

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Unedited transcript

631st Meeting

Friday, 31 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 now declare open the 631st meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space. We will now continue our consideration of 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: I am pleased to announce to delegations that following this morning's meeting of the Subcommittee, I was contacted by the chairman of the working group on agenda item 6 with some welcome news. Unfortunately, the chairman is unable to be here this afternoon. However, he has asked me to inform the Subcommittee on his behalf that the working group, at its second meeting this morning, was able to reach agreement on a text of a document relating to the use of the geostationary orbit.

The document in question was originally submitted as a conference room paper under the symbol A/AC.105/C.2/2000/CRP.7 by the delegation

of France, and supported by various other delegations. I am informed that this document was the subject of some revision during the course of the meeting of the working group and that, based upon those revisions, consensus was reached within the working group.

I have been informed by the Secretariat that the consensus text, as it was modified and eventually agreed upon in the working group this morning, will be issued as a limited document of the Subcommittee early next week, in all languages. I have also been informed by the Secretariat that the self-same text is available in English only as conference room paper A/AC.105/C.2/2000/CRP.9. This text has been made available for distribution at this afternoon's meeting of the Subcommittee, and I believe that all delegations have this document before them.

Taking into account that this document will be available in all languages next week and will also constitute part of the Subcommittee's final report, which we will adopt in all languages at the end of this session, I would propose that the Subcommittee might, at this meeting, reach a provisional agreement on the text contained in document A/AC.105/C.2/2000/CRP.9 agreed to this morning by the working group. I am making this proposal in order to accommodate the request of some delegations who will leave Vienna this weekend, and who would like to finalize this before their departure.

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.

Unless there are any objections, may I take it that the Subcommittee agrees to consider the text as it appears in English in conference room paper CRP.9, with a view to reaching agreement on this text at the present meeting of the Subcommittee. Are there any objections to proceeding in this manner? I see none; we will therefore proceed accordingly.

I now refer delegations to the text of this conference room paper. Unless there are any objections, may I take it that the Subcommittee is in agreement with the text contained in this document. I recognize the distinguished representative of the Russian Federation, to whom I give the floor.

Mr. B. TITUSHKIN (Russian Federation) (*interpretation from Russian*): My delegation is somewhat surprised to see that in the draft of this document, there is no mention of the formulation proposed by the Russian Federation for paragraph 4(d). We thought that that paragraph should be shown in two formulations: we did not agree to the present formulation as set out in the document before us.

The CHAIRMAN: Thank you for your comments. I attended the meeting of the working group and I myself, on behalf of my delegation, proposed to draft this particular subparagraph (d) in the shortest possible way. As far as I can recall, the chairman asked whether it would be possible to reach a consensus on the basis of this shortened text, and it was so decided.

Mr. B. TITUSHKIN (Russian Federation) (*interpretation from Russian*): Under those circumstances, my delegation apologizes for any possible misunderstanding. Nevertheless, we do insist that we did not withdraw our proposed text.

The CHAIRMAN (*interpretation from Russian*): I understand; that therefore means that we cannot adopt the document as a whole today.

(*continues in English*) Does any other delegation wish to take the floor on this point, and particularly on the request of the delegation of the Russian Federation? I give the floor to the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation is even more surprised by this last-minute reaction. In actual fact, we understood the situation as you described it, for many reasons, including the fact that the discussion on the question was quite lengthy. When it was decided that it had been eliminated, my delegation

thought that perhaps that was not right and we requested the delegation of France to read out its proposal. This was done. A proposal was made, which we all were aware of and which is reflected in the text before us.

A number of delegations immediately spoke in support of this. Then there was your proposal, Mr. Chairman, supporting the fact that the text should be left as is. Then I believe the delegations of Brazil, Cuba, Chile, Ecuador, Colombia, Mexico and France agreed. There was a definite agreement. Therefore, where is the doubt, when there were so many positive reactions from many delegations supporting this formulation?

It may be that the distinguished representative of the Russian Federation was absent at that particular moment and did not follow the debate in its entirety, but the question was amply discussed and supported by everyone. There was no reaction against this proposal at the time; furthermore, it was the only point where we heard from more than six delegations on this issue. Therefore my delegation is rather surprised. I am sure the working group does remember what took place and the Chair has kindly reminded us of it as well.

