

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

*Unedited transcript*

648<sup>th</sup> Meeting

Monday, 9 April 2001, 10 a.m.

Vienna

*Chairman:* Mr. Kopal (Czech Republic)

*The meeting was called to order at 10.17 a.m.*

**The CHAIRMAN:** Distinguished delegates, I declare open the 648<sup>th</sup> meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

This morning, we shall continue our consideration in the Plenary of items 6 and 9. Gentlemen, would you be seated and quiet please.

We shall also begin consideration of item 8, consideration of the draft convention of the International Institute for the Unification of Private Law (UNIDROIT) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property. Thereafter, time permitting, the Working Group on Agenda Item 9 might also convene its second meeting under the chairmanship of Mr. Kai-Uwe Schrogl of Germany.

**Agenda item 6, 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**

Distinguished delegates, we shall now continue our consideration in the Plenary 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.

I have been informed that the Working Group on this item has finished its substantive work and will require only one further meeting in order to adopt its report and this is scheduled, I understand, for Thursday morning. Therefore, I should like to inform delegates that it is my intention to also conclude substantive deliberations on this item in the Plenary this afternoon. I would, therefore, urge those delegations still wishing to speak on this item to inscribe their names on the speakers list with the Secretariat as soon as possible.

I do not have any delegation inscribed on the list of speakers for this morning. Is there any delegation or any observer to the Subcommittee wishing to speak on this particular item, delimitation and the geostationary orbit?

I see none. We will continue and hopefully conclude our consideration of item 6 this afternoon.

**Agenda item 9, review of the concept of the launching State**

Distinguished delegates, we shall now continue our consideration in the Plenary of agenda item 9, review of the concept of the launching State.

Neither about this item have I any delegation inscribed in the list of speakers for this morning. Is there any delegation or any observer wishing to speak on this particular item, the concept of the launching State?

---

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

Yes, I recognize the distinguished representative of Egypt to whom I give the floor.

**Mr. K. EL-HUSSAINY** (Egypt): Thank you Mr. Chairman and good morning Mr. Chairman and good morning ladies and gentlemen. In fact, Mr. Chairman, I am not acquainted to work here because I belong more to the aviation law \_\_\_\_\_ but still I notice that the Convention on Liability in Outer Space, a good(?) definition for the launching State in one of its articles and my question is whether there is a problem concerning the definition given in the Liability Convention or what is the need of having a definition other than the one incorporated in the Liability Convention. What is the need here? I mean what is the practical problems involved in having a definition different from or adding other elements into the definition contained in the Convention on Liability in outer space. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Egypt for your contribution including a question concerning the purpose of the inquiry into this particular notion. May I ask the distinguished representative of Germany, Dr. Schrogl, to briefly explain it in his capacity as Chairman of the Working Group on this particular item?

So far as I am concerned, I believe that this question has been under consideration during the Working Group and also here in the Plenary of the Subcommittee for a long time. It has been discussed last year and again this year and the purpose, so far as I understand it, is not exactly the elaboration of a new definition of the launching State but rather clarification of all aspects of the definition when it should be applied to new practices and new phenomena in the actual practice of space activities. Am I correct, Mr. Chairman of the Working Group? Could you join me in explaining briefly the question.

**Mr. K.-U. SCHROGL** (Germany): Thank you. Of course, Mr. Chairman, I completely agree with what you said and I will be pleased to elaborate a little bit more on the mandate of our Working Group in the next Working Group session which is this morning to make clear what the aim of our exercise is. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you Dr. Schrogl for your announcement and answer to the question.

I now have on my list of speakers the delegation of Brazil. You have the floor Sir.

**Mr. S. LEITE DA SILVA** (Brazil): Thank you Mr. Chairman. The delegation of Brazil would like first, concerning item 9, to express its agreement with the ideas presented by the delegation of China and also the very clear ideas presented by the Russian delegation concerning the necessity of establishing a clear concept for each item and each space initiative.

Mr. Chairman, the Liability Convention provides another \_\_\_\_\_ framework to deal with matters related to liability in case of damages caused by objects launched into space. However, recent developments in the field of space activities related to the emergence of joint ventures and international consortia have led to launch activities with different features which demand updated interpretations of concepts reflected in outer space treaties.

One of these concepts is that of liability, as reflected in the Liability Convention. The Convention does not define the term however, it just stipulates the extent of the liability of a given State as absolute under Article 2 and Article 4,1(a), due to fault?(vote?), Article 3 of the Liability Convention or based on the fault?(vote?) 4,1(b) of the same Liability Convention.

Notwithstanding these classifications, two other cases can be envisaged. That of the State that only provides launch services or ground facilities offered of its territory to such launch services.

In this case, a limited liability situation would be configured with two different approaches. The first one, in the case of the State that only grants facilities or parts of its territory for launches, liability would cease at the moment launch activities were successfully concluded.

And the second case. In the case of the State that provides launch operations, it would not be liable for damages caused by the spacecraft after it is correctly injected into orbit. \_\_\_\_\_ Article 5,2 already established clauses through which parties could apportion among themselves the financial obligation in respect of which they are jointly and sincerely liable. Such interpretation would be necessary in order to broaden the scope of understanding on the limited liability issues.

Mr. Chairman, the Brazilian Government considers that liability caused by objects launched into space in the event of a State participated only by providing facilities or granting parts of its territory for launch activities shall be restricted to these States to damages caused before such launch activities was successfully concluded.

If the participation of a State is limited to providing launch operations, it cannot be liable for damages caused by the spacecraft after it is correctly injected into orbit. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Brazil for your statement on agenda item 9, the concept of the launching State.

I do not see any other speaker on my list of speakers. Yes, I recognize the distinguished representative of Argentina.

**Mr. F. C. MENICOCCI CONSEJERO** (Argentina) (*interpretation from Spanish*): Thank you Mr. Chairman. The Republic of Argentina would like to give its support to the statement made by Brazil in reference to the proposal on the question of the launching State. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Argentina for your intervention. Any other speaker wishing to contribute to the discussion on this particular item, item 9? I see none. I use this opportunity to ask the Secretariat to tell me when I was studying, once again, the Liability Convention, in particularly its Article 2. I was a little surprised by the text that is inserted in the recent brochure about United Nations treaties and principles on outer space and, namely, in Article 2. It is stated that a launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft flight.

My understanding was that this sentence should read "or to aircraft in flight" because the damage would be caused, not to the flight, but to the aircraft in flight. Could you kindly check it whether the word "in" was not omitted. Please check it against the original text that was adopted by the General Assembly in 1971.

And the same typing error, in my understanding, appeared also in the Common Narrative(?) Edition of the United Nations Treaties and this was probably then transmitted to the new edition. That is all. Thank you very much.

**Mr. P. LÁLA** (Secretary): Thank you Mr. Chairman. We will check whether it is an omission and in which issues it is contained and if this is the case, we will issue a corrigendum to these documents. We will check for this. Thank you.

**The CHAIRMAN:** Thank you very much for your cooperation. I have not seen any other speaker on the list of speakers, neither has any other delegation requested the floor for speaking on this issue and, therefore, I believe that we could now postpone further discussion on this item and continue our consideration of item 9 in the Plenary this afternoon.

**Agenda item 8, consideration of the draft convention of the International Institute for the Unification of Private Law (UNIDROIT) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property**

Distinguished delegates, we shall now begin consideration of agenda item 8, Agenda item 8, consideration of the draft convention of the International Institute for the Unification of Private Law (UNIDROIT) on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property. Delegations will recall that this is a new single issue/item for discussion added to the agenda by a consensus agreement of the full Committee at its forty-third session in 2000.

I would draw the attention of all delegations to the documents currently before the Subcommittee on this item. The first of these is document A/AC.105/C.2/L.225, containing a report prepared jointly by the Secretariat and the Secretariat of UNIDROIT as background for our discussion on this item. I believe this is a very important report and I should like to recommend to all delegations which certainly have already read it, to read it perhaps once again because it is a very good introduction to the problems that have now been under our consideration.

The Subcommittee also has before it, two Conference Room Papers, A/AC.105/C.2/2001/CRP.3 and CRP.4, which contain the texts of the draft UNIDROIT convention on international interests in mobile equipment and the preliminary draft protocol thereto on matters specific to space property, respectively.

In addition, two working papers on this item have been distributed, one containing additional comments for consideration from the Secretariat of UNIDROIT, A/AC.105/C.2/L.227, and the other containing comments from Member States and cooperating States of the European Space Agency, A/AC.105/C.2./L.229.

Finally, distinguished delegates, I would note that Mr. Martin Stanford, a representative of the

Secretariat of UNIDROIT, has joined us this morning, pursuant to an invitation extended by the Subcommittee last year. Unless there is any objection, I would suggest that we begin our deliberations on this item by inviting Mr. Stanford to make some brief introductory remarks and that we further invite him to participate as appropriate thereafter in the ensuing consideration of this topic.

Seeing no objection, I invite Mr. Stanford, representative of the Secretariat of UNIDROIT, to make some initial introductory remarks.

You have the floor Sir.

**Mr. M. STANFORD** (International Institute for the Unification of Private Law – UNIDROIT): Thank you Mr. Chairman. Good morning ladies and gentlemen. Let me say first of all, what a very great honour it is for me to be here today to address the Legal Subcommittee on behalf of UNIDROIT. What you have before you is a project that we have been working on for some years now. It was in 1993, the study group set up by our Governing Council first embarked on the preparation of uniform rules on the international aspects of security interest in mobile equipment. The basic objective of this exercise was to increase the availability of secured financing facilities for those categories of high-value mobile equipment such as space property, aircraft equipment and railway rolling stock, perceived as having particular potential for the development of countries' economic infrastructure.

The impediments to the greater availability of such secured financing facilities, identified by UNIDROIT, were both legal and economic.

Legal in the sense that the law traditionally applied to resolve disputes concerning the validity enforcement and priority ranking of security rights created in a foreign jurisdiction, the law of State where the asset is located, is wholly inappropriate for assets like aircraft equipment and railway rolling stock which will regularly be moving across international frontiers or for assets like space property which will normally be moving beyond international frontiers altogether.

