

**Committee on the Peaceful
Uses of Outer Space
Legal Subcommittee**

Unedited transcript

627th Meeting

Wednesday, 29 March 2000, 3 p.m.

Vienna

Chairman: Mr. KOPAL (Czech Republic)

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

The CHAIRMAN: I declare open the 627th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

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

The CHAIRMAN: I have been informed that the representative of the International Telecommunication Union (ITU), who was scheduled to speak at this afternoon's meeting under agenda item 5, will unfortunately only be able to do so later this week. In accordance with our decision this morning, as there appear to be no further delegations wishing to speak on this item at present, we will therefore suspend, rather than conclude, discussion of this item and take it up again later in the session, to allow for the additional presentation or presentations referred to earlier.

We will now continue our consideration of our 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: I have some good news for you. I have been informed that informal consultations have resulted in the identification of a candidate who might enjoy the consensus of the Subcommittee as chairman of the Working Group on the Definition of Outer Space and the Utilization of the Geostationary Orbit. The candidate to whom I am referring is Mr. Hector Raul Pelaez of Argentina.

If you agree with this proposal, continuity will be preserved because this position has been in the hands of the same delegation in past years (Mr. Amigo was the previous chairman). We would thus have another well-qualified candidate from Argentina. If I see no objections, may I take it that the Subcommittee wishes to appoint Mr. Hector Raoul Pelaez (Argentina) as chairman of the Working Group on the Definition of Outer Space and the

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

Utilization of the Geostationary Orbit at the present session? I see no objections. Mr. Hector Raoul Pelaez of Argentina is therefore appointed as chairman of the Working Group on the Definition of Outer Space and the Utilization of the Geostationary Orbit. *It is so decided.*

I would like to extend my sincere congratulations to Mr. Pelaez, but I understand that he is not here at present. He will always be available during the morning sessions, and we have therefore scheduled the first meeting of this working group for tomorrow morning, immediately following the adjournment of the meeting of the Subcommittee.

I now open the floor to any delegation wishing to make a statement on this item in the plenary of the Subcommittee at this time. I have one name inscribed on my list of speakers for this afternoon, the distinguished representative of India, to whom I give the floor.

Mr. M. GANDHI (India): Since my delegation is taking the floor for the first time, we would like to congratulate you on assuming the chairmanship of the thirty-ninth session of the Legal Subcommittee. We assure you of our full cooperation to ensure the successful completion of this session. My delegation would also like to congratulate Ms. Othman on her appointment as Director of the Office for Outer Space Affairs.

My delegation believes that the exploration and use of outer space shall be carried out for the benefit and in the interest of all countries. We believe that the GSO constitutes part and parcel of outer space and is governed by the fundamental law of outer space, the Outer Space Treaty. We see no inherent conflict between ITU and COPUOS and believe that ITU should continue to have responsibility and authority on the technical aspects of the GSO, while the Legal Subcommittee should deal with policy issues concerning the status, treatment, sharing of resources and other aspects of the GSO. My delegation is in favour of the continuation of this harmonious approach.

Considering the importance of this agenda item, my delegation would like to see this agenda item included in forthcoming sessions of the Subcommittee.

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

Mr. C. HAE-MOON (Republic of Korea): My delegation would like to make some brief comments on this agenda item. We are of the view that the mutual understanding and spirit of cooperation as embodied in the international legal instruments governing outer space and the GSO is necessary between the developed and the developing countries. As has been noted by many other delegations, the legal regime for outer space and the GSO should contain substantive ways and means to implement the principle of equitable access to and use by all States in a reasonable manner. In this regard, my delegation wishes to point out that the practice of using paper satellites in the GSO will hinder the efficient and rational use of the GSO.

As concerns the relationship between COPUOS and the ITU, my delegation shares the view that the functions and competence of the ITU in certain areas of the GSO – for example, radio frequencies – should be recognized in terms of legal as well as technical grounds covering the GSO. We also support the initiative of the Colombian delegation and the efforts of the French delegation to revitalize our discussions on this agenda item. My delegation is very interested in discussions on the French delegation's non-paper under this agenda item at this and forthcoming sessions.

With these efforts being made, my delegation believes that it is important for the Legal Subcommittee to find the ways by which both COPUOS and ITU can play a more balanced role in the near future. In conclusion, we share the views of the Czech delegation, which seeks to produce a set of recommendations reflecting discussions to date in this Subcommittee. By doing so we feel that these recommendations will be helpful in finding new guidelines for future deliberations in the Subcommittee.

The CHAIRMAN: Thank you for your statement. My list of speakers on this item is now exhausted. Does any other delegation wish to take the floor at this time under this item? I recognize the distinguished representative of Egypt, to whom I give the floor.