The CHAIRMAN: Thank you for your statement. I give the floor to the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): My delegation apologizes for taking the floor once again on this matter. As we have already said, it is quite possible that there was some misunderstanding. Nevertheless, at the present time, my delegation cannot agree to the present text of paragraph 4(d) of the document that was discussed during the meeting of the working group.

We would like to request the Subcommittee, with the assistance of the Chair, to postpone adoption of this document until Monday. This will allow us to have the opportunity to contact the relevant state bodies and also to hold additional consultations with interested delegations on this specific text.

The CHAIRMAN: Thank you for clarifying your position. I now give the floor to the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): First of all, my delegation would like to confirm its understanding of what has

just been said by the Chair, as well as other delegations. All colleagues including myself, as you may recall, requested a small amendment to be made, but I then tacitly withdrew it. The distinguished representative of Argentina spoke several times on this issue, because several colleagues wanted to leave. A decision has to be taken today, at this afternoon's meeting.

Through the Chair, my delegation would like to propose to the delegation of the Russian Federation that they do not insist on delaying adoption of this text. The text they proposed, with some minor amendments, could perhaps be put in the Subcommittee's report. The present text contained in the working paper could be left as it currently stands, and that idea of the Russian Federation concerning how this might be transmitted to the ITU could be contained in the report.

In this way, we will be able to make some progress on this issue. I would like to appeal to the delegation of the Russian Federation not to insist on this point. The paper before us today is virtually complete and it concludes a 25-year story, and not a particularly fortunate one.

The CHAIRMAN (*interpretation from Russian*): I would like to put a question to the distinguished delegation of the Russian Federation. Is the proposal made by Greece acceptable to your delegation or not?

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): During the general discussion that took place in the plenary on the second day of this session, my delegation stated quite specifically that this Subcommittee does not have the right to make recommendations to any specialized body of the United Nations system, as a sovereign subject of international law working within the framework of its own Constitution.

Cooperation between organizations of the United Nations and all its specialized agencies is carried out in accordance with an agreement drawn up by ECOSOC on behalf of the United Nations, and the relevant international organization. In those agreements, it is clearly stated exactly what mutual rights and obligations are involved and how they bind the United Nations and the respective specialized agency. Therefore this rather vague formulation that the paper will be transmitted to the ITU – at first glance this might seem like a neutral formulation, taking into account the interpretation which at least

one of the delegation's of this Subcommittee is giving to the status of that document – is not acceptable.

As far as procedure is concerned, it is impossible to understand why the chairman of the working group did not reply to my delegation, after the representative of my delegation in the working group had read out his proposed text, saying that we had the original formulation, one proposed by the delegation of the Czech Republic (put forward by the Chair) and then the proposal of the Russian Federation. Usually the delegation is asked, when consensus is being reached, whether your proposal is being withdrawn or insisting upon it. This was not done. We do not believe this is the right approach to take in this body. In some ten years of participating in the work of the Subcommittee, we cannot recall issues being dealt with in this way.

Frankly speaking, when the working group concluded its work with applause, my delegation felt that we would have this document and that on this final paragraph 4(d), we thought that there would be, perhaps in square brackets, the three alternative texts printed there: the original proposal, that of the Czech Republic and our own. If there was a misunderstanding this is regrettable, but we must insist that the delegation of the Russian Federation cannot agree to making recommendations to a sovereign specialized agency of the United Nations. We have legal advisers, who are neutral, present in the Secretariat of the United Nations dealing with space affairs. Perhaps they could either refute what we have just said or confirm it: a recommendation to the ITU can only be made by the United Nations General Assembly. On this basis we have the interrelationship between the United Nations and the specialized agencies.

The CHAIRMAN (*interpretation from Russian*): Thank you for your clarification of your position. I now give the floor to the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): Once again, my delegation feels this is "magical realism" surrounding us. This is a somewhat magic Subcommittee at times, but my delegation does not understand this at all. The point is, with all due respect, that the suggestions put forward by the distinguished delegation of the Russian Federation were not heard: no one is aware of these three proposals. It is the first time we are hearing about this.

It might have been in the minds of the delegation of the Russian Federation, but nothing was actually said. The chairman of the working group asked if there were any objections to the proposal finally made. The response was full support, including from the Chairman of this Subcommittee. In other words, the Chairman saw nothing different from the usual customary practice in this working group, and my delegation defends the position of the Chair.

With all due respect to the distinguished representative of the Russian Federation, the Chair asked if there were any objections to the proposal, and seven or eight voices spoke in support of it, with no reaction from the Russian Federation to that question from the Chair. These are the facts. All present can confirm this.