Economic in the sense that the resulting legal uncertainty as to which way a court decision might go in such a dispute depending as this would on the jurisdiction where the asset happens to be at the time when proceedings are brought, have inevitably tended to make banks and financial institutions reluctant to grant asset-based financing facilities in respect of such assets. And asset-based financing, I would suggest,

clearly has a distinct advantage for the financing of high-value capital equipment. Its special advantage resides in the reduction in costs that result from the reduction in risk for the financier, admitted by his ability to have prompt recourse to the value of the underlying asset in the event of the debtors default.

To take this specific example of space property, private lenders contemplating lending on the security of a satellite will want to know which other lenders may also have outstanding claims against the asset. And, at present, there are no reliable mechanisms whereby potential lenders can screen such possible outstanding claims.

Until such time as a centralized recording system is in place for the registration of interest in space property, the fact is that such potential lenders are not going to have the basic measure of protection they require and the great advantages of asset-based financing will not be available to meet the needs of most of the typical present-day customers for space financing, that is those entrepreneurial companies with no real credit history and no significant assets by way of collateral other than a satellite.

The instrument chosen by UNIDROIT to overcome these difficulties is a convention setting forth general rules applicable to all the different categories of mobile equipment covered and equipment-specific protocols for each of the categories covered, each of these protocols designed to carry the special rules necessary to adapt the convention's general rules to the specific characteristics of each category.

The particular anxiety expressed by the aircraft industry to see the convention enter into force for aircraft equipment at the earliest possible opportunity has led us to concentrate especially up to now on the conclusion of a convention and an aircraft protocol. The convention and the aircraft protocol have now been considered ready for adoption at a diplomatic conference. They have been the subject of intergovernmental negotiations hosted by UNIDROIT and ICAO, ICAO by virtue of its special competence for international civil aviation, and these two texts will now go before a diplomatic conference which will be held in South Africa in October and November.

At the same time though, we have been pushing forward work on both the space protocol and the rail protocol. The convention, as I say, is designed to facilitate financing for high-value mobile equipment in general and the work on the rail protocol has already reached the stage of intergovernmental negotiations

and a first session of governmental experts was held last month.

The space protocol is being worked on at this present time by a space working group, a group which is made up of experts from the various parties involved in space financing operations, that is to say, the manufacturers, the financiers and the operators, but also includes representatives of legal science and also representatives of the various organizations interested in the subject, and I would particularly say how very grateful we are to have benefited from the input from both the Office for Outer Space Affairs and also the European Space Agency. The work of the space working group, i.e. a preliminary draft protocol on space property is due to go to our Governing Council this coming September, the idea being for the Governing Council then to authorize us to submit the draft protocol to governments and for the convening of governmental experts which we would hope to be in a position to convene early next year. The idea being that the convention, in the meaning having been concluded this coming November in South Africa, it should be much easier having got the basic ground rules, i.e. the ground rules containing the convention, to bring the draft protocol to completion within a relatively short time.

The space working group and a group of experts that we convened in Rome last October, have examined, I think, quite comprehensively the issues that are before you today, in other words, the sort of problems that our Governing Council will be looking at when they come to take their decision in September, i.e. how best this work will need to be carried forward in future. And two of the problems that I know that they are particularly interested in are both issues that were dealt with in the meetings we held last October. One of these is the relationship of the convention to existing international space law and the second one is the identification of a body suitable to exercise the functions of supervisory authority. These are all issues that you will find explained in the background paper prepared by the Secretariats of the Office for Outer Space Affairs and UNIDROIT. You will notice that we have thought it useful to lay before you an additional paper in which we have tried to indicate ways in which point (c) in paragraph 45 of the paper, i.e. the role of the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee in the future development of the project, in particular the man(?) and scope of its future interaction with UNIDROIT in that regard.

We have laid before you some proposals as to how this might perhaps be envisaged. As I say, the

Governing Council will be meeting in September and it will, I think, help the Governing Council on that occasion, if they have some idea from you on the two issues that I have just mentioned. I say, first of all, the question of the intergovernmental body that might suitably be entrusted with the exercising of the responsibilities to be conferred upon the supervisory authority of the International Registry for Space Property. Both UNIDROIT and the space working group tend in principle to believe that the intergovernmental body best fitted to play this role would, by virtue of its general responsibility for space activities and in particular the fact that it is the Office for Outer Space Affairs that maintains the registry provided for under the conventional registration, be the United Nations.

I would suggest that it is desirable, however, that the body interested in acting as the future supervisory authority should declare itself and begin participating in the process that will determine the shape and modalities of the future international registration system for space property at the earliest possible opportunity and its identification is, therefore, for us a matter of considerable urgency.

The second issue that I think the Governing Council would be particularly interested in hearing the views of the Legal Subcommittee in COPUOS, is the relationship between the draft convention and the preliminary draft space property protocol, an existing international space law. As the background paper notes in paragraph 31, both UNIDROIT and the space working group have concluded that there was nothing in the preliminary draft protocol that is necessarily inconsistent with the existing body of space law and in particular the obligations subscribed to by States under the United Nations treaties on outer space.

The only areas where there is restricted informal group of experts which we convened last October was able to identify any possible areas of difficulty arising out of the interaction between international space law and the convention and preliminary draft protocol concerned Article 2 of the Convention on International Liability and Articles 6 and 8 of the Outer Space Treaty. The issues involved are covered in the background paper. I do not think I need to rehearse them again.

On both these issues, we would be extremely interested to hear what the Legal Subcommittee thinks and I can assure you that all views made by Members of the Legal Subcommittee will be referred by me to the Governing Council at its next session being held in September.

But once this immediate target has been reached, i.e. once we have taken the space protocol to the Governing Council, I would suggest that there would be a continuing need to monitor the interaction of the preliminary draft protocol with international space and, to that extent, we will be suggesting that the Governing Council authorize us to invite, not only Member States of UNIDROIT to participate in the future intergovernmental negotiations on the space protocol, but all Member States of COPUOS too.

And for the same reason, I am particularly pleased to hear this morning from the Secretariat of the Office for Outer Space Affairs, that, in principle, the Legal Subcommittee has taken the decision to maintain this item on the agenda of the Legal Subcommittee for next year and I would suggest, if I may, that it might be useful to maintain this item on the Work Programme of COPUOS, at least until such time as work on the intended space property protocol has been completed.

In the event that COPUOS and the Legal Subcommittee were to look favourably upon this idea, I might suggest that it could look, for instance, at the implications of the United Nations acting as supervisory authority of the future international registry for space property and including the question of how the international registry might interface with the registry already maintained by the Office for Outer Space Affairs.

One question that I would be particularly for, one idea that I would like to put to you is that, with the diplomatic conference being held in South Africa, in basically just a few months' time, and here I am to a large extent, echoing what Dr. El-Hussainy, the representative of Egypt, has already said in the course of the negotiations on the draft convention and the draft aircraft protocol, it is very important for the governments deciding on the final shape of the convention to know what is the point of view of governments on the application of the convention to space property. So it would be, I think, very useful if this body might be able to urge its government to give the maximum importance to including experts familiar with the application of the convention to space property and not just, say to aircraft or for whatever else, at the diplomatic conference and if it is possible, perhaps consider whether a resolution might not be adopted by this body calling upon member governments of COPUOS to participate as actively as possible in the negotiations that will be taking place in South Africa this coming October.

I hope I have not gone on too long. Thank you very much for your patience and if there are any other specific issues I can clarify, I am only too happy. Thank you very much.

**The CHAIRMAN:** Thank you Dr. Stanford for your information or your statement that you have just made and which helped us to understand the substance of the issues before us and of all these events that have had already passed or are about to happen during this and next year.

I do not have any delegation inscribed on the list of speakers but I expect that perhaps some delegations would like to talk. I recognize the distinguished representative of Mexico to whom I give the floor.

**Mr. J. S. CORDERO** (Mexico) (*interpretation from Spanish*): Thank you very much Mr. Chairman for giving me the floor. I would like to take this opportunity to tell the distinguished members of the Subcommittee that, for UNIDROIT, it is a particularly important question and we will be very attentive to any decisions taken here for guidance for our Governing Council.

Dr. Stanford has already spoken with accuracy on the question to be debated at the diplomatic conference in South Africa and we are also hoping to develop the protocol on space property.

I would like to call upon all members of the Subcommittee to take a position on this matter so that the Governing Council of UNIDROIT can consider this planning for the near future of our work. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Mexico for your contribution to our discussion and also for the encouragement of the delegations to express their point of view of this particular item.

Is there any other delegation or any observer wishing to speak on this item now at this stage?

Once again, I would like to draw your attention particularly to document L.225, paragraph 45 which is on the last page and this paragraph 45 has been already recalled by Dr. Stanford in his introductory work and in this paragraph you have five issues that should be particularly studied and considered in this Subcommittee. So please pay attention to these questions. I do not intend to read them. Everybody has this document at your disposal

but we would like to have your advice on these particular questions and on any other question that you would find appropriate.

Once again, is there any speaker who would like to speak at this stage on the discussion on item 8, consideration of a draft convention and on the protocol concerning space objects?

I recognize, once again, one of the representatives of UNCITRAL. Is it still Dr. Stanford or somebody else? It is UNCITRAL not UNIDROIT. Sorry, I apologize. The representative of UNCITRAL has the floor.

**Mr. S. BAZINAS** (United Nations Commission on International Trade Law Secretariat – UNCITRAL): Thank you Mr. Chairman and I do not think that there is a need to apologize. We are often being confused with UNIDROIT. We are the United Nations Commission on International Trade Law, a subsidiary body of the General Assembly with a mandate to not only supervise or coordinate the harmonization and unification of international trade law but also to prepare substantive law conventions or model laws on international trade law matters. And the purpose of my presence here today is to perhaps inform the Legal Subcommittee about another item that the Subcommittee may wish to take up in its future consideration of this agenda item which the relationship of this draft UNIDROIT convention on international interests in mobile equipment and the preliminary draft space protocol with a convention which is about to be finalized by UNCITRAL on the assignment of receivables in international trade.

