventions? We believe that to do so would represent a useful improvement in the coverage and effectiveness of two of the most important space law treaties.

The second point, which is a more of a question, that relates to the position of international organizations in space. As we were reminded this morning, INMARSAT has been privatized and my delegation would welcome additional information from any quarter on how the consequences of this are being handled under the space law treaties. We would be happy if any interested national delegation, the Secretariat or other knowledgeable parties could provide further information.

Our final point is brief. We understand that a representative of UNIDROIT will give us a briefing on their work on a convention on a new financing regime for mobile equipment, particularly as it relates to satellites. We appreciate UNIDROIT's initiative in arranging this and look forward to hearing what they have to say. This is yet another indication of the growing importance of international organizations in space activities.

The CHAIRMAN: Thank you for your interesting contribution, including mention of a number of issues that might be considered both by the international organizations concerned and also by the Subcommittee.

I have no other delegations wishing to speak under this item. Does anyone wish to speak on this item at this time? I see none. I will therefore give the floor to the distinguished observer from the International Institute of Space Law of the International Astronautical Federation.

Mr. E. FASAN (International Institute of Space Law (IISL)): In her letter of 22 December 1999, the Director of the Office for Outer Space Affairs, Ms. Mazlan Othman, to the President of the IISL, Dr. Nandasiri Jasentuliyana, referred to General Assembly resolution 54/67 of 6 December 1997 and invited the IISL to attend the thirty-ninth session of this distinguished Legal Subcommittee, and to report on the activities of the Institute.

The IISL accepted with pleasure and had the relevant report drafted by Dr. Ram Jakhu, a member of our Board of Directors and one of the speakers at yesterday's symposium. This draft has been distributed to delegations in document A/AC.105/C.2/2000/CRP.4. I have been entrusted with the agreeable task of presenting to you a short summary of this report.

As part of its efforts to promote the study and development of space law, in 1958 the International Astronautical Federation (IAF) established a permanent legal committee. Out of this, in 1960 it created the IISL.

IISL holds annual colloquia. The last one (the forty-second) was held in Amsterdam in 1999 and focused on: legal aspects of space station utilization; new developments relating to the legal aspects of telecommunications; legal implications of expanding privatization in space; and other issues of space law, including legal aspects of launching space objects from non-terrestrial sites. During that colloquium, an IISL lifetime achievement award was presented to Professor Diederiks-Verschoor, and a distinguished service award was presented to Dr. Terekow, a member of the Board of IISL.

This year's colloquium will be held in Rio de Janeiro, Brazil, during the fifty-first IAF Congress. From the outset the IISL has maintained close ties with the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space. The late Judge Manfred Lachs, President of the

International Court of Justice, also served as President of the IISL. He was the Chairman of this very distinguished Subcommittee during the important and sensitive negotiations which finally led to the adoption of the text of the 1967 Outer Space Treaty.

In July 1999, during the UNISPACE III Conference here in Vienna, the IISL organized a four-day workshop, and most of its recommendations were adopted by this intergovernmental conference. The IISL also organizes annual Moot Court competitions; the semi-finals are held in spring each year and the finals during the annual space law colloquium. They are judged by members of the International Court of Justice.

The IISL now has over 300 individual and institutional members from 42 countries. Individuals distinguished by their contributions to or proven interest in the field of space law or other social science aspects related to space activities, may be elected as members of the Institute.

This has been a brief summary of the report outlining our work and organization. As always, we are ready to assist COPUOS and its two Subcommittees in any way to help promote the further development of international space law. With reference to the statement just made by the distinguished representative of the United States, I have learned that there are several more aspects that we will have to consider. We greatly appreciate this cooperation.

The CHAIRMAN: Thank you for your information on the activities of this international non-governmental body.

My list of speakers is now exhausted: does any other delegation wish to take the floor? I see none. We will therefore continue our consideration of agenda item 5 tomorrow morning.

We will now continue our consideration in the plenary of the Subcommittee of the regular agenda item 6.