Looking at the substance of the matter, we see no great problem in saying that this document will be transmitted to the ITU. "Transmission" means simply sending a document to the ITU. Therefore we would ask the distinguished representative of the ITU if they have any approach to this suggestion? We appreciate that this is not an easy question, but does this seem to be too compromising for the ITU, or is it something vague and neutral that would bother no one at all, including the ITU.

The CHAIRMAN: Thank you for your statement. Does any other delegation wish to speak on this issue. I give the floor to the distinguished representative of South Africa.

Mr. L. MKUMATELA (South Africa): If we are taking note of positions here, we would like to remind the Subcommittee that we thought that the earlier suggestion was still relevant. But we would not insist on that position. We did feel that we were working towards a consensus in the Subcommittee.

It seems that this is not a matter of substance. We managed to agree on certain issues and now we are looking at how to involve other bodies, especially the ITU. We have already noted and agreed that ITU is mandated and more competent to deal with this issue. My delegation would like to ask the following question. If we do not include the sentence in (d), what would have been the fate of the document and of the report that will be produced? Is the Subcommittee's report going to remain in Vienna, or will it help the United Nations to accomplish its mandate? Are we not stating the obvious, i.e. that indeed the United Nations system must function as a machine that is properly oiled. Therefore the work of

the Subcommittee is not solely for that body's benefit, but to assist any and all other relevant organs of the United Nations.

If that is the case, perhaps the problem with subparagraph (d) could be solved by deleting that subparagraph and hoping that the report of the Legal Subcommittee will be widely distributed to the relevant bodies. Otherwise we are still saying that this is a question of transmission to the ITU, which is fundamental. We are simply saying that if this subparagraph poses such a problem, then perhaps we should consider omitting it, being well aware that the Subcommittee will transmit its report through the appropriate channels, including this paragraph and this page.

The CHAIRMAN: Thank you for your statement. I now give the floor to the distinguished representative of Brazil.

Mr. E. LUCERO (Brazil): First, I would like to congratulate Mr. Pelaez for the excellent work he has undertaken as chairman of the working group on this subject, and for the successful conclusion of that work, which resulted in the paper now before the Subcommittee that was adopted by the working group by consensus.

There is no doubt that there was consensus at the time of adopting this text. As I was quite close to the chairman at the time, I can remember quite clearly that following many interventions in support of a proposal made by the distinguished representative of France, the chairman asked if the working group could adopt the text by consensus. He waited several seconds to see if there was any reaction from the floor. Therefore, according to normal practice in the United Nations, he acted correctly and declared this text adopted by consensus.

Of course, any delegation may reconsider its position in the plenary session, because what I have just outlined took place at the level of the working group. This is how my delegation views the reopening of this question at this point. In order to try and have a better understanding of the current situation, and knowing that the paper before us is in English only, perhaps it is just a question of understanding.

I would like to draw the Chair's attention to the fact that we are not in this paper making any recommendation whatsoever to the ITU. We are recommending that this document be transmitted to the ITU. If there was any suggestion in this sentence

of how the ITU should act with regard to this document, then that would be questionable. But the recommendation merely to transmit it to the ITU does not mean that this body is making a direct recommendation to the ITU, which is neither the practice of the Subcommittee or the understanding of my delegation.

This recommendation of the Legal Subcommittee in subparagraph (d) is written in what I would call a constructive ambiguity, as it allowed for a positive conclusion of the work of the Subcommittee. In this sense, my delegation strongly supports the retention of this paper and that it be adopted by the Legal Subcommittee in the exact form in which it was presented by the working group.

The CHAIRMAN: Thank you for your statement. The next speaker on my list is the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): As concerns the text of paragraph 4(d), there is no actual need to have this because as the results and the activities of the working group will be reflected in the report of the COPUOS to the United Nations General Assembly. The Secretary-General will automatically transmit such report of COPUOS together with the resolutions adopted by the General Assembly on the basis of the report to the ITU. So there is no real need to say that this document will be transmitted to the ITU, because we know that that will be done.

There again, we cannot tell the Secretary-General what to do. If he and the General Assembly feel it is unnecessary to transmit such document, it is not up to us to instruct them. We are only a subsidiary body to the General Assembly and it is not up to us to transmit anything. From this text, it is unclear exactly who will transmit it: will it be the Chairman of COPUOS, or the Chairman of the Legal Subcommittee, or the Director of the Office for Outer Space Affairs? Who will be responsible for it?

