

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Unedited transcript

632nd Meeting

Monday, 3 April 2000, 10 a.m.
Vienna

Chairman: Mr. KOPAL (Czech Republic)

The meeting was called to order at 10.10 a.m.

The CHAIRMAN: I now declare open the 632nd meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space. 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: Before opening the floor, I would like to inform delegations that it is my intention to conclude consideration of this item at this afternoon's meeting. Therefore I urge those delegations wishing to make statements on this item 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 the Republic of Korea, to whom I give the floor.

Mr. C. HYUNG-SUK (Republic of Korea): My delegation would in fact like to speak under agenda item 10.

The CHAIRMAN: I apologize. Are there any other speakers on this agenda item at the present time? I see none. We will therefore continue and conclude our consideration of agenda item 8, "Review of the status of the five

international legal instruments governing outer space", this afternoon.

We will now continue with out consideration of agenda item 9.

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

The CHAIRMAN: I have no names inscribed on my list of speakers. Does any delegation wish to take the floor at the present time? I recognize the distinguished representative of the United States, to whom I give the floor.

Mr. J. CROOK (United States of America): The Subcommittee has made such good progress; my delegation does have a short statement on this agenda item. We have not handed it to the Secretariat and so it is in handwritten form; we could proceed and deliver it now or we could wait until it is in your hands.

The CHAIRMAN: Thank you. We could proceed now and your text could be handed to the Secretariat at a later stage.

Mr. J. CROOK (United States of America): My delegation welcomes the beginning of the work on this important agenda item. We will make a substantial presentation in the working group, describing the United States commercial launch industry, and measures taken by the

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United States Government designed to ensure its efficient and effective regulation. We will accompany that presentation with a working paper providing additional information, including descriptions of some of the innovative launch ventures that have come into operation, as well as other newer ventures whose launch systems are still being developed.

At this point my delegation will mention only two somewhat related points, both related to the legal aspects of the interpretation and application of treaties. First, during the course of our debates here, it is to be expected that delegates will express views regarding the manner in which the outer space treaties should be interpreted and applied. These views may come to be reflected in the record of our meeting.

For example, last week we understood the distinguished representative of the Russian Federation put forward a suggestion that the State which licensed or authorized a launch by a private commercial venture thereby procured that launch. We are not convinced that as a matter of law and language, "to authorize" has the same meaning as "to procure". However, for the purposes of our discussion here, it is sufficient to recall that the views of individual States are just that: the views of those States. It is the language of the treaties that is the most authoritative expression of their meaning, supplemented in cases of ambiguity by the actual practice of States in implementing the treaties.

This brings me to our second point. It has been suggested that we may wish to consider developing a possible agreed upon interpretation of the concept of the launching State. This is not what our mandate from COPUOS instructs us to do. We are to review the application of the concept of the launching State, in accordance with the three-year workplan laid down for us. A review of its application in practice, not interpretation.

Naturally, in discharging our tasks, we will examine the factual settings in which the Liability and Registration Conventions are to be applied, and we will hear how States are applying or intend to apply them in practice. However, as the distinguished representative of the Russian Federation correctly reminded us last week, it is for the States Parties to treaties – not other bodies that are not necessarily composed of States Parties – to authoritatively establish the manner in which their treaties are to be interpreted and applied.

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

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): My delegation can be brief. As concerns possible agenda items for the Legal Subcommittee, we will speak on that subject under agenda item 10. At present we are focusing on agenda item 9 and we have a decision for us to make for COPUOS under the three-year workplan to examine the concept of the launching State.

For the year 2001, which will be the fortieth session of the Subcommittee, we have a wording for inclusion on the agenda of that session which is "Examination of the concept of the launching State", as contained in the Liability and Registration Conventions, as applied by States and international organizations. We believe that since the concept of the launching State also appears in the means Rescue Agreement and the Moon Agreement, perhaps at the fortieth session of the Subcommittee we could extend the mandate as it now is in the report for the fortieth session, adding "as well as in other main outer space treaties".

My delegation will revert to this question when examining agenda item 10.

The CHAIRMAN (*interpretation from Russian*): Thank you for your statement on the mandate of the Subcommittee for its fortieth session.

(*continues in English*) I have no other delegations inscribed on the list of speakers at this time. Does any other delegation wish to take the floor? I see none. We will continue our consideration of agenda item 9 this afternoon. 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 give the floor to the distinguished representative of the Republic of Korea.

Mr. C. HYUNG-SUK (Republic of Korea): My delegation would like to make some brief comments on this agenda item. As many delegations have already noted, we share the view that it is necessary to continue our deliberations on matters relating to the review of the

five international legal instruments governing outer space.