The convention on the assignment of receivables will cover all types of contractual payment claims arising from the sale or lease or similar transactions with respect to movable property and, with the exception of some consumer transactions and some financial receivables arising from very specialized financial transactions.

With the distinct possibility that the UNIDROIT draft convention and the space protocol would want to cover receivables arising from the sale or lease of space equipment, there may be a potential overlap between the two conventions and for addressing that overlap, there has been quite some discussion both in UNCITRAL and in UNIDROIT and the ICAO committees. There is no conclusion in UNCITRAL on this matter yet. However, at this stage, the draft convention of UNCITRAL deals with the matter by way of a provision which addresses the potential conflicts of this convention with other

conventions in a traditional way, that is, giving way to other conventions that deal with matters related to the UNCITRAL draft convention.

There is a different way suggested which is to exclude from the UNCITRAL draft convention, the assignment of receivables arising from the sale or lease of space equipment. That possibility has been discussed at UNCITRAL and no final decision has been reached although several delegations indicate that the difficulty of excluding at this stage something which has not been defined and something which has not taken a concrete shape and form.

This is another issue which the Legal Subcommittee may wish to consider in its future deliberations on this agenda item. Thank you Mr. Chairman.

**The CHAIRMAN:** I thank the distinguished observer of the United Nations Commission on International Trade Law for his statement on this particular item. I now recognize the distinguished representative of Nigeria to whom I give the floor.

**Mr. M. G. OMOTOSHO** (Nigeria): Thank you very much Sir. My delegation, as a member of COPUOS and at the same time as a member of the Governing Council of UNIDROIT. First of all, we want to commend UNIDROIT for a lot of the work they have done and that has been very good and has assisted us in contributing. We have been very much involved in the activities from 1983, 1988 and 1995 and want to commend them for that.

Actually, the reason why we have commented(?) is because of document L.225, 35. It says that there is a need for us to \_\_\_\_\_ (*speaker not clear*) of the ITU and in addition to what the European Space Agency has said in the last paragraph, paragraph 5(1) which is also the same thing, we would like ITU, we want all the ITU to react as quickly as possible and the purpose of this reaction is to enable the conference in South Africa to advise the Government of South Africa to be very successful. That is the need where we need to react as quickly as possible, the ITU should react as quickly as possible to the request made of them and we are saying that if there is anything that can be done as quickly as possible within Member States, we should do so quickly so that the conference, I know, because I have just received new information that the conference in South Africa is likely to be between 29<sup>th</sup> October to 16<sup>th</sup> November 2001 but we know that diplomatic conference in South Africa to be a successful one. So

all members please make their various contributions as quickly as possible. I thank you Sir.

**The CHAIRMAN:** Thank you distinguished representative of Nigeria for your contribution to our discussion. The next speaker on my list of speakers is the distinguished representative of Egypt.

**Mr. K. EL-HUSSAINY** (Egypt): Thank you Mr. Chairman. Concerning this subject, the draft convention of the International Institute for the Unification of Private Law. In fact, as government experts, we worked on this subject for almost two years through a Sub-Legal Committee convened by both UNIDROIT and ICAO and I would like in this concern to congratulate Mr. Martin Stanford for his wonderful presentation which reactivated our memory concerning this particular item and also enlightened our Committee here concerning the objectives of this Convention and also the legal framework or the legal regime which this Convention brought in.

Our main concern as Egypt, in fact, we have one aspect of this subject which is the interrelationship between the draft convention on international interests in mobile equipment and also the draft protocol on matters specific to space property. I hope, Mr. Chairman, that our Committee here will be able to embark upon certain criteria to determine the interrelationship between the draft convention itself and the draft protocol relating to space property. This would, in a way, lead us to, when discussing the interrelationship between the same draft convention and the aircraft protocol because this particular issue is also pending concerning the aircraft protocol. So I hope the Committee will embark upon certain criteria to determine this type of interrelationship between the draft convention and the outer space protocol.

My second question, Mr. Chairman, is what is the procedure concerning the consideration of the draft protocols on matters specific to space property? Shall we go through it item by item or article by article or what is the procedure that you will be following, Mr. Chairman? We need to have a say here. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Egypt for your contribution to our discussion. As to the second part of your statement concerning the procedure to be used for consideration of this item, my suggestion has been to concentrate on the five questions that have been outlined in the document L.225. Perhaps we can go item by item, it means paragraph by paragraph and discuss it in some greater detail. However, I would like to welcome still the statements of the delegations

or the observers on the general idea of this protocol and the general character of the relationship between the draft convention and the preliminary draft protocol.

I recognize the distinguished representative of ESA, the European Space Agency, to whom I give the floor.

**Mr. G. LAFFERRANDERIE** (European Space Agency – ESA) (*interpretation from French*): Thank you Mr. Chairman. I will be commenting just to briefly to cover the essence of L.229, the commentary therein which could give rise to questions other than those identified in the joint document from the Secretariats of the Office for Outer Space Affairs and UNIDROIT Secretariat.

I would like to refer to page 2 of L.229 first just to try to stress for you the differences that there are between space objects and other high-value mobile equipment to be covered by the protocols prepared by UNIDROIT.

First of all, space objects. Unlike other objects, whether aircraft or rolling stock, they move along orbits because of a natural phenomenon of gravity, the attraction of the Earth. These objects can remain in space for decades, centuries or thousands of years unlike aircraft. Once launched, they do not cross national borders unlike aircraft and, as you know, outer space is not subject to any form of national appropriation.

Another criterion which is important under the Treaty of Outer Space and the conventions subsequent to it is that in the provisions governing aircraft in outer space States are internationally responsible for activities carried out in outer space including those conducted by private entities, as in Article 6. This is specific to space objects. This international responsibility belongs to the States and the States, therefore, have a duty to exercise jurisdiction and control over the entities concerned. This is handled through appropriate national legislation and the undertakings facilitating the financing of space activities by not all undertakings involved in space activity. States are responsible or liable for damage caused irrespective of legal status of the undertaking under their jurisdiction involved in the space activity.

Another point is on property or ownership of the space object under the terms of the Outer Space Treaty. Article 7 of that Treaty says that property or ownership is not affected if the object is in outer space. There have been some cases of transfer of property in space but these are space objects in their entirety and

not dismantled, as is the case in aircraft. Ownership leads to the question of definition and registration of space objects. The preliminary draft space property protocol, it is a preliminary draft, I must stress that, it is not a formal draft as yet but the preliminary draft remains the expression that we feel is ambiguous of space property. It is as yet not defined and here I would like to refer you to an article in the preliminary draft protocol listing a number of questions that have not yet been examined by the Space Property Working Group. This goes well beyond the questions to be examined in the joint report done by the Office for Outer Space Affairs and the UNIDROIT Secretariat.

The notion of space property is not adapted to the subject for the various legal considerations and we would propose the use of a different term, a broader one, related to the aim of the protocol and that would be "space assets" because the space object, as seen by UNIDROIT, contains a whole range of categories of assets, the position in the orbit frequencies, land-based facilities and so forth with a variety of separate problems.

There is another question that was also raised through the report by UNIDROIT and that is the registration question. National registries to be created, held by States and the United Nations Registry. Once again, we need clarity here. The notion of registration under the Convention on Registry is not related to the notion of registration under the UNIDROIT draft texts. The State of registration under the Convention of the United Nations has to know, because of international responsibility, the identity of the stakeholders, the use planned for the space object and its various elements. There should be more complete information on registry of the States Parties and the United Nations and that there should be a gateway so as to have absolute clarity as to ownership of everything.

The new draft of the preliminary draft protocol of January 2001 also refers to land-based elements or ground installations that are necessary for control or command. This is extremely important because without these control and command functions, the space object would be useless, even for anyone who might wish to acquire or purchase some of its elements. There is a need to examine the impact of the command functions of the space object through ground installations which may belong to a variety of entities or companies and the commands are access codes which is confidential information belonging only to some.

We could also look on the basis of what occurred recently at the question of loss of control or

command with the case of satellites on which may become uncontrolled objects beyond any specific control. We mention the case of iridium here. Now these space objects, however, remain under the international responsibility of the launching State on the basis of space agreements and in that same context, we should also seriously envisage the inclusion of the scope of the preliminary draft protocol on space property, the question of authorization and related question of liability and we still have to see how to weigh the pros and cons of that.

And now to look at our proposal in the joint document between the Office for Outer Space Affairs and the UNIDROIT Secretariat and the question of the authority in supervision. The approach here is based on the approach for the protocol on aircraft. You cannot compare aircraft and space objects. A simplistic, although that would not really be the right way to say it, but the simplistic use of the aircraft protocol for the drafting of the space object protocol would be misguided. And the idea of having a Legal Subcommittee, the supervisory authority, would also give rise to a large number of problems that could be difficult that should be examined carefully. We should also specify that the activities of the Office for Outer Space Affairs are in conformity with its mission in that case.

So there is some information identified in the document on page 4 that should also be taken into account and there is not an ITU report as yet. The UNCITRAL representative also pointed to various elements where further information is needed.

So to conclude, Mr. Chairman, it would seem to all States who sponsored this document or who supported this document that there are a number of questions that remain to be examined further. There should be further discussion and, in our view, it could become risky to put before the next Governing Council of UNIDROIT, the question for examination for continuation of efforts in UNIDROIT for this protocol.

The authors of this document strongly stress that there is single body, within the United Nations, and that is the only one with the powers conferred by the General Assembly to decide on outer space affairs and that is COPUOS and your Legal Subcommittee, Mr. Chairman. There is no other body with the power to decide on such matters. The approach proposed by UNIDROIT, in our view, does not fully observe that a single exclusive power of the Legal Subcommittee in this area. Therefore, we should think of a different approach because we are quite aware of the urgency for the matter, the protocol to be examined. We

understand the reason why UNIDROIT came to the Committee. We have to respond to UNIDROIT on these questions. These questions are welcome but we have to react rapidly. The UNIDROIT representative already mentioned the fact that the question should remain on the agenda of your Subcommittee for next year. However, we should move rapidly and I think if we restrict ourselves to the five points that you mentioned, Mr. Chairman, I am not all that certain we would cover all the concerns including the other identified in L.229.

