

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

*Unedited transcript*

642<sup>nd</sup> Meeting

Monday, 3 April 2001, 3 p.m.

Vienna

*Chairman:* Mr. Kopal (Czech Republic)

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

**Agenda item 4, status and application of the five United Nations treaties on outer space**

**The CHAIRMAN:** I will now continue our consideration of agenda item 4, status and application of the five United Nations treaties on outer space. I have two delegations on my list of speakers for this item and I give the floor of them. It is the distinguished representative of Ukraine. You have the floor Sir.

**Mr. S. NEGODA** (Ukraine) (*interpretation from Russian*): Mr. Chairman, distinguished colleagues, today, we are witnessing how in sphere of the harnessing of outer space, especially in international space law, the critical mass has been achieved of those problems which will have to be resolved, and depending on how fast and well we resolve them, will be able to properly regulate and ensure the future of the development of mankind as a whole.

We believe that we will have to take the following measures. Enhancing the authority of principles of the Treaty of Outer Space including new provisions having to do with State regulation of commercial space activity, ensuring proper international cooperation in harnessing outer space and law and order in space after the end of the Cold War.

A review of the Convention of Registration, Rescue and Return Agreement and the Moon Agreement. We believe that indeed the registration of

space objects should be especially studied at present. As we see it, with proper registration of launches and objects, we could more properly resolve questions having to do with the determination of the status of a launching State and to eliminate the practice which has spread when commercial space enterprises register in the Third countries which cannot bear liability possibly when needed. We believe that registration of all commercial cooperations (corporations?) and projects should necessarily be at the territory of a State of which one of the participants of a cooperation (corporation?) is a national.

We believe that we have to enhance the role of the United Nations Committee on Outer Space Activities and develop and support an accessible databank, accessible to all the members of the world community, drawing on sources assisted by space technology, remote sensing of Earth, meteorology, etc. in order to address global problems of mankind, earthquake prevention, ecology, study of natural processes, etc., that we should also work to unify space technologies with using a single set of standards for space technology as well as the ground service segment. Also thirdly, to control the equitable distribution of space resources, access to GSO use among all State Members.

I believe that within the United Nations Committee on Outer Space, we should identify a committee on the commercial activities issues. We could have along with representatives of States, representatives of industrial trade chambers of the States Parties and major space corporation representatives as well.

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In its resolution 50/27 of 6 December 1995, 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

We believe that we should also start a dialogue on the various principles which legally regulate commercial space activities. Among these principles, we would especially highlight the following.

Firstly, the primacy of international public space law in regulation any and all space activities as well as the primacy of States control of their national commercial space activities.

Secondly, the development of general principles on the status of the subjects of commercial space projects. The determination of the rules of a commercial space market. Here we could refer to matters having to do with competition, tariffs, etc., as well as matters relating to the protection of intellectual property, disputes, resolution and liability.

Thirdly, in possibly one of the principles developed could cover the main elements of the International Fund for Space Insurance. Previously this issue has already surfaced and we believe that it would be time for us to come back to the possibility of the creation of such a fund because it could simulate the development of space projects as well as lowering the risk of such programmes.

In concluding, we would like to emphasize that, at present, it is necessary to review the mechanism of the development of standards setting activities in order to ensure proper participation of all States in space activities. Now is never time for us to do this work in order to ensure more dynamism in our work.

**The CHAIRMAN** (*interpretation from Russian*): Thank you very much Ukraine for your statement. (*Continued in English*) The next speaker on my list is the distinguished representative of the United States of America to whom I give the floor.

**Mr. S. MATHIAS** (United States of America): Thank you Mr. Chairman. Mr. Chairman, under this standing item on the Legal Subcommittee agenda, each of us has the opportunity to comment in a general way on the status of the space law treaties. I have four brief points.

First, the State Department's Treaty Office has provided me with some information with respect to three of the space law instruments, the Outer Space Treaty, the Agreement on the Rescue and Return of Astronauts and the Liability Convention, for which the United States has the honour to serve as one of depositaries.

Since the Legal Subcommittee's last meeting last year, our Treaty Office has received notice of three actions. The United Arab Emirates deposited its instruments of accession to the Outer Space Treaty and the Liability Convention and Spain deposited its instrument of accession to the Rescue and Return of Astronauts Agreement.

With respect to the Registration Convention, for which the United States is not a depositary, we note that both Kazakhstan and the United Arab Emirates deposited their instruments of accession during the past year.

My second point is that the overall sense of my Government that the space law treaties continue to function well in today's increasingly complex environment. For example, the United States has recently been working with other governments concerned to address, in an orderly and amicable way, two cases requiring application of the Outer Space Treaty and the 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. Both situations involved space objects of United States origin that ended up on the territories of South Africa and Saudi Arabia, respectively. In both cases, the treaties provided an effective framework to deal with the situation cooperatively.