As concerns the ambiguity, it is precisely this ambiguity which prevents my delegation agreeing to this formulation. Finally, we are pleased to see that the Russian language is becoming even more popular than English. When we speak in Russian, everyone understands us. When the representative in the working group read the proposal out in English, he actually spoke Russian but the proposal was made in English. I noticed that the Secretariat were noting the content of the proposal. Now we are being told that

we made no proposal. This seems somewhat unfriendly; it has never happened before in the Subcommittee.

The CHAIRMAN: Thank you for your statement. The next speaker on my list is the distinguished representative of Belgium.

Mr. J. MAYENCE (Belgium) (*interpretation from French*): As you have noted, this is the first time the Belgian delegation has been sitting in the Legal Subcommittee and I must say that I am confused. I just do not understand what we are talking about.

Under paragraph 4, if subparagraph (d) really gives rise to such problems, there must be some kind of aim of seeking a more complicated interpretation of what are simple words. They mean what they say and nothing else. In saying "this document will be transmitted to the ITU", that is the same as putting a "cc" to a name at the bottom of a letter. It is not that these are recommendations being proposed to the ITU; it merely says that we will ensure that this document actually reaches the ITU.

Unfortunately, I was unable to attend the end of the discussion, which was a fruitful one, of this question of the agenda this morning. However, I would say that to put three possible solutions in brackets for subparagraph (d) is unnecessary. If we include brackets, it means the work is still unfinished. I would support what was said by the delegation of Greece: if we could include in the Subcommittee's report a text saying that subparagraph (d) shall be understood to mean that a copy of this document shall be addressed to the ITU, that should solve the issue in question. We could thus accept in good faith that there are no further objections to this document from any delegation, the delegation of the Russian Federation in particular.

If we want to turn it the other way around and push the interpretation in the other direction, the fact could be mentioned that as this document will be transmitted to the ITU, then any recommendations made are not addressed to them. Otherwise there would be no need to mention it. We can go on and on trying to seek a complicated interpretation if we so wish, but my delegation believes what is written here is clear. It is a simple matter and we should show good faith and achieve our aim.

The CHAIRMAN: Thank you for your views on this issue. I now give the floor once again to the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): I have to admit that now I am suffering! I was already starting to celebrate, and now I realize that I cannot.

Looking at the principles and, strictly speaking, at international law as well, because there are still some people here who come from the circles of international law, my delegation must agree with the distinguished representative of the Russian Federation. However, we must find a solution here. We know that there is in Greek mythology the story of finding your way out of the labyrinth, and we are convinced there must be a way out of this.

There are two possibilities, and I do believe we may have a possible solution. I agree entirely that the normal process would be to append this document to our report, and the report would be endorsed by the main Committee and then transmitted to the Fourth Committee of the General Assembly in October. That is where a decision could be taken to introduce in its resolution (called the omnibus resolution) a reference, firstly, to the report of the Committee and the two Subcommittees, and perhaps they might note with satisfaction this paper. They might note that the Legal Subcommittee has done this.

Whatever resolution is passed by the United Nations, it is the United Nations Secretary-General who deals with it and no other body within the United Nations. That is for normal communications channels – and that is communication, not necessarily transmission, from a General Assembly organ such as ourselves to another international institution. The concession, if I may use that term – in fact there are two options. We could delete subparagraph (d); or, after transmitting it, we could add “for information”. That offers a counterbalance.

This brings me back to my proposal in line with the point raised by the delegation of the Russian Federation. That provides a solution to this problem.

The CHAIRMAN: Thank you for your proposal. The next speaker on my list is the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation associates itself with the points raised by the delegations of Brazil and Belgium. First, we believe that what they said was commensurate with the actual facts: they are an exact narration of what took place in the working group. My delegation was also impressed by what was said by the distinguished representative in

Belgium concerning the principles of international law, and good faith.

My delegation does not want to go into details of what happened in the working group, as we believe it is sufficiently clear to all. We could make an last-minute interpretation to justify a different position, and so there is no point getting into a discussion on that. What my delegation wishes to point out is the following, as there seem to be some strange things seem to be happening here.