Mr. Chairman, all delegations supporting this document, aside from the specific sponsors, all delegations are aware of this and are willing and ready to work diligently to help the Legal Subcommittee conclude on its opinion as soon as possible. Thank you.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished observer of the European Space Agency for his contribution which has included a very good number of issues that still should be considered. Of course, when I indicated that our debate could be focused on the subject which is included in paragraph 45 of document L.225, I did not wish in any way to limit any consideration on those specific points as you so well put it. There are other issues that are as important and I would be very grateful if suggestions, as you have made them, were discussed by the delegations of other observers.

I now give the floor to the distinguished representative of Belgium.

**Mr. J. F. MAYENCE** (Belgium) (*interpretation from French*): Thank you very much Mr. Chairman. I have really very little to add to what was said by the representative of the European Space Agency and very little to add to what you have just said Sir. I think it is clear that my delegation associates itself fully with what was expressed by the representative of ESA. Document L.229 and the five points which are mentioned in L.225 should be a basis, as a sort of a minimum that we would expect in terms of COPUOS' work. It is clear that we truly expect from COPUOS and from delegations of States represented in COPUOS, new issues, we expect new issues and responses as well. We are currently putting the finishing touches on a proposal that we intend to make tomorrow about the methodology of work to be adopted. This is an issue which is extremely technical and it lies somewhat outside the normal realm of things that we deal with here. I could say one thing, though, UNIDROIT has been very proactive in terms of COPUOS and their work in the Legal Subcommittee.

UNIDROIT is expecting answers from our side and Member States, even more than UNIDROIT, perhaps. Member States who are considering the possibility of acceding not only to the draft convention but to the draft treaties are expecting such answers from COPUOS. And it is clear for my delegation that COPUOS and its Legal Subcommittee should provide clear answers to the questions put, in particular those that come out of document L.229.

Turning now to the specific role of the Office for Outer Space Affairs, I must say that I think that this is a secondary matter, relatively speaking, because it depends on the question of substance, really it is subordinate to it and to the entry into force of the protocol itself. However, we expect from the major stakeholders here some responses or at least some indications or elements of a response, not only as far as their competence goes in terms of the keeping of this registry, which is completely different from the 1975 Convention on Registry because we are talking about private law questions, and not only the competence but also the means, the resources that are available to the Office for Outer Space Affairs if they were to consider the possibility of keeping such a registry. Thank you.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Belgium for his contribution to our discussion. Of course, we will have to do our utmost to come up with very specific answers to those issues under consideration but that is not only the task of the Chairman and the Member States, of course, are involved as well. The Member States and the Chairman not only though but it also depends very much on initiatives coming from observers, delegations and so on, so I would like to invite other delegations, other observers perhaps, to contribute to our discussion.

I seem to have one name only here on my list and it is the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Mr. Chairman. Let me begin by expressing our gratitude to thanks to the Chairman of the European Space Law Centre who has just spoken on behalf of the Member States and countries cooperating with the ESA in terms of really very substantive contributions and who, up until now, are saving the prestige of our Legal Subcommittee and of COPUOS in general.

One minor comment. I have the feeling, perhaps I am mistaken but at least I get the impression that we are acting or we will be acting under some sort

of pressure or with a deadline and I am wondering whether, for the regulation of a subject which is as critically important for every single country on this planet, be they countries that have space activities or countries that will one day have space activities on their national soil or be interested in space activities, I think it is really incredible that without even getting the reports or positions of the United Nations specialized agencies, especially the ICAO and the ITU in this matter because ITU, after all, really has its very important share of responsibility in this. If we could divide up the tasks into a sort of a pie, well half of it would belong to the ITU, I think. If we are talking about September or October as a deadline, in my view, that is really extremely difficult to work with unless the idea is merely to be informed and to sort of circumvent things using another process.

As the distinguished representative of the Agency and also our colleagues from Belgium have just expressed a moment ago, quite apart from the process that should be followed in terms of an ad hoc diplomatic conference, the important work should be done in the Subcommittee and the Committee, in other words, in the final analysis in the General Assembly.

If there are any other considerations about this matter that we are not aware of, then perhaps we should be made aware of them at this point. Thank you very much.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece. I now call on the distinguished representative of France. You have the floor Sir.

**Mr. M. LAFFAITEUR** (France) (*interpretation from French*): Thank you very much. Let me begin by expressing my thanks to Mr. Stanford, representative of UNIDROIT, for the very clear presentation he has just given us. UNIDROIT has approached our Subcommittee to get our point of view on its preliminary draft protocol which is currently being prepared. My delegation would like to confirm the fact that we are interested in the subject and we consider that we are fit very well in this role in this whole process. As I have had an opportunity to say during the general debate, our consideration of this document shows that it is more complex than had seen in our evaluation last year. A detailed examination, and perhaps still incomplete, was carried out by the Member States of the European Space Agency and the cooperation States that are members of this Subcommittee. It was the subject of document L.229, which has just been submitted by the European Space

Agency which has just been introduced and, of course, we support the all of the conclusions here.

On many points, responses have to be provided with close cooperation with UNIDROIT. The delegation of France considers that it would not be reasonable to defer these replies for too long and we support what was said by Belgium in the document that was submitted last week. The setting up of a specific working mechanism will make it possible for us to come up with a positive response within a satisfactory time period to UNIDROIT. That is what we said, in fact, in the general debate when we indicated that we had to show both flexibility and imagination to be able to make some headway on this point. Outside this room, people's perception of the Committee might be affected if we were to have delays that were too long here, so our report really should be finished up next year and adopted next year.

Then, as UNIDROIT would like to have it, we would not be against having this item retained until the final work on the preliminary draft protocol has been completed. Thank you very much.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of France for his contribution to our discussion.

(*Continued in English*): The next speaker on my list of speakers is the distinguished Ambassador of Austria.

**Mr. H. WINKLER** (Austria): Thank you very much Mr. Chairman. Mr. Chairman, as a matter of fact, much has already been said by the speakers that preceded me but I want to make it very clear, as far as my delegation is concerned, that first we consider this item to be of great importance and it challenges the capacity of this Legal Subcommittee to do some substantial work and to do it quickly. I think it has been said rightly that here we are under certain pressure of time, although I must say that I do not think that we should accept that we would have to work under a time pressure that is for us impossible to fulfil. There are certain procedures which must be kept. There are certain things which we can do and there are certain things which we cannot do.

As far as the substance of the question is concerned, of course, it goes without saying that we subscribe entirely and fully to what has been said by the representative of the European Space Agency. We are, of course, part of the document and many of the questions that have been put and explained by the

representative of the European Space Agency are extremely pertinent and important.

I think we have to be very clear on what our role is and the role of the Legal Subcommittee and the role of COPUOS and, in the final analysis of the General Assembly of the United Nations, is to pronounce itself on questions of international public law, international space law. It is not our task, of course, to discuss matters that pertain to private law. That is where we have to be very precise when we throw up the questions that need to be answered by this Committee. I think we should do it quickly because to draw up the right questions is, of course, the precondition of having the right answers.

As far as procedure is concerned, Mr. Chairman, I have listened with great interest to what our Belgian colleague has said and I would, as a matter of fact, urge him not to postpone the presentation of the paper that he has announced until tomorrow but rather try to do it today because I think we need to come to grips with the procedural aspects so that we can follow the best possible way on how to deal with the question this year. Whatever can be done this year should be done this year. Whatever can be done up to COPUOS should be done, then COPUOS will still have another chance, if need be, to discuss matters and then we need to be clear in our own minds on what we do until next year and what actually will be our task next year.

I think that it is an urgent matter which we must address as soon as possible and we must do it with all the legal capacity and in this room assembled are so many experts on international space law that I am confident we will achieve good results. Thank you very much.

**The CHAIRMAN:** Thank you very much distinguished Ambassador of Austria for your contribution. As far as the last suggestion you made, namely that the distinguished representative of Belgium could perhaps think about the possibility of presenting his papers during this debate. I am ready to give him the floor either at the end of this discussion this morning or in the afternoon, whatever is more convenient for him. Would you be ready to do so today? Very well, we will take care of it.

I now recognize the distinguished representative of Germany, to whom I give the floor.

**Mr. C. HENRICHS** (Germany): Thank you Mr. Chairman. I asked for the floor just to say that this delegation fully subscribes to what many of my predecessors have said. Germany is in full support of

the project, the draft protocol on matters specific to space property as such, and this is also backed by a very strong interest by our industry that they have expressed before this meeting. If we talk about an urge or a rush or a time pressure, in my view, it is rather the economic need and the desire of the industry to come about with something and, in my view, there is no real competition of competencies, to put it that way. I think the Ambassador of Austria made a very valid point when he talked about the different spheres of law, that the different bodies that deal with this project, consider this as the expert Committee in all the international public space law matters and if we see it from this point that there is mutual assistance, all bodies work together to that one aim, to bring forward this protocol as fast as possible, I think this is very much a way forward.

And when we talked about September as a deadline, the UNIDROIT Governing Council decides whether to put forward this project to the governments or not, in my view, this does not mean that all questions need to be resolved by September. We are still at a very initial stage in spite of all the deliberations that have taken place already. So there will be time for mutual deliberations and negotiations but I agree with all my predecessors that we should now take that step and move it forward together in cooperation with other competent bodies. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Germany. I now give the floor to the distinguished representative of Australia.

**Ms. S. COLES** (Australia): Thank you Mr. Chairman. My delegation welcomes the work undertaken by UNIDROIT in this field so far and we particularly thank Dr. Stanford for his presentation to us today. We certainly do see a role for COPUOS in the continued development of the UNIDROIT draft convention but in particular this draft protocol on space property. As we have heard, it certainly does challenge the Legal Subcommittee to consider very substantive issues but that is properly our role, as pointed out by my colleague, the Ambassador from Austria.