Third, I would like again to emphasize the position of the United States that we must all focus on our domestic implementation of the treaties. Each Party needs to examine its own domestic legal regime to ensure that it is doing what is needed to implement the treaties. The outer space treaties offer an effective and predictable framework only to the extent that each State Party implements them effectively.

This is especially so as the level of private commercial space activity increases. The treaties demand that States make certain that they have appropriate domestic regulatory mechanisms in place as required to ensure effective compliance. This "conscientious compliance" was one of the measures the Legal Subcommittee agreed on last year in closing out its separate agenda item on the treaties.

Finally, and again reiterating what the Legal Subcommittee, as well as the Vienna Declaration from UNISPACE-III concluded last year, States that are not parties to the core treaties should be called upon to ratify or accede to them. Several important States, including some members of this Committee, have not accepted key treaties. This Subcommittee should

continue to call for all States to consider seriously adhering to each of the four core treaties.

We look forward to hearing from other delegations on these matters. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of the United States of America for your statement on point 4, status and application of the five United Nations treaties on outer space. The next speaker on my list of speakers is the distinguished representative of Sweden, to whom I give the floor.

**Mr. N. HEDMAN** (Sweden): Thank you Mr. Chairman. Since this is the first time I take the floor, let me congratulate you upon your election as Chairman for the Legal Subcommittee. It is a true pleasure working with you Mr. Chairman.

Mr. Chairman, my delegation would like to fully support what was said by Austria this morning regarding declarations to the Liability Convention. When Sweden acceded to the Liability Convention in 1976, its instrumental accession was accompanied by the following Declaration.

“Sweden will recognize as binding in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Sweden may become a party under the terms of the Convention”.

Like Austria, my delegation would like to encourage States to consider making similar declarations. Sweden believes that such action taken by individual States would not only strengthen their own protection but would also be a step further in strengthening the existing legal regime of outer space.

Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Sweden for your contribution and I also thank you for your kind words. Thank you very much.

*(Interpretation from French):* And now I give the floor to the distinguished representative of the Kingdom of Morocco.

**Mr. A. SAADI** (Morocco) *(interpretation from French):* Thank you Mr. Chairman and I thank you for using the official name of my country.

The Moroccan delegation, first of all, is pleased that an additional number of countries has acceded to the legal instruments on space and Morocco has ratified four of the five relevant instruments and has initiated the consultation procedure for signing of the Convention on Registration which is in its conclusive phase.

The balance number, however, shows that a large number of countries have not as yet signed or ratified these instruments and this, as we see it, is due to compatibility of these instruments with new progress in space technology and also because of a lack of clear and precise definitions of basic concepts and also because of some countries not wishing to carry out space activities. The latter, in our view, is not a strong reason.

There should be an exchange of views on relevant questions with a view to further accession here in this Committee so as to be able to agree ways and means of speeding up the process of signing ratification and later implementation. Special attention should be accorded to various aspects, liability and property in particular, and that with a view to have an applicable legal framework.

The introduction of item 9 of the thirty-ninth session was a positive step because the definition as set in the official United Nations document could thus make the content of the treaties inapplicable because of private undertakings appearing on the launching scene.

The position of my country will be given in detail when we examine the relevant item of the agenda. However, the actual solution to the question of accession and implementation of international space law would lie, as proposed by Russia and other States, through the elaboration of an overall single convention on space law that each State could then adopt in one go. Morocco would express its intention to take part in any ad hoc group on this. Thank you.

**The CHAIRMAN:** *(interpretation from French):* I thank the distinguished representative of the Kingdom of Morocco for that contribution. *(Continued in English)* Ladies and gentlemen, my list of speakers on this particular point for this afternoon is now exhausted. Is any other delegation wishing to speak on this point today? I see none. So we will continue our consideration of agenda item 4, status and application of the five United Nations treaties on outer space tomorrow morning.

**Item 5, information on the activities of international organizations relating to space law**

Distinguished delegates, we shall now continue our consideration of item 5 of our agenda, information on the activities of international organizations relating to space law. I have a speaker from a delegation and I have two speakers from observers which are present here for the discussion on this point. So I first give the floor to the distinguished representative of France, Mr. Laffaiteur.

**Mr. M. LAFFAITEUR** (France)  
(*interpretation from French*): Thank you Mr. Chairman. Communication from the World Commission on the Ethics of Scientific Knowledge and Technology of UNESCO retained the attention of my delegation which was particularly interested in its reflections on space debris.

I would like to focus on the questions of ethics raised in that Commission. Reflections on ethical matters have always been at the heart of concerns of authorities in France. Regarding space activity, there has been work for several years in the CNES looking at reasons behind the mechanisms of decisions leading us to enter into space programmes and their links with other areas of human activity is a major responsibility for the space agencies.