Mr. E. ZNATY (Egypt) (*interpretation from Arabic*): My delegation has a few brief comments on this agenda item. Some delegations mentioned this morning that neither the civil aviation convention nor the 1919 Paris convention refer to the delimitation of atmospheric and other conventions, including the 1965 convention, which have different definitions. International practice does not refer to any difficulties or problems due to a lack of definition of outer space, or the fact that there is a distinction between the space

outside the atmosphere or aerospace or the atmosphere.

Within the framework of the Legal Subcommittee we think it is indispensable to come to a definition of these areas and to specify the competence of each State and recognize that there is a desire to limit their sovereignty to certain international space. We do not think this will necessarily affect in any way aerial or spatial activities, but it will make it possible for different States to have some kind of legal basis which would allow them to establish certain provisions and take certain steps so that their territory remains conserved in that way.

Within the framework of and thanks to the development of new technology, we can recognize spatial objects in different orbits and at different altitudes which could make it possible for certain aircraft to have access to those spaces. What we are saying is that at present, we are facing a world where we should be taking joint action, be it in the atmosphere or outer space. It is vital to delimit those areas of legislation where there are problems arising from, for example, collisions between aircraft and objects or between objects themselves. It is perhaps not necessary to mention here the principles which were tackled by the Subcommittee at its last session. My delegation feels it is very important to define these different domains of space, on the basis of consensus.

As concerns the GSO, my delegation feels it is very difficult to make a distinction between the delimitation and definition of outer space and those issues which are connected with the GSO and use of the GSO. The GSO, it would seem, is a limited natural resource, while at the same time it is not an integral part of national natural resources. This is a joint resource common to the whole of humanity, and this requires fair, rational, equitable and reasonable use in the interests of all States. We must also take account of the special interests of the developing countries and the equatorial countries.

At the same time, my delegation believes it would be preferable to define those ways and means which would make it possible for us to achieve rational and equitable use of that orbit. We therefore feel we should examine these issues in a detailed manner, with due account being taken of what is already contained in the international agreements that govern common resources, as is the case in the framework United Nations convention on the use of international territorial waters.

The CHAIRMAN: Thank you for your statement. I have no other speakers on my list; does any other delegation wish to take the floor under this agenda item? I see none. We will continue our consideration of agenda item 6 tomorrow morning.

We will now 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 (*cont.*) (agenda item 7)

The CHAIRMAN: I have no names inscribed on my list of speakers. Does any delegation wish to speak on this item at the present time? I see none. As I advised you this morning, we have thus concluded our substantive consideration of agenda item 7, "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space".

We should also consider the question of whether the Subcommittee should insist on including this item on the agenda of its fortieth session. This must be decided upon now in order to be recommended at a later point by COPUOS to the General Assembly for its endorsement. This is therefore the last opportunity to do so.

I have just been reminded that in the last sentence of its statement under this item, the United States delegation declared that it had no objection to keeping the item on the agenda for next year, to allow the Legal Subcommittee to track the work of the Scientific and Technical Subcommittee. As you may know, the Scientific and Technical Subcommittee is presently considering this issue; there has been some progress in the discussions in that Subcommittee on the basis of the paper submitted by three delegations. The Legal Subcommittee will not discuss this item until there is a substantive outcome from the Scientific and Technical Subcommittee.

However, the Legal Subcommittee may track the work of the Scientific and Technical Subcommittee and be informed of any progress achieved, and may discuss this in general terms. If delegations are not yet ready to express their views on this point, we could resume our discussion on this under agenda item 10, when we will consider the agenda for the fortieth session of the Subcommittee. I would ask delegations to give some thought to this subject.

We will now continue with our consideration of agenda item 8.

Review of the status of the five international legal instruments governing outer space (*cont.*) (agenda item 8)

The CHAIRMAN: Are there any delegations wishing to take the floor at this time? I give the floor to the distinguished representative of Italy.

Mr. C. ZANGHI (Italy) (*interpretation from French*): My delegation would like to associate itself with those delegations who have already expressed their congratulations to the Chair and to the Director of the Office for Outer Space Affairs.

My delegation would like to mention two points under this item, which have a possible linkage to agenda item 4. Since items 2, 4 and 8 are fairly closely related, we will mention these two points now. Yesterday we referred several times to the timeliness of having the five instruments ratified by as many States as possible, and to have as much unification of space law as possible. We said that those States which had not already done so should be urged to ratify these instruments, in order to involve as many States as possible in the implementation of these five instruments.