We have, my delegation read and heard with interest, the comments of ESA this morning and my delegation certainly shares a strong interest in developing some answers to these questions posed in document L.229 and in particular we see some difficulties in relation to the lack of congruity between the concept of space property that we see in the draft protocol and the terms "space object" with which we are familiar in the context of the United Nations treaties relating to outer space and we think that is

going to be a challenging issue in relation to work on the draft protocol.

We are also interested in the issue of the registry and the possible role of the Office for Outer Space Affairs and/or the Legal Subcommittee and questions posed in that regard in the ESA paper.

So we are very interested in seeing this item being included on the agenda for our future meetings of the Legal Subcommittee but we also have a strong interest in hearing other proposals for how we can advance the substantive work on the questions raised both in papers prepared by the Secretariat and the ESA paper so we look forward to initiatives and particularly that perhaps of our Belgian colleague in relation to how we can take this work forward. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Australia and I now give the floor to the distinguished representative of Italy.

**Mr. M. PEDRAZZI (Italy):** Thank you Mr. Chairman. First of all, we would like to address a warm congratulations to Mr. Stanford for his brilliant presentation and to remind that we gave support from the beginning to the UNIDROIT project. We supported the inclusion of consideration of the UNIDROIT project in the Legal Subcommittee and we continue supporting this project that is very important for the financing of space activities and also for the development of space activities.

Of course, we agree with what has said by all our colleagues, in particular by the representative of ESA, about some difficult legal questions relating to the space protocol, some difficult questions of interaction with international space law and in this regard, we would like to support the efforts of our distinguished colleague from Belgium to find an appropriate procedure in a way to discuss in-depth the questions relating to this interaction among international space law and the space protocol in order to come as quickly as possible to find solutions and I think there is nobody wanting to bypass the Legal Subcommittee. I think we should work in coordination with UNIDROIT to find, as quickly as possible, the best solutions. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Italy for your contribution to our discussion. The next speaker on my list is the distinguished representative of Egypt to whom I give the floor.

**Mr. K. EL-HUSSAINY (Egypt):** Thank you Mr. Chairman. The view of the Egyptian delegation in determining the urgency of the subject and calculating the time factor, we should differentiate between the draft UNIDROIT convention and the outer space protocol. As mentioned by the distinguished representative of UNIDROIT in his statement and his presentation this morning, a diplomatic conference will be convened in South Africa in October to adopt the mother convention or the UNIDROIT convention itself and also the aircraft protocol. So concerning the draft UNIDROIT convention, I think it would be appropriate to have the view or the decision of the Legal Subcommittee here concerning this draft in particular to determine the relationship between the proposed international regime as reflected in this draft convention and the outer space regime to enable the conference in October to adopt this convention and to be applicable to both the aircraft protocol and the outer space protocol.

Coming to the outer space protocol, I think you have some time to consider it and it can be considered after even the convening of the October diplomatic conference in South Africa. So I think, in our view, as Egypt, we should differentiate between in concluding this time factor between the UNIDROIT draft convention itself, as I called the mother convention, and the outer space protocol. I think you have some time open in front of you to consider the outer space protocol whereas, for the mother convention or the UNIDROIT convention, you are tied with this October diplomatic conference in order to differentiate the decision, I think. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Egypt for your contribution. While I agree completely with you that we should work as hard as possible on this question and do not feel any obstacles in the pronouncing and articulating our positions in relation to this draft, I have to also recognize that this Subcommittee only discusses now this item because it is a single issue item, item for discussion, and we certainly cannot formulate any decision on any problem which is under our consideration. It is only our report that we can make on these issues to the main Committee which will meet in June, so far as I know, and it would be on the main Committee to formulate its recommendations for the General Assembly to endorse our recommendations or review them and very probably there might be also continuation of the discussion under the point, Report of the Legal Subcommittee, which will be, as usual, on the agenda of the main Committee. So this is simply my explanation about the purpose and to possible outcome of our discussion today.

I now recognize the distinguished representative of the United States of America who is the next speaker on my list.

**Mr. S. MATHIAS** (United States of America): Thank you Mr. Chairman. We would like to commend the Secretariat for its work, together with UNIDROIT, on the report to the Committee, document L.225, on the proposed UNIDROIT convention system for international financing of mobile equipment and the draft space equipment protocol to that convention. We would also like to commend the UNIDROIT Secretariat for its preparation of the drafts and Mr. Stanford for his presentation this morning and we would also like to welcome the contribution of the European Space Agency for its valuable work in this area and we will comment further on that later.

We welcome the opportunity to set forth our general views on this agenda item at this time. We believe that the UNIDROIT space equipment protocol has considerable potential to facilitate the development of commercial activities in outer space, which will benefit States in all regions and all levels of economic development.

The existing United Nations space law regime has successfully put in place a framework for the conduct of activities in space. In the funding area, however, the picture has changed substantially since the treaties were negotiated, largely with regard to development of commercial activities in space and the parallel need to replace government funding for space activities.

Government funding for space ventures has steadily declined and new commercial activities in space can no longer rely on high-cost venture capital, which was until recently the primary method by which non-government funded activities could be undertaken. New methods in commercial finance can fill this funding gap but as a practical matter, this will require a specific treaty basis for this proposed new financing method. The availability of general funding sources is important, not only for the development and placement in orbit of satellite facilities, but also for the financing of services which may be sought by all States, whether or not they have a direct interest in space equipment *per se*.

These new concepts of commercial finance, generally called secured interest financing and for space equipment and services, this would in particular involve "asset-based" and "account receivable" financing. These methods of financing have already

been adopted by a small number of States. This is expected to change soon with the adoption in 2001 of two multilateral conventions on finance, the UNCITRAL Convention on Accounts Receivable Financing is expected to be completed this June in Vienna, as we heard earlier this morning, and the UNIDROIT Convention on Mobile Equipment Finance and its first protocol developed jointly with ICAO on aircraft finance, are expected to be completed at the diplomatic conference in October about which we have heard. In addition, an OAS-sponsored model national law on secured financing is expected to be approved in November 2001 and that may lead to similar developments in other regions.

The draft UNIDROIT treaty system and the space equipment protocol, as well as the new UNCITRAL convention, can extend modern asset-based and accounts receivable financing to activities in outer space. The Office for Outer Space Affairs has worked together with the UNIDROIT Secretariat on the report that has been submitted to the Subcommittee on these instruments. We believe this collaborative effort has been productive and the continued ability of the Office for Outer Space Affairs and this Subcommittee to monitor and participate in to the extent appropriate the work of UNIDROIT and report on its progress, will be of benefit to us all.

Issues do need to be further considered, such as the relationship of obligations undertaken by States under the United Nations space law regime and the exercise of rights acquired through the conduct of commercial activities in space under the new draft UNIDROIT convention. The issues where these treaty systems may intersect will need to be analyzed closely, because if sufficient rights cannot be obtained under the finance treaty, commercial finance and capital lending markets may not take place and the benefits that could flow to States at all levels of economic development would not be realized.

We would like at this point to express our views on some technical aspects of the proposed UNIDROIT treaty system as it would relate to space activities. The basic convention is expected to be finalized at a diplomatic conference in South Africa later this year, together with the UNIDROIT/ICAO protocol on aircraft finance which will bring the basic convention into force with regard to aircraft transactions.

Many of the issues relevant to space activities were also relevant to aircraft and air transportation and were considered in the context of the air transportation treaty system established under the Chicago, Geneva

and Warsaw conventions. While there are differences, we are hopeful that progress making commercial finance available for air transportation can be mirrored in progress making commercial finance available for outer space activities without substantial delay.

The new UNIDROIT convention system and the ICAO/UNIDROIT protocol are expected to attract financing for air transportation by meeting the standards of the capital markets, that is, the recognition under the proposed new financing treaty system of international financing rights, together with a system for establishing priorities among claimants who hold other financing interests, and a voluntary optional set of expedited remedies.

Each of these factors is critical to overcome the otherwise high risk associated with space activities, as well as country risk that is often associated with limitations on financing for States at lesser levels of economic development. Reaching a significantly high level of commercial certainty as to what rights will be enforced is the primary threshold that must be crossed to extend commercial finance into the space arena.

To achieve such commercial certainty, priority between claimants would be established on the basis of an internationally accessible, computer-based registry system for these rights. Such a registry system would involve a governmental supervising authority composed at least of signatory and ratifying States. This registry would bear no relationship to and would not intersect with the registry activities undertaken by the Office for Outer Space Affairs under the United Nations space law regime. Nevertheless, it may be worthwhile to explore the feasibility and appropriateness of the United Nations, acting through the Committee or the Office for Outer Space Affairs, performing some role in that regard. One possibility is that such a registry authority could be authorized by, and operate as a sub-unit of, the Committee. The registration operation itself would be expected to be contracted to a private high-technology entity, and the cost of operation would be borne by the users.

Another important set of issues to be resolved are the extent to which associated rights, which are necessary to operate satellites and provide services, can be enforced. It is, of course, recognized that States may subject the transference of such rights, including orbital positioning and broadcast spectra, to national regulatory regimes. However, the extent to which this would render the ability to exercise rights of telemetry, tracking and control, TTC, uncertain or unachievable, would directly affect the availability of finance and the cost of that finance under the proposed treaty system.

The relationship to State obligations undertaken under the United Nations space law regime will also have to be examined in this regard.

Mr. Chairman, we believe that examining these issues and assisting UNIDROIT in its work is a worthy task for this Subcommittee. Should the Subcommittee determine that a working group would be a useful method of organizing its work in the future on this subject, we would support such a proposal. We would also participate in any informal consultations should members decide that this is the best way to advance our work between now and the next session of the Subcommittee.

Finally, my delegation believes that the Subcommittee has an opportunity here to make a significant contribution to a new financing regime that has the potential to increase space activity and to benefit all countries. We believe that the Subcommittee should attach a priority to its work on this item. Thank you Mr. Chairman.