For 25 years it was said that this question fell under the competence of the ITU. When we said we would transmit this to the ITU, we are now told that that is not how it will be. My delegation does not understand this. The argument we have heard is that now we have finally agreed to transmit the text to the ITU for their examination, and in accordance with due procedure, suddenly we are told that it does not have to be sent to the ITU?

We must look at our own role. We are a Subcommittee that forms part of the United Nations Committee on the Peaceful Uses of Outer Space. The General Assembly expects that Committee to examine the questions related to outer space with the aim of preparing and reaching agreement on questions, preparing documents and recommendations, and submitting them to the General Assembly so that it can in its wisdom take the appropriate decisions they deem correct. This is what we are doing: we are preparing a document for submission to the General Assembly, and that will follow the procedure that is always followed.

Therefore we just cannot understand what is happening here. Now we are saying it does not have to be sent to the ITU? We have always heard that it must be sent to the ITU, and that is exactly what this text is saying. With all due respect to the members of the Subcommittee, and appreciating the wealth of knowledge and expertise with which the Russian Federation has helped in achieving progress in and development of outer space and all the positive contributions that have been made, we must give this serious consideration. There was a strong agreement on the adoption of this text.

My delegation agrees with the point of view that not everyone is satisfied: my delegation is not fully satisfied either. However, we did accept this text in a spirit of cooperation. It has been stated repeatedly that negotiations and consensus is a mere equal sharing of frustration, and so each one of us should take their share of this frustration. I am leaving

here very frustrated with everything that has been said from the outset right up to the production of this paper. But I accept it in the name of consensus and in the name of progress, which is how we move forward. My delegation would like to say to the Russian Federation that we do not believe that this is such a grave question.

The CHAIRMAN: Thank you for your contribution. I now give the floor to the distinguished representative of the United States.

Mr. J. CROOK (United States of America): My delegation is not sure it can see the way out of the labyrinth either, but we seem to have been in the labyrinth now for over an hour. The positions of the parties have been eloquently, forcefully and clearly expressed, and no progress is really being achieved. Perhaps it might be wise to continue to discussion of another item, and to allow the delegations concerned an opportunity to reflect on what has been said. They could then consult amongst each other to see if some solution can be found. Our present discussion does not seem to be progressing.

The CHAIRMAN: Thank you for your statement. I give the floor to the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): My delegation would nevertheless like to have an answer, through the Chair, to the question we have put to the experts. We would like to understand exactly who is able to transmit this document to the ITU, and how it will be done. To whom will the document be addressed in the ITU? What will be included in the covering letter? Who will sign that covering letter?

We believe that the distinguished representative of Greece has painted a very clear picture as to how this document should be received by the ITU. Our point was more or less the same. People may not agree with us but we would like to receive some legal explanation of this, so that we understand how, when, with what covering letter, etc., will this document be transmitted to the ITU. Who will take the final decision to send it to the ITU: is it this Subcommittee, the main Committee or the General Assembly?

The CHAIRMAN: My own understanding is that the procedure will be as explained by the distinguished representative of Greece. This is the recommendation of the Legal Subcommittee; it is not

a recommendation addressed to the ITU. It is a recommendation from our Subcommittee to the main Committee for its endorsement, and for further consideration at the next session of the General Assembly. If the General Assembly agrees, then it is up to the Secretary-General of the United Nations to inform the Director General of the ITU.

That would be my reply to your question. The Legal Subcommittee would not send such a letter; we have no mandate to do so or terms of reference.

Mr. Y. KOLOSSOV (Russian Federation) [speaks in English]: There are already three people in this room – the Chairman, the delegation of Greece and my own delegation – who are thinking along the same lines. Thank you for that explanation.

In that case, why do we need the formulation in paragraph 4(d)? We accept many recommendations but we never conclude them with this formula, that the recommendation should be “transmitted”. That is the usual practice to transmit the document, which is decided by the General Assembly. The Secretary-General will automatically send the report of the deliberations of the general Assembly, including its organs (and COPUOS), to the ITU. So why do we in this exceptional case make a special reference to the need to transmit it when it will automatically be transmitted? That is our question.

The distinguished representative of Brazil mentioned that this is a “constructive ambiguity”, and that is exactly what we are not happy to accept: any ambiguity.

The CHAIRMAN: Thank you for your clarification. We will continue with this discussion, but in the meantime I would like to draw your attention to one element of our mandate to consider this question.