However, this morning we heard that there is at least one of these five instruments (namely the Moon Treaty) which for the time being has a very low number of ratifications (only eight States). We should therefore ask ourselves why there are such a low number of ratifications. If we want this rate to increase, we must examine what the basic obstacles to ratification are. It could possibly be a lack of interest, and we may be able to remedy that. It could be that there are legal problems which result in non-acceptance of the principles involved, or some other major reasons.

Therefore in order to improve the ratification rate, my delegation wondered if the Secretariat may be able to address a questionnaire to those States which have not ratified this instrument asking what the reasons are for this lack of acceptance. We could then see if there are any practical measures that could be undertaken, or whether we should just accept this information once it has been obtained.

That was our first point, which is more closely related to agenda item 4. Returning to agenda item 8, my delegation would like to follow up an idea which we mentioned at our last session, and which was reflected in a paper, namely the legal status of international organizations in relation to the five international legal instruments. Over the past few years we have noted the expansion of the role played by international organizations with regard to space

activities. We are referring here to traditional intergovernmental organizations as well as to new international organizations which have resulted from privatization of former intergovernmental organizations (for example, INMARSAT), and possibly other privatization efforts that might arise given the present trend.

It is fairly obvious that international conventions that were drafted nearly 30 years ago do not take due account of the role played by these international organizations. At that time there were various arguments against these organizations and they did not play such an important role as they do today. When we last met, we were prompted to suggest that the role of international organizations and their status in relation to the five international legal instruments should be taken into account as we review the instruments.

It might be possible to address a similar request to international organizations as to States to ask them how they perceive the situation, and whether they feel this issue should be re-examined. In this way, as we review the international treaties we could factor in their responses in a constructive manner. My delegation would suggest that we look into the legal status of these international organizations; this is not a new agenda item but just a new activity to engage in within the context of the review of these instruments.

The CHAIRMAN (*interpretation from French*): Thank you for your statement. We have taken due note of your suggestion, which we will of course consider.

(*continues in English*) Are there any other speakers on this item at this time? I see none. We will therefore continue our consideration of agenda item 8 tomorrow morning.

It is rather early, but I will shortly adjourn this meeting of the Subcommittee. I would urge delegations to utilize the time remaining at this afternoon's session to continue with informal consultations on the crucial outstanding issues before the Subcommittee. Before adjourning the meeting, I would like to inform delegates of our schedule of work for tomorrow morning.

We will continue our consideration of 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”, and agenda item 8, “Review of the status of the five international legal instruments governing outer space”. Thereafter, time permitting, the working group on the definition of outer space and the utilization of the geostationary orbit could convene under the chairmanship of Mr. Hector Raul Pelaez of Argentina.

Are there any questions or comments on this proposed schedule? I give the floor to the distinguished representative of Italy.

Mr. C. ZANGHI (Italy) (*interpretation from French*): I apologize for taking the floor again but this is on a procedural issue. Until last year, on the agenda of our usual meeting we had the status of the questionnaire which had been sent out two years ago to Member States by the Secretariat. Some replies to the questionnaire were received, but I believe that we have never really considered this issue in the Subcommittee. Since my delegation had intended to briefly address this subject, we wondered if there would be an appropriate time to address this issue, otherwise this questionnaire may well just stay in a bottom drawer in the Secretariat, and it would be a shame to have carried out this work to no avail.

The CHAIRMAN (*interpretation from French*): Thank you. Unless I am mistaken, this matter is taken up within the working group on this subject (the definition and delimitation of the GSO). Within that context a reference was made to the questionnaire and the replies received. In any event, I believe the Secretary may have some information on this issue, and I give him the floor.

Mr. P. McDOUGALL (Secretariat): I believe the distinguished representative of Italy is referring to

a questionnaire that was sent out under the agenda item entitled “Review of the status of the outer space treaties”. It is true that this was before the working group on that item last year, and it was discussed at least on a preliminary basis. Our understanding is that the most appropriate time to take it up would be under the current agenda item 8. That document is still current and could be taken up under the agenda item which we have just finished discussing today, but it will certainly be open for the next few sessions.

The CHAIRMAN: Is this a satisfactory reply? I give the floor to the distinguished representative of the United States.

Mr. J. CROOK (United States of America): This is just a small procedural question. Does the Chair or the Secretariat have any more precise information on when the representative of the ITU might be joining us?

The CHAIRMAN: I have just noticed that the distinguished representative of the ITU has arrived. Perhaps he could kindly tell us when he would be in a position to make his statement.

Mr. L. LEWIS (International Telecommunication Union): As I have only just arrived here, I would kindly seek the indulgence of the Subcommittee and perhaps make a statement tomorrow morning, if that is acceptable.

The CHAIRMAN: Thank you; that is perfectly acceptable. Are there any other questions or comments? I see none. This meeting is adjourned.

The sitting adjourned at 3.50 p.m.