**The CHAIRMAN:** I thank you distinguished representative of the United States of America which included also some interesting suggestions as far as the further organization that will be necessary for implementing all these suggestions are concerned.

The next speaker on my list is the distinguished representative of Belgium to whom I give the floor.

**Mr. J. F. MAYENCE** (Belgium) (*interpretation from French*): Thank you very much. Let me begin by thanking all delegations who have supported the proposal before it was actually made. I will be submitting this in the form of a non-paper this afternoon and I have two comments to make.

After what we have just heard, first of all, what was said by Egypt who referred to the difference in terms of the timetable, about the work on the convention itself and work on the draft protocol and I would like to clarify things here on that.

My delegation, in the Legal Subcommittee, has a limited mandate in terms of the draft protocol. When I say draft protocol this includes the convention to the extent that the protocol refers to it but I would have a lot of trouble beginning a discussion of the draft protocol in itself because the convention itself does not pose any questions about space law, except, and this is something I have said before, as regards any references to the convention by the draft protocol so the proposal that I will make will be dealing with the draft protocol

only, including the provisions of the convention that the draft protocol refers to.

I would also like to offer a very minor comment about the United States' statement just made. I am pleased and I welcome the fact that the United States delegation is prepared to participate in informal discussions that we will propose on the protocol, if they are accepted by participants here in this Legal Subcommittee. I think it would be very useful, of course, to discuss whether this protocol is necessary when we look at the evolution and change in space activities, that is where the UNIDROIT thing is very useful, financing and so on, but generally speaking, we will see very clearly, I think, that the development in space activities occur differently in different parts of the world. I think that, whereas in some countries, the commercial aspect has developed very significantly and space activities have become involved in financial activities, economic activities, private activities, on a sort of a large scale. That does not apply to all regions of the world. I think that, for example, in Europe, there is a long tradition of research and development and this is R&D for a public service mission. This has very special consequences on the way in which we approach or grasp such a protocol. Thank you very much.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Belgium. I call once again now on the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Many thanks Mr. Chairman for giving me the floor. Just a comment please.

I am getting the impression, I may be mistaken, once again I am saying what I said before, I may be mistaken in this impression that I have but we are dealing with matters that, from an institutional point of view, actually lie outside the mandate of the Subcommittee. We are talking about public international law for space, as regards space, that is all. In fact, this is the outcome of the last 40 years of work in the Committee. Now we have started to talk about certain matters, certain issues, although they might be regulated by an international convention, that may actually happen for internal law to be able to have unification on a world level. But in my opinion, those matters do not really fall within the mandate that we have and I am sharing these thoughts with you because I have to say, of course, I agree fully, I fully subscribe to the situation and the problems that have been explained by our colleague from the United States but financing, financial aspects or other commercial

aspects and so on and so forth, all of these things related to space activities have a private law aspect and we are not competent here to deal with private law matters arising out of these elements.

The only thing that we can do actually by way of assisting the work and supporting the efforts of UNIDROIT or any other organization or any other international initiative, the only thing that we can do perhaps is to try to determine, as is the case for the protocol, for example, what the compatibility or consistency of the legislation proposed with space law. Are they consistent or compatible?

I have just heard, if I have understood correctly his English, because I must say that my English is not a language that I practice, but I was listening to my colleague from Germany who said that our Committee is a committee of experts, a group of experts. No, Mr. Chairman. Institutionally, we produce international space law. That is what we generate. We are not a group of experts and it is throughout the last 40 years, even more, that we have been following these terms of reference or this mandate because we referred to the General Assembly of the United Nations and the United Nations does not generate laws relating to any branch of private law.

These are comments that I thought were necessary to help us with our framework about what our effort is going to be in assisting UNIDROIT for this draft protocol. Thank you very much.

**The CHAIRMAN**: Thank you very much distinguished representative of Greece for your intervention to this discussion. However, I would like to say that, as far as my knowledge is concerned, the original mandate of the Committee on the Peaceful Uses of Outer Space and also, of course, of the Legal Subcommittee, was to study the legal problems related to space activity, legal problems in general, and to consider appropriate measures to be adopted by the United Nations for the regulation of these issues. So it is not explicitly stated in this mandate that it should be limited to international space law only. We should discuss all legal aspects of space activities. Of course, in practice, the work of the Committee and of the Legal Subcommittee developed in the field of international space law. This has had its certain reasons why it was done because the legal aspects of space activities were, in particular, the inter-State relations, concerned the inter-State relations, international relations in the proper sense of this term, but it does not mean that we should neglect the other aspects relating to space activities. At least we should be informed and we should take these other aspects, it means including the

private law aspect, into account when considering our mandate, issues arising from our mandate. This is my interpretation that I offer.

I have now on my list of speakers the distinguished observer for the International Astronautical Federation.

**Mr. H. P. VAN FENEMA** (International Astronautical Federation – IAF): Thank you Mr. Chairman. Mr. Chairman, as observed before, we talk here about new law. In fact, we talk about a new variant of space law and the novelty of it or is, in particular, that it is inspired by the needs of the private industry and in fact that it has been requested by private enterprise, by the space industry and I am sure that this is just an example of more such initiatives which will be forthcoming in the years to come.

Now this piece of new legislation poses a challenging task to the Legal Subcommittee and a lot has been said about this task already so I will not repeat what previous speakers have said but as this is the first time, we have not yet quite established what exactly the role of the Legal Subcommittee could be and we are basically trying to establish that. At one stage of our deliberations, whether this morning or later or even at another meeting of the Legal Subcommittee, we will have to make a choice, a choice with respect to the approach of the Legal Subcommittee and, in fact, of the role of the Legal Subcommittee, not only in this specific case, but in all cases of private space law in the making.

One example of such an approach is, with respect to this specific topic, is the ICAO approach. ICAO has acted with respect to the aviation protocol as an expert specialized agency which has presented its views, together with, and on behalf of all aviation administrations and agencies of the Member States, and it has been joined by the airline industry, IATA, the collectivity of international airlines and they have gone into the details of both the convention and of the aviation protocol. They have acted as sparring partners to UNIDROIT but, more in particular, they have acted as cold draughters, cold draughtsmen, draughtspersons I should say, of these new instruments and in that respect, they have played an extremely important role on behalf, again, of the civil aviation administrations and the airline industry combined. And, as a result, both convention and the aviation protocol have been amended and changed and adapted to specific aviation needs.

That approach could, of course, be followed by the Legal Subcommittee. They could also attempt

to play a similar role but that, of course, requires specific expertise which is, of course, available but not necessarily today and not necessarily in the form that will be required to become a real co-draughter of the new instrument. It would also require basically an article-by-article review and discussion of the draft agreement and the protocol and it would involve an involvement of the space industry, one way or the other. Again, if you follow the example of the aviation, of the ICAO approach.

The alternative is a more modest one and again nobody has decided yet on exactly what type of approach is the most appropriate, given the task ahead of the Legal Subcommittee but that would be to simply review, to evaluate the convention and the space protocol combined and it could involve limiting the Legal Subcommittee, limiting itself basically, though not exclusively, to checking whether this new protocol, whether this new agreement, whether this new instrument is, and remains, in conformity with the space treaties, whether in conformity with the latter or in conformity with the spirit of the space treaties. And whether or not this protocol will make the work of the Legal Subcommittee drafting space law in the future more difficult. That is, of course, a much more limited role.

Now how do you go about finding what the role is or should be? My suggestion at this stage, though it is only a preliminary suggestion, is to follow, to start a discussion following the lines of paragraph 45 and the five points raised in that paragraph 45 and that may enable us, the outcome of those discussions, particularly starting with the issue of the relationship of the proposed new regime to the existing body of space law, that may enable us to make a choice about the future role of the Legal Subcommittee or the role and the approach of the Legal Subcommittee with respect to this specific issue on the agenda. Thank you very much.

**The CHAIRMAN:** Thank you distinguished observer for the International Astronautical Federation for your contribution. Before giving the floor to the representative of UNIDROIT, who also applied for the discussion from among the non-governmental institutions, I would like to give the floor to the distinguished representative of Mexico because he is a delegate to this body.

**Mr. J. S. CORDERO** (Mexico) (*interpretation from Spanish*): Thank you very much Mr. Chairman for allowing me to speak once again. From the discussion that we have been listening to this morning, I think it is important to pick out the very

important statements, among others, from Austria, from the Federal Republic of Germany, from the United States. Not only the preliminary draft protocol of UNIDROIT has led to a lot of interest in the commercial financial sector but also in the private sector and in those States which require and would like to have access to credit.

Dr. Stanford explained already today very precisely the registry which is being proposed in the draft protocol, could favour establishing a legal framework within which one would foster access to credit which, to a great extent, the private sector and which States need and require. This is why I would like to say that we await with great interest, the non-paper from Belgium that will perhaps explain how this international law is going to work with private law.

Lastly, we see with great sympathy, the proposal made by the United States in the sense that the registry should be operated by a high-tech company as a sort of a supervisory body. Thank you very much.

**The CHAIRMAN:** Thank you distinguished representative of Mexico for your contribution to this discussion and I give the floor again to the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Sir. Mr. Chairman, about the idea which involves the establishment of a registration system or a registry which would be at the Office for Outer Space Affairs, I have the feeling that we are forgetting that the Office for Outer Space Affairs covers under the Treaty on Registration, there are no provisions at all. They are about the establishment of an international registry. The only way that we can actually have an international registry is if we were to create an international organization and then that organization then could open up a register and operate a registry which could even be used as a sort of a mortgaging office but this creates an institutional problem because States, under the Registration Convention, are creating their own national registration bureaux or offices and they are merely informing the Secretary-General of the United Nations through the Office for Outer Space Affairs, merely informing the Secretary-General for their launches, I am putting the launch into plural, launches.

Let us remember that the Office for Outer Space Affairs hierarchically does not belong or come under the Committee of the Subcommittee. It comes under the General Secretariat of the United Nations. Let us remember that. And to my knowledge, there is

no other example that exists where you have the establishment or the creation of an institution within the United Nations but which has a direct link with certain specific activities which are, of course, national but in this particular case, these activities might well be private activities.