A working group was created for this in 1999 in the CNES to examine various aspects of this question and that and the main areas of our activity, also looking at the links and differences between law ethics and morality. The CNES, thus, is subject to an obligation of transparency which is manifested through a concern for information, explanation and cooperation.

My delegation, Mr. Chairman, welcomes the remarkable work of the World Commission on the Ethics of Scientific Knowledge and Technology of UNESCO. The report published last year sets particularly interesting proposals that should help in the consideration of ethical values in implementation of space policy and cooperation in this area at international level.

In 1996, our Committee adopted a Declaration on International Cooperation which, in several of its points, is quite close to the ideas retained by the World Commission on the Ethics of Scientific Knowledge and Technology. It is indicated that international cooperation should be to the benefit and in the interest of all States, whatever be their level of economic, social, scientific or technical development and that it

should take into account the needs of developing countries.

The World Commission on the Ethics of Scientific Knowledge and Technology looked at the ways and means for access to the use of space technology considering that this should be based on the concept of equity. This was one of the main points in the proposals made by the French delegation last year in helping seek a solution for the utilization of the geostationary orbit. This seems to have been accepted as we arrived at a consensus on this.

Reflections on ethics are important, Mr. Chairman, and the report of the World Commission on the Ethics of Scientific Knowledge and Technology calls for systematic integration of this in the implementation of space policy. There are two special points that have retained the attention of the French delegation.

First of all, I would like to look at the question of space debris. A working method was agreed at the session of the Scientific and Technical Subcommittee last February. This should allow, with the active support of the Interinstitution Committee on Space Debris, to have proposals by 2004 in this area. An agreement should be arrived at so that proposals retained can serve as a guideline for States which would be able to begin implementing this on a voluntary basis.

This decision is undeniable progress. However, States do not all seem ready to enter into measures which, although not binding, would have the merit of rapid integration of technical modifications necessary for reduction of space debris.

The World Commission on the Ethics of Scientific Knowledge and Technology rightly pointed out that there is a need to draw up new rules in this area and in particular regarding responsibility or liability, taking into account problems of financing technical solutions that may be envisaged. The French delegation, along with those of other countries, feels that this question should be examined with all due care. My delegation hopes that discussions on the matter will take place here and, if possible, next year.

The second point I would like to mention is natural catastrophes. There is no point in going back into the disastrous consequences of natural disasters. In July 1999, during the UNISPACE-III Conference, the European Space Agency and the CNES announced an initiative to put together satellite means in the case of natural catastrophes for better management of their

consequences. It is not a question of foreseeing catastrophes except for very rare cases but it would be a question of contributing to the mitigation of consequences by providing authorities in charge of rescue, practical reliable and available tools to deal with the crisis.

Today there is a Charter. The European and Canadian space agencies and the CNES thus are able to provide immediately, upon request of rescue services, necessary information. Since Autumn 2000, this Charter was implemented on various occasions with results meeting our expectations. It is open to all countries wishing to contribute to this action. It is a question of a specific response to problems raised by natural and technological disasters applying by anticipation, one of the main recommendations of UNISPACE-III. It is also a humanitarian response and that in harmony with the concerns of the World Commission on the Ethics of Scientific Knowledge and Technology.

Considerations on ethics, Mr. Chairman, are at the heart of the two questions just mentioned. These should lead us in our reflections and attitude towards space activities so that mankind can be at the centre. Last year, we decided to organize for June this year, during the session of the Committee, a Symposium on the Human Dimension in Space Activities. The French delegation has strongly supported this project. A representative of the CNES, Mr. Jacques Arnoult, will be speaking at the Symposium on the question of "Towards Space Humanism", looking at the close link between space and a humanistic approach.

Humanity has made great progress. There is future progress ahead but mankind should be in control of his choices.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of France for that statement. (*Continued in English*) Ladies and gentlemen, I have still two additional delegations which requested to be given the floor. So I give the floor now to the distinguished representative of the Ukraine, Ms. Malysheva.

**Ms. N. MALYSHEVA** (Ukraine) (*interpretation from Russian*): Thank you very much Mr. Chairman and distinguished colleagues. I am happy to inform you about the establishment of yet another international organization on space law which has a regional aspect to towards its activities. Here I am referring to the International Centre for Outer Space Law which was set up at the end of 1998 by a quadri-partite(?) agreement between the Ukrainian and

the Russian Aerocosmos agencies and the Russian and the Ukrainian Academies of Sciences and apparently other members of the CIS are also going to be joining this Centre. It is in Kiev and we, at this session of the Legal Committee, are the members of the delegation of the Ukraine and that is why we are talking to you about this but possibly in the near future, we will also become observers in COPUOS.