We would like to remind delegations of the objectives and main functions of this Subcommittee. It has been given a mandate from the United Nations General Assembly to review legal matters arising from space-related activities. It is imperative that we discuss this matter and continuously seek ways and means to improve the present legal system, even if there has been something of a shortage of fruitful results in the short term. In particular, many delegations including my own have drawn attention to the need to review the causes of the failure to obtain universal acceptance of the 1979 Moon Agreement.

That being said, and bearing in mind the concerns raised by some delegations, my delegation supports the idea of merging agenda items 4 and 8 as a practical alternative. We are sure that this approach will help ensure the universal acceptance of the Moon Agreement in the long term.

The CHAIRMAN: Thank you for your statement. I have no other delegations inscribed on the list of speakers, but does anyone wish to take the floor? I recognize the distinguished representative of Chile, to whom I give the floor, followed by the distinguished representative of South Africa.

Mr. J. CONCHA (Chile) (*interpretation from Spanish*): My delegation would like to inform the Secretariat of the proposal by Chile for the inclusion of the comparative examination of the principles of international space law and international environmental law. On this question we decided to withdraw our proposal so that it might be examined at the next session of the Subcommittee. By that time we will have prepared a workplan to submit on this proposal.

This is due to the fact that we believe that there are questions of greater priority that should be included on the fortieth session of the Subcommittee. In the agenda of this spirit, my delegation supports the inclusion of the proposal by Australia on the examination of the Moon Agreement in view of the low level of ratification of this treaty.

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

Mr. L. MKUMATELA (South Africa): My delegation is considering preparing a short intro-

duction to a point relevant to agenda item 10. We are persuaded by the significance of the increasing role being played by private entities in outer space, what we call the commercialization of outer space as well as the globalization of outer space.

Therefore my delegation has taken note of the conclusions and proposals of the workshop on space law held during the UNISPACE III Conference. Among the conclusions and proposals advanced by the workshop was one on international property rights and transfer issues. It seems that the proposal of the workshop is supported by another recommendation, or proposal, which came from another workshop on property rights in outer space. The two fora singled out the question of property rights: the workshop on intellectual property made a reference to enhancing continuing cooperation and mentioned the appropriate treaties. We have taken note of this, and this topic could easily be referred to WTO or WIPO.

This is what my delegation would like this Subcommittee to consider: the question of property rights in outer space and how to regulate this at the international level, as well as how to assist governments in formulating national legislation in this area.

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

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): The Secretariat has distributed document A/AC.105/C.2/L.220 of 31 March 2000. It is a proposal by my delegation for the inclusion of a new item on the agenda of the fortieth session of the Subcommittee.

On several occasions we have had an opportunity to explain our position on this question; here it is a question of continuity and consistency of our position as reflected in this document. This has been explained since 1997 and what we want to mention is the advisability of developing a single, comprehensive United Nations convention on the law of outer space, similar to that which exists in the case of the Convention on the Law of the Sea.

My delegation acknowledges that this is a particularly complex question, but it is an important one. That is why we believe that progress should be made on a step-by-step basis. We have therefore proposed a three-year cycle for reviewing this subject. At the next session of the Subcommittee

we could devote our attention to a first examination of this question, to see if it is advisable to have a single comprehensive convention. An exchange of views could be held to see what advantages and disadvantages there might be. We could hear the different views of both the Subcommittee and the Committee.

The CHAIRMAN (*interpretation from Russian*): Thank you for your proposal, which is contained in document A/AC.105/C.2/L.220, and for explaining to the Subcommittee how in your delegation's view the Subcommittee should best proceed.

(*continues in English*) Does any other delegation wish to take the floor at the present time? I see none. We will therefore 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", this afternoon.

Under the circumstances, I will shortly adjourn this meeting of the Subcommittee, to allow the working group on the review of the concept of the "launching State" to convene its second meeting, under the chairmanship of Mr. K. Schrogl of Germany. Before doing so, I would like to inform delegates of our schedule of work for this afternoon.

We will continue and hopefully conclude our consideration of agenda item 8, "Review of the status of the five international legal instruments governing outer space". We will also continue consideration of agenda items 9 and 10. Thereafter, time permitting, the working group on the review of the concept of the "launching State" will convene, under the chairmanship of Mr. K. Schrogl of Germany.

Are there any questions or comments on this proposed schedule? I see none. The meeting is adjourned.

The sitting adjourned at 10.35 a.m.