So this is another aspect which we are going to really have to clear up and discuss at some length because I think it is a little bit odd to ask the United Nations to become something that it cannot become, subject to the provisions of any treaty.

**The CHAIRMAN:** Thank you distinguished representative of Greece for your contribution. Without wishing to oppose your views that you have thus far so ably presented, I would like to draw your attention and the attention of other delegations to Article 3 of the Registration Convention dealing with the Register of the United Nations. It is spelt out here that the Secretary-General of the United Nations shall maintain a Register in which the information furnished in accordance with Article 4 shall be recorded so that it is not only the publication of the announcements of individual States or other launching authorities but it is, indeed, a Register, a Register with Capital R, and the proper term is Register not registry unlike national registries. Unfortunately, the documents of the United Nations and in the documents in UNIDROIT, it is always called a United Nations Registry but it should be a United Nations Register. This is only a minor observation.

Now I have on my list of speakers the next delegation and it is the distinguished representative of the Russian Federation.

**Mr. Y. M. KOLOSOV** (*interpretation from Russian*): Thank you very much Mr. Chairman. Mr. Chairman, we have heard some parallels drawn between ICAO and our Legal Subcommittee here. This parallel here that has been drawn is perhaps not a parallel that can actually be drawn. That is not entirely correct to establish such a parallelism because ICAO has some experience working in the field of private law. Very recently, in fact, within the framework of ICAO, we re-worked the entire Warsaw system and we adopted the Montreal Convention. This has not yet entered into force but I think we can say safely that ICAO is used to working in the area of private law. That is what they do. That is not the case for us which does not mean, however, that our Legal Subcommittee and COPUOS in general should not, it does not mean that we should not follow at least the developments of what is going on in respect of this particular document. In other words, we have to do this, we have to follow

this. There should not be any inconsistency or contradictions between the new international regime, as the document says itself, and the existing regime, the international existing regime.

Now, of course, Mr. Chairman, we can follow the developments. That is one thing. We can follow the way in which the work is developing on this preliminary draft protocol on space property. Of course, it will not be an easy thing to do because the document only exists for the time being in English and I am not quite certain that all delegations are actually prepared to carry out a comparative analysis of this particular protocol on properties and existing space law. I am not sure if everyone is prepared to do this using English only, an English document. Thank you.

**The CHAIRMAN** (*interpretation from Russian*): I thank you the distinguished representative of the Russian Federation. I thank you for your comment on this matter.

(*Continued in English*) The next speaker on my list is the distinguished representative of Chile to whom I give the floor.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you very much Mr. Chairman. Well, I am actually taking the floor to express a concern. At this stage of our discussion, which I would call a brief discussion when you think of how important this topic is. We do not think it is a good idea to establish a new registry. We think that the reference that you made to the Convention on Registration is sufficient and in addition, there are some other topics where in some very exceptional cases there can be an actual registry, such as, for example, in disarmament. Now if we were, and I say we as countries, as States, were to extend the scope of registries from the disarmament areas, then, of course, we would also be quite sensitive to such a thing but I think that this is a topic that is not developed sufficiently. There already is a convention, let us remember, on the subject of registration and this convention what it requires, actually what it needs, is to be upgraded and improved but at this stage, we do not think is useful to have a specific registry for the matter which is under discussion. Thank you very much.

**The CHAIRMAN**: Thank you distinguished Ambassador of Chile for your intervention in the discussion. I now recognize the distinguished representative of Colombia to whom I give the floor.

**Mr. C. ARÉVAL YEPES** (Colombia) (*interpretation from Spanish*): Thank you very much. We have been listening very closely, very carefully to a discussion that clearly is a very interesting one and I would not wish to miss this chance to make at least a reference to what the Colombian civil aeronautics area believes on this. An analysis of this subject should have, as its starting point, the Convention on the Registration of Objects Launched into Outer Space which involve natural details of this subject and we should take into account the fact that the adoption of a convention on real international guarantees for mobile equipment as they apply to space objects would, in the view of the Civil Aviation Authority of Colombia, involve the registry for these guarantees which, in turn, might be linked to the registry of objects which are launched into outer space including whatever amendments are necessary for the convention that regulates these matters. Thank you very much.

**The CHAIRMAN**: Thank you distinguished representative of Colombia for your intervention in our discussion. I do not have any other delegation on my list of speakers. Is there any other delegation wishing to speak on this item at this stage of our discussion? I see none. I now give the floor to the representative of UNIDROIT for his replies and observations, remarks and conclusions that he has derived from our discussions so far.

**Mr. M. STANFORD** (International Institute for the Unification of Private Law – UNIDROIT): Thank you very much Mr. Chairman. I did not really intend to conclude. I was simply, actually when I asked for the floor trying to answer or perhaps comment on a few of the points raised by the distinguished representative of Greece. I would not certainly, coming here, and as I say it is a very great honour for us to be here, we would certainly not want anyone in this room to get the impression that we were seeking to impose deadlines. That is certainly not the case. It is true that the diplomatic conference is being convened in October and obviously the impact of the point of view of the national registrations on the adequateness of the convention for space property will, of course, be very important in the preparation of that conference and in the final text of the convention to come out of it but, of course, the most important thing to bear in mind is that protocols are free to alter the convention anyway which is felt necessary for the specific type of equipment and the convention is not intended to come into force for any type of equipment until the protocol for that type of equipment has, in fact, come into force. So the convention would not be applicable for space property until such time that there was a space protocol in force. So obviously there is a

certain amount of time and I would not wish anyone here to think that we were trying to hurry things along in a way which was offensive.

I think it is important, though, to give the Governing Council when we come to meet and when the Governing Council meets in September, an idea of the interest of the Legal Subcommittee of the Committee for the Peaceful Uses of Outer Space and I think, going back to what was said last year, but particular as I think illustrated today, I think it is quite clear that, as the representative of Mexico pointed out, there is quite a lot that we can, in fact, take back to our Governing Council indicating the interest of the Legal Subcommittee and we are very grateful for this interest. I particularly liked the idea, if I may use those terms, which seem to be coming from the delegate of Belgium, that there might be some sort of working group or some sort of group which might meet on an inter-sessional basis, in other words, between this session of the Legal Subcommittee and the next meeting of the Legal Subcommittee with a view to giving input to UNIDROIT in the next stages of the work on the preliminary draft protocol.

I think the points raised by Dr. Lafferranderie, on behalf of ESA, are very well taken and as he knows, we have discussed on a number of occasions, the problems of language and whether you talk about space property, obviously, as he rightly indicates in the protocol, we are not just talking about objects, we are talking about associated rights, hence the word "property". I agree that the word "property" is a rather loose term and perhaps a more appropriate word like "avoir" or something should be used to give a clear idea, perhaps certainly in languages other than English, property being rather a slippery concept. I think everyone would agree, we should find a term which would, I think, alert readers to the broader scope of this particular exercise. And I think, in that context, the point made by the distinguished representative of the Russian Federation is also very important. As Professor Kolosov knows, we at UNIDROIT only work, given our modest resources, in English and French. There is, of course, an English and French version of the space protocol and there is also, given the co-sponsorship of the diplomatic conference, by ICAO, an English, French, Russian, Spanish and Arabic version, and I think also a Chinese version actually, of the draft convention itself and I think we would certainly welcome perhaps some indication from the Committee and perhaps the Office for Outer Space Affairs as to whether we might be able to get assistance from the Office for Outer Space Affairs perhaps in the preparation of a Russian version of the space protocol

which might help address the concerns raised by the representative of the Russian Federation.

Might I be permitted to respond or perhaps to clarify one element of the Register which, I think, came out of the remarks made by the distinguished representatives of Chile and Colombia, i.e., the social registry envisaged by the draft convention is not all the sort of registry you have at present under the 1975 Convention. What is envisaged is a sort of, as the representative of the United States of America indicated, a sort of high-tech registry where the registration would be done by computer. In other words, the information on the registry would be accessible anywhere in the world via computer. A person would be able to register their interest from anywhere in the world via computer. It would be an entirely computerized, an entirely electronic registry.

Anyway, the main point, if I may, is to say that we will obviously not be, well certainly I think we would be extremely interested to know what specific points particular commend them are felt to be of importance to the Legal Subcommittee as regards the relationship between the convention, the preliminary draft protocol and the existing body of space law and whether those points are given to the UNIDROIT before the Governing Council meets in September or afterwards, I think is really immaterial. I think the important thing that I have noted, and I am very happy to have noted, is the interest expressed by your colleagues here today and I think it would be very useful to take this message back to UNIDROIT and from UNIDROIT to our Governing Council and then perhaps, as I suggested when I spoke earlier, via the procedure I suggested, in other words, that we, when sending out invitations for governmental experts, send out invitations not only to our Member States but also to all Member States of COPUOS too. This might be a way perhaps to channel the special expertise that might be generated by the sort of initiative that the delegate of Belgium seemed to have in mind. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of UNIDROIT for your comments on the up-to-now discussion that has been developed during this morning.

I still have the application from the distinguished Ambassador of Chile to whom I give the floor.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you very much Mr. Chairman. About what the distinguished representative of

UNIDROIT has just said, I would like to ask you, as the Chairman of the Subcommittee and as a legal expert, I would like to ask you to clarify the following, whether the Convention on Registration makes it impossible for a high-technology registry to actually exist, as is provided there because if that were the case, if one were incompatible with the other, then, of course, we would be open to some other type of registry. But I need to have some assistance here from a legal point of view. You, as the Chairman of our Legal Subcommittee, whether you could give us some guidance on this matter. Thank you.

**The CHAIRMAN:** Thank you very much distinguished Ambassador of Chile. I regret very much that I must disappoint you a little bit because I am not able to answer this question but I would prefer to get the advice of the distinguished representative of UNIDROIT on this particular question. It means to elaborate a little bit more on his presentation of the registry to be established under the convention on space protocol and the manner how this registry should be managed and work. You have the floor Sir.