The main purpose in the establishment of our Centre was the perceived need to harmonize the legislations of the Ukraine, Russia, other CIS countries, amongst themselves, and the alignment of these legislations with international outer space law. This is the main purpose and this presupposes the resolution of basic and applied work and development and implementation of legislation problems in our countries in the CIS, a cooperation among the countries of our region in outer space activities as well as ever so many other points. The financial basis for the operations of the Centre are the resources from our independent activities, our expertise, our standards setting, our analytic study, consulting activities in the sector of outer space science. The main contractor for the work done over the first two years were nationals from the Ukraine, Russia as well as other CIS countries, including bodies of a State regulation of the space sector. There is a Board of Management representing the States and, as the Centre grows, we plan to have an extended membership on the Board of Governors with representatives of the interested structures of other CIS States as well.

The Centre is already involved greatly in publication work. Two inventories of the Ukrainian legislative body of law has come out and then there is a multi-toned Russian language edition of outer space law of States of the world. This is a commented inventory of legislation.

I would like to point out that in this inventory, we plan to include not just the purely space legislation of States, but also legislation which maybe applied to space activities, as the case may ride, for example, instances of intellectual property, environmental law, customs, insurance, liability as well as several other points. Seven volumes are planned. One of these is to be devoted to the CIS space legislation and acts pertaining to that sector. I am going to be maintaining contacts with Mr. Lafferanderie and I hope that the European Space Agency will, to the extent possible, also assist us in this publication. There will be seven volumes in Russian. We plan to wind up in 2006. For the time being, the first volume already exists. The main legislation from ever so many States in the world have been comprised as well as issues relating thereto.

In the future plans, we intend to translate this seven-volume work into English. We would be ready to start this work as of now if there would be any Party interested in commissioning this translation work.

Another interesting part of our work is our scientific, analytical and informational activity. We are publishing an automated database on national legislation in the space. This is an organizational basis, giving information on the space programmes and projects of the CIS countries. Part of this database, we intend to present in a register of the entities involved in this sector. The Centre intends to not only reinforce the existing areas of its activity, but also to expand the area of involvement. The main trend of the scientific research will remain regional aspects of space cooperation and, in this regard, the Centre, for example, on the CIS basis, intends to develop a model set of regulations for interregional cooperation in the space sector which we are going to be presenting and handing on.

We also intend to set a mediation centre for dispute resolution, for disputes arising in the course of the implementation of space activities among CIS countries and among them and third parties.

We intend to set up a single legal area for the operation of CIS space insurance and there are various other programmes and projects having to do with the establishment of training facilities and training staff. One of the priorities of our Centre will be the expansion of connections with international organizations in the space law sector.

In concluding, I would like to express the hope that the International Centre for Space Law of the CIS will be reinforcing its stance and in the near future will be perceived by the world space community as a scientific and analytical and a consulting entity for all legal and organizational issues for the CIS region. Thank you.

**The CHAIRMAN** (*interpretation from Russian*): Thank you very much distinguished representative of the Ukraine for your presentation with regard to the activities of the International Centre of Space Activities (Space Law?). (*Continued in English*) The next speaker is the distinguished representative of Brazil to whom I give the floor.

**Mr. S. L. DA SILVA** (Brazil): Thank you Mr. Chairman. The Brazilian delegation would like to refer to activities of international organizations relating to space law that happened last year on Brazilian territory.

Mr. Chairman, during the Fifty-First Congress of the International Astronautical Federation held in Rio de Janeiro from 2 to 6 October 2000, there were two meetings which have contributed to a better understanding of important aspects of the contemporary space law. The Forty-Third Colloquium on Space Law and the Ninth Manfred Lachs Space Law Moot Court Competition which included the participation of three magistrates of the International Court of Justice.

The Fifty-First Congress was successful in achieving its two goals: promoting further knowledge in space science and also on space law. Rio de Janeiro received more than 2,000 people: 221 accompanied persons, 952 full paying delegates, 329 student, 468 exhibitors and nearly 70 invited persons. As to the first goal, among the 897 accepted papers, 731 were presented. At this Fifty-First International Astronautical Congress with an absenteeism rate of 19 per cent, it was a percentage lower than in the previous Congress of the International Astronautical Congress.

I want to refer to the promotion of deeper and broader knowledge of space law, the Forty-Third International Institute of Space Law Colloquium was held in conjunction with the International Astronautical Congress. Of 55 accepted papers, 41 were presented. The semi-final and the final of the Ninth Manfred Lachs Space Law Moot Court Competition were also held in Rio de Janeiro during the same period. The case addressed legal questions concerning an explosion in outer space and, to make it more complicated, involving a nuclear power satellite. The winner of the three regional rounds in Rio de Janeiro were Hamline University from the United States of America, National University of Singapore and the University of Paris XI and the winner was the University of Paris XI.