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 (cont.) (agenda item 6)

The CHAIRMAN: Before opening the floor to any delegation wishing to make a statement on this

item, I would like to inform delegates of a new document relevant to this item. The Secretariat has revised and updated conference room paper A/AC.105/C.2/2000/CRP.3, pursuant to a request made at this morning's meeting. This revised document has been distributed in the room to all delegations at this afternoon's meeting.

I would draw your attention in particular to point 4, which represents the 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). This particular document has been updated in accordance with the request submitted by the delegation of Colombia.

I will now open the floor to delegations who wish to make a statement on this item? Does any delegation wish to take the floor? I see none. We will continue our consideration of this agenda item tomorrow morning.

As we have still have some time remaining at this session, I would propose that the Subcommittee begin its consideration of agenda item 7.

Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (agenda item 7)

The CHAIRMAN: As I mentioned in my opening statement yesterday, this item is a single issue item for discussion. This implies that this item would only continue to be discussed by the Subcommittee this year, unless renewed by consensus.

I would remind delegates that in paragraph 7 of resolution 54/67, the General Assembly endorsed the recommendation of the Committee that the Legal Subcommittee, at its thirty-ninth session, should suspend consideration in its working group of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space pending the results of the work of the Scientific and Technical Subcommittee. This is without prejudice to the possibility of reconvening its working group on this item if, in the opinion of the Subcommittee, sufficient progress was made in the Scientific and Technical Subcommittee at its session in 2000 to warrant the reconvening of the working group. Accordingly, this Subcommittee agreed yesterday not to reconvene its working group on this item.

I would also inform delegates that at its thirty-seventh session (February 2000), the Scientific and Technical Subcommittee agreed that at the present time, revision of the Principles Relevant to the Use

of Nuclear Power Sources in Outer Space was not warranted. It also agreed that, until a firm scientific and technical consensus has been reached on the revision of the Principles, it would be inappropriate to pass the topic on to the Legal Subcommittee (document A/AC.105/736, para. 79).

I would now like to open the floor to any delegations wishing to make a statement on this item at this point. Does any delegation wish to take the floor? I see none. We will therefore continue our consideration of agenda item 7 tomorrow morning.

As you may remember, I would like to remind you that informal consultations have been held on the appointment of the chairman of the working group on the definition and delimitation of outer space and the utilization of the geostationary orbit. I understand some progress has been made and perhaps a nomination has been made? However, we have been unable to consult all the necessary groups in advance, and therefore I believe the consultations are on-going and we will advise the Subcommittee of the final outcome tomorrow morning.

I will shortly adjourn this meeting of the Subcommittee. Before doing so, I would like to inform delegates of our schedule of work for tomorrow morning. We will continue and possibly conclude consideration of agenda item 4, "Status of the international treaties governing the uses of outer space". We will also continue our consideration of agenda item 5, "Information on the activities of international organizations relating to space law" and agenda item 6, "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".

Thereafter we will continue our consideration of agenda item 7, "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space". I would urge all delegations which might still wish to speak on one of these item to inscribe their names on the list of speakers with the Secretariat, as I intend to conclude these discussions so that the Subcommittee can begin its consideration of other agenda items.

Time permitting, the working group on the definition of outer space and the utilization of the geostationary orbit could convene its first meeting under the chairmanship of the new chairman to be

appointed tomorrow. Would delegations please consult among themselves, and particularly with GRULAC, as so far the Latin American countries have held this position in the person of the distinguished representative of Argentina, so that a consensus can be reached by tomorrow. The working group can then begin its discussions.

Are there any questions or comments on this proposed schedule? I see none. I would remind delegates that there is a cocktail this evening offered

by the delegation of the Czech Republic. It will be held at the Permanent Mission of the Czech Republic (the address is printed on the invitation card) and will start at 7 p.m. For those of you who will travel by U-bahn, it is easy to find by taking the U4 in the direction of Hutteldorf, and alighting at the Schönbrunn stop.

The meeting is now adjourned.

The sitting adjourned at 3.40 p.m.