The final part of this agenda item reads “without prejudice to the role of the International Telecommunication Union”. The last sentence of this document bears out that we do not prejudge the role of the ITU and that we wish to make it abundantly clear to them directly. The ITU has also participated very diligently in our discussions on this item for many years, and therefore it might be considered useful to draw it to the attention of the office of the representative of the ITU, to confirm that we have in fact preserved our mandate.

However, this is only my own interpretation. I would now like to give the floor to the distinguished representative of Belgium.

Mr. J. MAYENCE (Belgium) (*interpretation from French*): What is unclear to me is that if subparagraph (d) is part of the recommendations, and if we go through the usual channels, what is stopping the Subcommittee from recommending to the plenary of COPUOS, and ultimately to the General Assembly and the Secretary-General, that this document be transmitted to the ITU? Nothing forces the General Assembly to transmit a document; as I understand it, that is not that automatic. This is why we should ask for the document to be transmitted; this does not mean it is a recommendation to the ITU, it simply means that we are recommending that the General Assembly does transmit this document to the ITU.

The administrative procedure is very interesting but is not directly relevant to this item of the recommendations.

The CHAIRMAN: Thank you for your comments. I now give the floor to the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation will be brief. The Chair and the distinguished representative of Belgium anticipated what we wanted to say. We wanted to refer to the mandate we have from the General Assembly, which refers to the examination of this agenda item "... without prejudice to the role of the International Telecommunication Union".

The distinguished representative of Belgium made a relevant point in that this must be sent somewhere so that it is taken note of. We would therefore insist that we ask the representative of the ITU how that organization would receive this document. I was fortunate enough to have been in the United Nations Mission in New York for my country for several years. We know that once this document has gone through the Fourth Committee it is submitted to the plenary. It is then approved (or not) and it then goes to the Secretary-General so that it may be transmitted to the ITU by him. So what would the ITU do with this?

We must not forget that we, the States represented here, are also the ITU. It is not the Director General or the Board; it is us who go to ITU representing our respective countries, and we will see the recommendation of COPUOS, subsequently

approved by the general Assembly. Then we would discuss what to do about it. We have heard many delegations state here that this text must go to the ITU, and so we do not understand why there is a problem.

It is a wonderful idea to think about other matters, but this is so obvious and so simple.

The CHAIRMAN: Thank you for your statement. I now give the floor to the distinguished representative of Brazil.

Mr. E. LUCERO (Brazil): My delegation is happy that we used an expression that perhaps is useful to show where the concerns are. The expression used was "constructive ambiguity" because according to my own experience in the United Nations, I have never seen a text adopted by consensus that does not include somehow a balance of positions which reflects that we are all working in a process of negotiation involving balancing the views. With so many different views, it is natural that different countries have divergent views on certain subjects; it is also natural that the conclusion of any document is couched in terms and in a wording that is acceptable to all.

I also share the view expressed by the distinguished representative of Colombia that we are not entirely happy with the result, but we think this is the best result possible. We are not in a position to compromise further on this. There is a possible solution, which is to remove the ambiguity, and I have thought of one such possibility.

Paragraph 4 begins with the wording "recommends that"; perhaps subparagraph (d) could read "recommends that the Committee on the Peaceful Uses of Outer Space recommend to the United Nations General Assembly that this document be transmitted to the ITU". I am not proposing any change to the beginning, only to subparagraph (d). In this way we would be making a recommendation to our main Committee for it to decide (or not) to recommend to the General Assembly that this document be transmitted to the ITU, which was the understanding of my delegation from the outset. This would perhaps remove the ambiguity and it might be an acceptable text.

The CHAIRMAN: A new proposal has been made and I would like to ask delegations if we could act on the basis of this proposal. I give the floor to the delegation of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) [speaks in English]: Since we are in agreement that the Legal Subcommittee of COPUOS discusses this issue without prejudice to the competence of the ITU, and many statements have been made to say that ITU itself will take the decision on what is to be done with this paper and what account should be taken of it, then we can accept the proposal just read out by the distinguished representative of Brazil, with one amendment.

At the end of the phrase, three words should be added: "... for information purposes".

The CHAIRMAN: Is this proposal by the Russian Federation acceptable to other delegations? I give the floor to the distinguished representative of Brazil.

Mr. E. LUCERO (Brazil): The proposal of the Russian Federation raises a problem, because that then prejudices what the ITU will do with this document. Our intention from the outset was to make no recommendation to the ITU; but if we conclude that it is for information only, we are prejudging what the ITU will do with this document. This would clearly exceed our mandate. I would kindly ask, through the Chair, that the Russian Federation reconsiders this amendment.