The Moot Court Manfred Lachs was held at the first court of justice in the city of Rio de Janeiro with the support of the Brazilian society of aerospace law having a large attendance, mainly of university students. Thank you Mr. Chairman.

**The CHAIRMAN**: I thank the distinguished representative of Brazil for your statement on point 5 of our agenda. Is any other delegation wishing to speak on this particular item today? I see none and therefore I will give the floor to observers. The first one is the distinguished observer for the International Civil Aviation Organization, ICAO. Sir, you have the floor.

**Mr. L. WEBER** (International Civil Aviation Organization – ICAO): Thank you Mr. Chairman. Mr. Chairman, I first would like to join previous speakers in congratulating you on your re-election as Chairman of this Subcommittee. I am sure that under your able chairmanship, the Subcommittee will be successful in its work. I also would like to extend greetings to the Director of the Office for Outer Space Affairs, Ms. Mazlan Othman.

I would like to provide some information to the Subcommittee on the ongoing work of the International Civil Aviation Organization on the legal framework for the Global Navigation Satellite System, GNSS, in particularly relating to the framework for the aeronautical users of the System.

ICAO is the specialized agency of the United Nations for civil aviation matters located in Montreal, presently having 187 Member States. The Organization has been working on the elaboration of a legal framework for the Global Navigation Satellite System, GNSS, for a number of years. The GNSS is a key element of the CNS/ATM concept which stands for Communications, Navigation, Surveillance, Air Traffic Management. It is a worldwide positioning and time determination system which makes use of one or more satellite constellations, aircraft receivers and system integrity monitoring, augmented as necessary to support the required navigation performance for the actual phase of operation.

At present, there are two satellite navigation systems in operation. The Global Positioning System, GPS, developed by the United States and the Global Orbiting Navigation Satellite System, GLONASS, developed by the Russian Federation. Both countries have offered their system for the use by the international civil aviation community free of direct charge for a period of at least 10 years, in the case of GPS, and for 15 years in the case of GLONASS. There is also now the development of a new system by the European Union called Galileo, intended to become a new element of GNSS as from 2006.

It has been agreed by the Twenty-Ninth Session of the ICAO Legal Committee that there is no legal obstacle to the implementation of the CNS/ATM concept and that there is nothing inherent in the CNS/ATM concept which is inconsistent with the Convention on International Civil Aviation. There is also consensus that GNSS shall be compatible with the Chicago Convention, its annexes and other principles of international law. It has been recognized that when GNSS is implemented, most States have to rely on signals in space and their augmentation systems

provided by others. Accordingly, additional arrangements establishing a link between the signal providers and the States in whose territory the signals are used need to be considered.

ICAO has been considering the legal framework with regard to GNSS for a number of years. As interim arrangements, it exchanged letters respectively with the United States in 1994 regarding GPS and with the Russian Federation in 1996 regarding GLONASS. These formal exchanges of letters embodied a number of principles including accessibility to the signals by all users of civil aviation on a non-discriminatory basis, and preservation of the right of any State to control the operation of aircraft and enforce safety regulations in its own sovereign airspace.

In 1998, the Thirty-Second Session of the ICAO Assembly adopted resolution A32/19 called “The Charter on the Rights and Obligations of States Relating to GNSS Services”. This document embodies the principles applicable to the implementation and operation of GNSS including the principle of safety of international civil aviation; of universal access to GNSS services without discrimination; preservation of States’ sovereignty, authority and responsibility in its use; continuity, availability, integrity, accuracy and reliability of GNSS services; compatibility of regional arrangements with the global planning and implementation process; and finally, the principle of cooperation and mutual assistance.

The Assembly also adopted resolution A32/20 on the “Development and Elaboration of an Appropriate Long-Term Legal Framework to Govern the Implementation of GNSS”. In this resolution, the Assembly instructed the Council and the Secretary-General of ICAO to consider, *inter alia*, the elaboration of an appropriate long-term legal framework to govern the operation of GNSS systems. Since the Thirty-Second Session of the Assembly, further work has been carried out on this matter, including the exploration of the development of an international convention. A number of States, including particularly provider States of such systems, have taken the view that the current legal system may adequately address the issues relating to GNSS. After intense discussions, a middle ground has been supported by consensus, namely to explore the possibility of developing a contractual framework to govern these activities.

The contractual framework would cover the relationship among the different players in various stages of the provision of GNSS services, including primary signal providers, augmentation signal

providers, ATS providers and States in whose territory the signals are used.