**Mr. M. STANFORD** (International Institute for the Unification of Private Law – UNIDROIT): Thank you very much Mr. Chairman. I am sorry if I created more confusion. I was trying to clarify things. I think the explanation in the background paper does, in fact, give you quite a clear idea of what the structure of the international registration system is supposed to be like. In other words, you will have an international registry, register, call it what you like, the idea is for it to be run on a sort of high-tech basis by a private party probably and with this registry would register, would be where all international interests created under the convention would be recorded. This registry would, therefore, determine the priority of such international interests and would, as a result, determine the availability of finance for space equipment, aircraft equipment, etc.

The registry is intended to operate electronically. In other words, access to it will be electronic. It will not be via the depositing of papers or documents or contracts. The intention is for parties to have direct access to the Registrar and the advantage of this is that it will omit parties, particularly financiers, who are considering or are being asked for finance to evaluate instantaneously virtually, the situation regarding that particular asset, whether, in fact, there are other outstanding claims against it.

The second element of the international registration system that I kind of touched on when I spoke earlier, was that of the supervisory authority and,

in fact, the intention of the paper that the Secretariats of the Office for Outer Space Affairs and UNIDROIT have submitted to you is to propose that the supervisory authority functions might reasonably, if COPUOS were to think that appropriate, be attributed to some body of the United Nations, particularly on the analogy with the United Nations Registration Convention and the functions attributed to that convention to the Office for Outer Space Affairs. The idea of the supervisory authority is to have a body which will supervise the operation of the international registry, a body that will nominate the Registrar, that will determine whether his appointment should be renewed. The supervisory authority will also draw up regulations. The supervisory authority will basically, as I explained, I think, here last year, act as a sort of international guarantor for the international registration system though, in other words, establish its credentials in the eyes of potential users and I think it is perhaps interesting to recall that the intention is, as regards the future aircraft registry, for the Council of ICAO to exercise these functions.

Last November, the ICAO Council agreed in principle that it would be prepared to exercise these functions for aircraft equipment under the aircraft protocol and, as I indicated, I think, to you last year, the General Assembly of OTIF(?), the intergovernmental organization for international carriage by rail, has also indicated its interest in exercising similar functions railroad rolling stock under the rail protocol. What we would be particularly interested to have a sort of a preliminary idea of would be whether it, in your opinion, might be useful for the United Nations to consider as acting as supervisory authority for this system. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of UNIDROIT. Ladies and gentlemen, I have still some other delegations on the list of speakers that applied in the meantime. The first of these delegations is the delegation of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Mr. Chairman. I asked for the floor. I was hoping that it would make things a little bit easier for UNIDROIT to answer our points. There are two questions. What would the legal regime of this registry actually amount to, what would it be? And then, what would be legal consequences of registering something in this register?

Then, of course, there is another point and that is, what sorts of details should be actually registered? Because, according to the convention, the Secretary-

General can establish this international regime but the actual points or items that could be recorded or registered there are very limited actually and the legal consequences of registration in such an international registry would not be the same as the inclusion in a national registry because, in my opinion, if a country requires registration, whether it is a State activity or a private activity.

It is through the registration that certain responsibilities are created of the launching State or another State, who would be the State or private activities. So, in my opinion, we need to have all of these clarifications and then this authority would be an international authority and we would like to know what all of the legal consequences would be. We have no doubt that, from a practical point of view, this would be an extremely sophisticated system, electronic or so on, high-tech or whatever, but for us, clearly it would be that, but we really would need to know what the legal status of this would be.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece for his point. It is really a very important point. I now have on my speakers list the distinguished representative of Belgium.

**Mr. J. F. MAYENCE** (Belgium) (*interpretation from French*): Thank you Mr. Chairman. I will be very brief. It is clear, as was just mentioned by our distinguished colleague from Greece, the two registers are different. One would, of course, be high-tech and the other one would be more traditional. It is not really the form. It is not really that aspect, it is the purpose. One of them is a register for registration. The other one is a sort of a register for international interests, so that is a private law registry system. I might have an opportunity to speak a little more when we have the discussion on the Belgian draft or in the concept of a launching State but there would be a double function where we would have the identification of the actual interests and the other one would be the actual registry for purposes of the registration as under the Registration Convention, for example.

I just wanted to warn the Subcommittee about the priority of questions that are dealt with. The question of the registry is very important. When I said that it was subordinate, when I said that it was of secondary importance or subordinate, it is not because of its importance but because of the chronological order which we should follow when dealing with these matters. Above all, I want to make sure that we ensure that this discussion about registers does not mean that

we are actually not discuss the more important matters. The registry business has more to do with the actual implementation that we are going to be making of this protocol on space property. So until such time as we have the first settled on space property and obligations of States as well because it is about the compatibility or consistency of States in the protocol and in international space law and that consistency, and until such time as we have actually settled that question, I think it is a bit premature to jump the gun, as it were, and to deal in-depth with these matters of the registry.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished delegate of Belgium. I agree with you that the main question, the very basic question, which is the relationship between the new protocol and, of course, the convention, on the one hand, and international space law which is being developed within the United Nations. But, of course, the question of the overall registration and having a register or registry is also one of the points that was listed in paper L.225 and I think it is also important for our colleagues from UNIDROIT to have this discussed as well.

(*Continued in English*) The next speaker on my list of speakers the name of the distinguished Ambassador for Chile.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you Mr. Chairman. I will start with two comments first. In general terms, I feel that the representative of Belgium's comments seem to turn the picture around but since we are looking at this, I will keep changing things around.

Listening to the comments made by the distinguished representative of Greece, my delegation does agree, sharing the concerns. The legal nature of the register has not been defined but there is something else that worries us which is a practical matter. What about countries that do not have means for access to such a sophisticated register? Would we continue, as is the case with science and technology, where only some countries have access and a majority does not? Will we go on witnessing the fact that one per cent of the world population has access to the Internet leaving 99 per cent of the population without access? This is an extremely delicate question. Our vision must be a legal but also political.

From the legal point of view, there has not been a reply from the head table. There are plenty of experts. There is a senior legal officer who could have contributed on this. The convention on registration under 1 or 4(d) on the general function of the space

object sets possibilities for extension to other areas of the registry and subjective rights of States can be included. It is not just a registry for objects, it has practical implications, consequences and assigning liability, for example, through non-fulfilment of terms of space law or the fundamental rule and that is that space activity should be to the benefit of all mankind.

We could be falling into a trap where an ultra-sophisticated registry could mean countering the spirit or letter of that rule. That is a possibility, is it not?

**The CHAIRMAN:** Thank you distinguished Ambassador of Chile for your observation. I still have on my list of speakers the distinguished representative of Egypt but I am sure that other delegations as well may wish to speak on this item. The discussion will not be closed during this morning. We will continue in the consideration of item 8 of our agenda in the afternoon, so if it is acceptable for you because the clock is approaching 1.00 p.m., I would give you the floor in the afternoon, distinguished Ambassador of Colombia. Is it possible? Yes, as the first speaker if you wish. And now the distinguished representative of Egypt has the floor.

**Mr. K. EL-HUSSAINY (Egypt):** Thank you Mr. Chairman. Concerning the point we are considering now, there is a similarity between the outer space system and the aerospace system in this concern. There are two types of registration. One of them is the registration of the aircraft or the space object for the purposes of identification and it says that for an aircraft, it should be registered according to the Chicago(?) Convention in one of the contracting States and the internal law of the contracting States is determined, the criteria upon which it gives its nationality to a given aircraft. When it is owned by this particular State, it carries its nationality. For example, the aircraft of Egypt Air carries the nationality of Egypt and Egypt, in this sense, will be responsible about the activity of this aircraft when flying in the aerospace of other countries.

I think the same idea is behind in what is contained in the Convention on Registration of Objects Launched into Outer Space because in its preamble, it says that the registration of the outer space object is for purposes of identification to determine the liability of the State which launches such objects.

But concerning the registration of the international rights, in the case of the UNIDROIT convention, there are two chapters dealing with this particular registration under Chapter 4 and Chapter 5 in the documents circulated to us dealing with the draft

convention on the UNIDROIT convention. And the purpose of such a decision is to determine the priority between the international rights, to determine the date and the time of registration of such rights and to give it priority over other rights. So it is something different.

And in the convention, according to the aircraft protocol, it determines a supervisory authority for registration of this type of registration which provides for the regulations which govern this type of registration. It lays down detailed rules concerning the registration of all international rights, in the field of aviation, for example, or in the field of outer space.

And also this particular supervisory authority also appoints the Registrar which performs the function of registration of the object itself.

So we are talking here about two different types of registration. One of them for the identification of the space object or the aircraft, to give it a certain identity and the other one is for placing priority between the international rights and to determine the time when it is registered and the date of its registration and other details which such systems contain. Thank you Mr. Chairman.

**The CHAIRMAN:** I thank the distinguished representative of Egypt and particularly I thank you for your bringing to our attention the system of registration existing under the ICAO.

Ladies and gentlemen, distinguished delegates, I will shortly adjourn this meeting of the Subcommittee but before doing so, I would like to inform delegates of our schedule of work for this afternoon. This afternoon, we shall continue and hopefully conclude our substantive consideration in the Plenary of item 6, matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit and so on. Thereafter, we shall continue our consideration of items 8 and 9. Item 8 and the first speaker on my list is the distinguished representative of Colombia for this afternoon. So it will be items 8 and 9. Time permitting, the Working Group on Item 9 might also convene its third meeting.

Are there any questions or comments on this proposed schedule? I see none. I give the floor to the Secretary for an announcement.

**Mr. P. LÁLA (Secretary):** Thank you Mr. Chairman. Tomorrow morning, there will be a meeting of ESA Member States and cooperating States at 9.00

COPUOS/LEGAL/T.648

Page 24

a.m. in Conference Room C0713, tomorrow morning.  
Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you Mr.  
Secretary. This meeting is adjourned.

*The meeting closed at 1.03 p.m.*