The CHAIRMAN: Thank you. I give the floor to the distinguished representative of South Africa.

Mr. L. MKUMATELA (South Africa): It seems that now there is a double recommendation; perhaps this is a matter of drafting. We are recommending to the Committee to recommend to the General Assembly: this is why it seems to us to be a double recommendation. That is the first issue.

In our opinion, it seems that what is called "constructive ambiguity" only appears in paragraph 4(a)(ii), the reference to the practical steps to be taken that States already in position are able to accommodate new players. For the rest seems to be an affirmation of what ITU is doing and will be doing. Our question is: is this document embargoed or shelved until the next meeting of the General Assembly? The World Radiocommunication Conference is held before the next session of the General Assembly: will ITU not be able to discuss this "constructive ambiguity" at the next WRC? Do we retain this document in the Subcommittee or the main Committee and by doing so, are we not stalling

the work of the ITU? What is the relevance of transmitting this document if the States here could raise the same "constructive ambiguity" at the WRC?

My delegation still questions this process of transmitting a document. South Africa is prepared to cooperate if the proposed double recommendation is agreed by consensus, but we wanted to draw the Subcommittee's attention to the next WRC is quite imminent and we might have the same position at the WRC, where we would say that practical and reasonable measures would have to be taken by States to accommodate new players.

The CHAIRMAN: Thank you for your statement. Are there any other delegations wishing to speak? I give the floor to the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) [speaks in English]: My delegation has two alternative formulas to propose to the formulation proposed by the distinguished representative of Brazil.

The first possibility is that the word "transmitted" should be replaced by the words "made available". The sentence would thus read: "This document will be made available to the ITU". The second possibility is to formulate the end of subparagraph (d) as follows: "... the ITU is informed of this document". Either version would be acceptable to my delegation.

The CHAIRMAN: Thank you for your proposal. I now give the floor to the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation could accept the first option, using the words "make available". Would the distinguished representative of the Russian Federation be kind enough to read the text out again, but in principle we could accept this.

The CHAIRMAN: Thank you. I give the floor to the distinguished representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) [speaks in English]: My delegation proposed the following text: "This document will be made available to the ITU". There is only one minor change, the use of the words "made available" instead of the word "transmitted".

The CHAIRMAN: We have heard the proposal by the Russian Federation. May I take it that this text would be acceptable to the Subcommittee. I see no objections. *It is so decided.*

I give the floor to the distinguished representative of Colombia.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation wanted to take the floor at the end of the discussion on that particular item in order to express my delegation's deep gratitude to the Legal Subcommittee. After 25 years of examining this issue, we have finally reached an agreement.

As we have said on previous occasions, we are not entirely satisfied, but during the process of negotiation we cannot hope that each delegation will be entirely satisfied. However, we feel we have had 25 years of very interesting discussions; we often came up against some very rigid positions at the outset on the part of certain States, and these have become flexible enough to produce the document before us today. My delegation welcomes this agreement.

This will enable the Subcommittee to cooperate further within COPUOS on other matters to which we may not have been able to give enough attention because to date, we have concentrated on developing recommendations to address the issue of the geostationary orbit. We have noted the goodwill shown by a great many States who supported us when we presented document L.200. In particular, we would like to express our gratitude to the delegation of France for the coordination work they have carried out in order to develop the document upon which we have finally agreed.

Many other European States, as well as the United States and the Russian Federation, have given us help and support, but all these are States who at some time or another held positions which were different from our own, but who have helped us to reach this agreement. My colleagues from the Latin American region, in particular Ecuador, deserve our gratitude as well.

My delegation wanted to express its gratitude and to make a suggestion to the Subcommittee. However difficult an issue is, and however much time we might allocate to it, no question is left unanswered eventually. Some very wise people participated in the work of the Legal Subcommittee, which is why ultimately we do find answers to all the problems.

This matter has perhaps been the object of the longest discussion in the Subcommittee, but nevertheless even here we have found a solution.

There is no problem that cannot be solved: and this is certainly the case in this particular instance. We have found an agreement, and my delegation hopes that everyone will remember this, as it demonstrates that with an open mind and a spirit of cooperation, agreements can be reached.

The CHAIRMAN: Thank you for your statement and for your long-term participation in the discussion on this issue.