In view of the fact that contracts relating to GNSS may be negotiated separately among different and possibly numerous parties. It was recognized that in order to maintain a desired degree of uniformity and to provide essential assurances of confidence in the CNS/ATM systems, a set of common elements should be applicable to all the contracts to ensure commonality. Some of these common elements would address matters of liability. These arrangements must, however, be consistent with the Charter on the Rights and Obligations of States Relating to GNSS Services.

In addition to GNSS, the issue of liability relating to communication by satellites and unlawful interference with CNS/ATM systems were also considered. Liability relating to communications is an important issue and may have direct implications for other elements of the CNS/ATM systems. With regard to unlawful interference, the threat posed by jamming and spoofing of broadcast signals and intrusion into air traffic control data networks was noted as well as the importance of this issue and the need for further study as part of the overall legal aspects of CNS/ATM.

These matters will be further discussed at the Thirty-Third Session of the ICAO Assembly which is scheduled to take place in September of this year.

Civil aviation is not the only sector where signals from navigation satellite systems are used. Other sectors such as maritime and road transport also use the same signals. There have been discussions in different fora including the UNISPACE-III held in Vienna in 1999 to the effect that the issues relating to multi-modal use of the signals from navigation satellites should be addressed through a coordinated approach by different sectors. For example, unlawful interference with satellite or other signals is not an aviation unique issue and therefore may call for the attention of other sectors.

However, it should be emphasized that the stringent safety requirements of navigation systems used in civil aviation may require somewhat different treatment than, for example, those used in road and maritime transport, particular as regards accuracy, integrity and continuity. Those stringent safety requirements must be fully taken into account in the legal framework for GNSS.

Thirdly, Mr. Chairman, I would like to provide some information also about the involvement of ICAO in the ongoing work on the Draft Convention

on International Interests in Mobile Equipment which will be the subject number 8 on the agenda of this meeting.

As is pointed out in the report of the Secretariat and of UNIDROIT, which is submitted to this meeting, the Draft Convention has been the subject of three joint sessions between ICAO and UNIDROIT. The ICAO Legal Committee approved the Draft Convention, with a number of amendments, in September 2000. Conceptually, it is foreseen that this base Convention will form the basis for sector-specific protocols, including a protocol for aviation, which has also been approved by the ICAO Legal Committee at the September 2000 session.

More ample details of the role of ICAO are set out in paragraphs 8 and 40 of the Report of the Secretariat of this Committee and UNIDROIT and I wish to refer to them.

We understand that the space property-related protocol may also be discussed in this Subcommittee in the course of its session.

ICAO and UNIDROIT are now inviting to a diplomatic conference for the adoption of the base convention and of the aviation-specific protocol, a diplomatic conference, the holding of which has been approved by the Council of ICAO and the Governing Council of UNIDROIT, to be held from 29 October to 16 November 2001 in Cape Town, South Africa.

No doubt, more details will be provided in the course of the discussion on this agenda item number 8 next week. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of ICAO for your statement which was, for us, very interesting and informative. I now have on my list of speakers, the distinguished representative of the International Astronautical Federation who will inform us about the activities of the International Institute of Space Law. Mr. Fasan, you have the floor.

**Mr. E. FASAN** (International Astronautical Federation – IAF): Thank you very much Mr. Chairman. Mr. Chairman, distinguished delegates, I am delivering this report based on a draft prepared by my colleague on the Board of IISL, Professor Ram Jachu(?) of McGill University Institute in Montreal.

The International Institute of Space Law was founded by the International Astronautical Federation in 1960 with the purpose of carrying out activities for



fostering the development of space law and studies of legal and social science aspects of the exploration and use of outer space. The IISL presently has about 300 individual and institutional elected members from over 40 countries who are distinguished for their contributions to space law development. As the IAF is an officially recognized observer at sessions of the United Nations Committee on the Peaceful Uses of Outer Space and its Subcommittees, members of the IISL are entitled to be designated as IAF observers to those sessions.

Regarding recent activities, I would like to point out the Forty-Third IISL Colloquium on the Law of Outer Space in Rio de Janeiro, Brazil, about which the distinguished representative of Brazil just now has informed this audience. This Colloquium on the Law of Outer Space had 55 accepted papers, 45 were presented and there were four sessions, namely, Law and Ethics of Space Activities in the New Millennium; State Responsibility and Liability for Non-State Activities; the Interrelation Between Public International Law and Private International Law in the Regulation of Space Activities; and Other Legal Matters Including Recent Developments in the Regulation of Space Debris, Exploitation of Non-Terrestrial Resources and the Implications of Proposed Missile Defence Systems.

The IISL, for the first time, organized a plenary event on the topic "Making Space Profitable, Roles of Law and Policy". The speakers that made presentations at this event were from NASA, ESA, WorldSpace, Mansat, Space Policy Institute and SpaceImaging. In the future, similar activities might remain on the agenda of IISL.