We have just reached an agreement on the text before us, with the amendment that was adopted. I would remind delegates that this text, including the proposed amendment, will be produced in all languages next week, and will constitute a part of the final report of the Subcommittee, which will be formally adopted at the end of the session.

However, in light of the agreement that has just been reached this afternoon, I would propose that unless there are any objections, we could now conclude our substantive discussion of agenda item 6. Are there any objections? I see none. We have thus concluded our substantive consideration of 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".

We will now continue 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: I have no names inscribed on my list of speakers under this item. Does any delegation wish to take the floor at this time? I see none. We will continue our consideration of this agenda item on Monday morning.

We will now continue our consideration of agenda item 9.

Review of the concept of the launching State (*cont.*) (agenda item 9)

The CHAIRMAN: I have no names on my list of speakers for this particular item. Does any delegation wish to take the floor at the present time? I see none. We will therefore continue our consideration of this item on Monday morning.

We will now continue our consideration of agenda item 10.

Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fortieth session (cont.) (agenda item 10)

The CHAIRMAN: I have one name inscribed on my list, the distinguished representative of Sweden, to whom I give the floor.

Mr. N. HEDMAN (Sweden): During the deliberations on this agenda item this morning, the distinguished representative of Greece made a statement in which he proposed that item 8, "Review of the status of the five international legal instruments governing outer space", should be retained on the agenda of the Legal Subcommittee.

According to the workplan for agenda item, this item is to be concluded at the present session. The three years of work will result in a set of recommendations whereby States should first and foremost consider ratifying the space treaties. States have also been informed about the possibilities that exist to make a declaration under the Liability Convention. Furthermore, the very important issue of compliance with the treaties is also highlighted in this set of recommendations.

Sweden is satisfied with the work that has been carried out under this particular agenda item. Nevertheless, we firmly believe that the Legal Subcommittee must be able to receive further information on the status of the treaties, that is to say, on signatures, ratifications and national implementation of the treaties.

Agenda item 8 has fulfilled its mission. It is now up to States to consider these recommendations. Any such information submitted by States would be appropriately dealt with under the existing agenda item 4, "Status of the international treaties governing the uses of outer space", as well as under the agenda item "General exchange of views".

For these reasons, Sweden believes that agenda item 8 should be closed at this session, in

accordance with its own workplan. It should not be further extended.

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

Mr. Y. KINOSHITA (Japan): I will briefly explain my delegation's position on this agenda item. We believe that a fruitful discussion has taken place for the past three years on agenda item 8, "Review of the status of the five international legal instruments governing outer space". We are fully satisfied with this discussion.

However, my delegation can see no positive reason to extend the discussion on agenda item 8. Therefore, we support the statement made by the distinguished representative of Sweden and would like to finalize the discussion on agenda item 8 at the current session, as scheduled.

The CHAIRMAN: Thank you for your statement. Does any other delegation wish to take the floor? I recognize the distinguished representative of Belgium, to whom I give the floor.

Mr. J. MAYENCE (Belgium) (*interpretation from French*): As you know, my delegation spoke in favour of maintaining agenda item 8 and keeping it on the Subcommittee's agenda. Some delegations feel the question has been dealt with exhaustively, and so we can go along with that position. However, we would like any requests for inclusion of an item on the Subcommittee's agenda that is related to a sensitive recurring question that might be raised by one delegation, to be considered by the Legal Subcommittee during the type of constructive debate that takes place in this forum.

The CHAIRMAN (*interpretation from French*): Thank you for your contribution. Does any other delegation wish to take the floor?

(*continues in English*) I see none. We will continue our consideration of this agenda item, "Proposal to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fortieth session", on Monday morning. I see that we can inscribe the name of the delegation of Greece on the list of speakers for Monday.

Are there any other requests for the floor? I see none.

I will shortly adjourn this meeting of the Subcommittee to allow the working group on the view of the concept of the “launching State” to convene its first meeting, under the chairmanship of Mr. K. Schrogl of Germany. However, before doing so, I would like to inform delegates of our schedule of work for Monday morning of next week, 3 April.

We will continue our consideration in the plenary of the Subcommittee of agenda items 8, 9 and 10. Thereafter, time permitting, the working group on the review of the concept of the “launching State” will convene its second meeting, under the chairmanship of Mr. K. Schrogl of Germany.

Are there any comments or proposals on this proposed schedule? I see none. This meeting is now adjourned.

The sitting adjourned at 4.45 p.m.