And on the proposal of Professor Fernandez Brital of Argentina, the IISL has established a new award to be known as the "Dr. Diederiks-Verschoor Award". It will be granted to the best paper presented at an IISL Colloquium by authors under the age of 40 years who submit papers for the first, second or third time as a means to promote young lawyers. The award could be granted for the first time in Toulouse, France.

There took place also the Ninth Manfred Lachs Space Law Moot Court Competition about which I am referring once more to the report of the distinguished representative of Brazil. The "Best Oralist" award in this competition was won by Allen Blair of the United States of America and the new "Eilene Galloway Award for Best Brief" was won by the applicant from the winning University of Paris XI. The IISL wishes to expand the competition to Latin

America and other regions and efforts will continue in that direction.

In the spirit of UNISPACE-III requesting NGOs to take an active part in the work of the United Nations and on a proposal by Dr. Schrogl, the IISL has decided to play a more active role in formulating proposals and issuing position papers in order to make contributions to the further development of space law. A task force has been set up to work out the details of how to implement this decision.

Several members of the IISL participated in the two recent meetings organized by UNIDROIT which dealt with the development of the Space Protocol to the proposed Convention on International Interests in Mobile Equipment. Main issues discussed were the definition of space property and remedies for default, how to seize control of space property and the role of COPUOS.

The UNIDROIT Council will consider this at its September 2001 and probably will authorize government meetings for convening a diplomatic conference on the Space Protocol at the end of the year 2003.

Cooperation, Mr. Chairman, with other organizations has been continued, among others, especially with the United Nations COPUOS, with the European Space Agency, the European Centre for Space Law, the International Law Association, the International Bar Association and several national institutions and universities. The IISL Standing Committee on the Status of International Agreements Relating to Activities in Outer Space continued under the able guidance of Dr. Terekhov, its useful work. The reports of this Committee are published in the Proceedings of the IISL Colloquia on the Law of Outer Space. The IAF was, of course, represented at the Legal Subcommittee meeting last 27 March to 7 April and as official IAF observers at the Plenary COPUOS session in Vienna in June of the year 2000.

In Rio de Janeiro, a Distinguished Service Award was given to Dr. Skip Smith from the United States of America for his continuing work in making the Manfred Lachs Space Law Moot Court Competition ever more successful since it was first held in 1992.

The Proceedings of the Forty-Second IISL Colloquium, Amsterdam 1999, were published by the American Institute of Aeronautics and Astronautics in July 2000 and Space Law: A Bibliography, a cumulative index of the proceedings of the IISL

Colloquia from 1958 until 1994, has been published in June 1996 as a cooperative effort between the IISL and the United Nations Office for Outer Space Affairs.

A Regional Conference for the Asia-Pacific region on the general theme of "Space Law Conference 2001: Legal Challenges and Commercial Opportunities for Asia" was organized from 11 to 13 March 2001 in Singapore in cooperation with the Society for International Law of Singapore. This was the first event in a series of regional meetings the IISL intends to organize. A variety of papers was presented and discussed at the following five sessions.

One, Space Law and the Expanding Role of Private Enterprise With Particular Attention for Launching Activities.

Two, Safeguarding the Concept of Public Service in View of Increasing Commercialization and Privatization of Space Activities With Particular Attention to the Global Public Interest and the Needs of Developing Countries.

Three, the Legal Regulation of Remote Sensing In View of the Commercial Availability of Very High Quality Remote Sensing Imagery; the Need to Safeguard the Right to Privacy and the Principle of Non-Discriminatory Access to Data.

Four, the Development of Effective Mechanisms for the Settlement of Disputes Arising in Relation to Space Commercialization, Taking Into Account Existing Arbitration Rules Used in International Practice for Dispute Settlement.

And finally, Legal Issues of Expanding Global Satellite Communications Services and Global Navigation Satellite Services With Special Emphasis on the Development of Telecommunications and E-Commerce in Asia.

In addition, we listened to a keynote speech on "An Overview of the Major Legal Challenges Facing Space Activities in the Twenty-First Century" by Dr. Nandasiri Jasentuliyana, President of the International Institute of Space Law and, of course, former Director of the United Nations Office for Outer Space Affairs.

A luncheon speech on "The Possibility of Establishing an Asian Space Agency" by Professor Doo Hwan Kim, Honorary President of the Korean Association of Air and Space Law. And another luncheon speech on "The ITU in the Twenty-First

Century" by Dr. Alfons Noll, former Legal Adviser of ITU in Geneva.

The Singapore Conference assembled 122 participants from the Asia-Pacific region and the rest of the world and also hosted the Australasian round of the Manfred Lachs Space Law Moot Court Competition.

Finally, about the future activities, the Forty-Fourth Colloquium on the Law of Outer Space will be held in Toulouse, France, from 1 to 5 October 2001 on the general theme of "Emerging Legal Issues in Space Activities". There will be four sessions on the following topics. Emerging issues of interpretation and application of space treaties, including definitional issues of State responsibility, launching States, space objects and related issues.

Two, Emerging legal issues in satellite communications with special attention for the national regulation of mobile satellite systems including national licensing requirements, WTO agreements, ITU and GMPCS, private national entities operating on a global level, ownership of telecom service providers, principle of global, meaning universal, telecom service, radio frequency management, need for an international independent telecom regulator.

Three, legal issues arising from the commercial availability of high quality remote sensing imagery. Topics will include the extent to which such imagery can be admitted as evidence in civil and criminal cases. What legal requirements must be established to guarantee that such digital data used in legal proceedings are unaltered. The extent to which such data can be used to mediate international disputes. And what personal and corporate rights of privacy exist with regard to the acquisition and dissemination of such data.

And finally, other legal matters including the teaching of space law at the dawn of the new millennium, space debris, conflicts relating to space activities, legal aspects of human habitations in outer space and emerging legal issues in the field of navigation by satellite.

The semi-finals and finals of the Tenth Manfred Lachs Space Law Moot Court Competition will be held during the 2001 Colloquium in Toulouse, France, on the Case Concerning Access to ESI-1 Data, written by Dr. Franz von der Dunk. The preliminaries will be held in Europe, the United States of America and Australasia. The French Association for Air and Space Law and the French Society for the Development of Space will co-host an event for the

IISL and ESA, ECSL and ISU may also make special contributions.

The IISL had been requested again to organize a symposium for the delegates and staff of the Legal Subcommittee of the COPUOS session this year and we were happy to have this event yesterday.

The proceedings of the Forty-Third Colloquium on the Law of Outer Space, Rio, will be published by the AIAA and under the contract with the United Nations, the IISL will continue to prepare material for the United Nations annual review of developments in international cooperation and space law named "Highlights in Space". The IISL contribution to that will be written by Dr. Doyle and a new edition of the History of the International Institute of Space Law is also prepared by Dr. Doyle and is expected to be completed soon.

Mr. Chairman, I thank you very much for this opportunity to present the report.

**The CHAIRMAN:** Thank you very much distinguished representative of the International Astronautical Federation for your thorough information about the activities about the International Institute of Space Law. I use this opportunity to thank you once again for all work that you have done for coordination of the Symposium, the IISL/ECSL Symposium that was held successfully yesterday. Thank you.

Ladies and gentlemen, are there any other speakers on item 5 at this time, be it a delegation or an observer? I see none. We will continue our consideration of item 5, information on the activities of international organizations relating to space law, tomorrow morning.

Distinguished delegates, we shall now begin our consideration of item 6 on our agenda, matters relating to (a) the definition and delimitation of outer space and (b) 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.

Delegations will recall that in accordance with the agreement reached by the Legal Subcommittee at its Thirty-Ninth Session in 2000 on the question of the character and utilization of the geostationary orbit, the Legal Subcommittee will this year reconvene its working group on this item only to consider matters relating to the definition and delimitation of outer space. I have been informed that informal

consultations have taken place with a view to identifying a person who might enjoy the consensus of the Subcommittee as Chairman or Chairperson of this working group and that the results of these consultations will be reported to the Subcommittee tomorrow.

Therefore, unless there are any objections, I would propose that this afternoon, we will restrict our deliberations on this item to discussions in the plenary with the understanding that the working group might convene its first meeting tomorrow. Of course, the discussion in the plenary will relate to the item as a whole, it means including both these elements, the definition and delimitation and the geostationary orbit but the working group which will start its work tomorrow will concentrate only on the matters of delimitation and definition of outer space.

Unless I see any objection, we shall, therefore, proceed accordingly.

So far, I do not have any speaker inscribed on the list of speakers on item 6 this afternoon. Is there any delegation or observer wishing to speak on this particular item now?

I see none. We will continue our consideration of item 6 tomorrow morning.

Distinguished delegates, I will shortly adjourn this meeting of the Subcommittee. Before doing so, however, I would like to inform delegates of our schedule of work for tomorrow morning. Tomorrow morning, we shall continue our consideration in the plenary of agenda items 4, 5 and 6. Thereafter, time permitting, and depending on the successful identification of an appropriate Chairman, which is now very hopeful, the working group on agenda item 6 might convene its first meeting.

Are there any questions or comments on this proposed schedule? I see none.

This meeting is adjourned.

*The meeting closed at 4.21 p.m.*