

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

Unedited transcript

660th Meeting

Thursday, 4 April 2002, 10 a.m.

Vienna

Chairman: Mr. Kopal (Czech Republic)

The meeting was called to order at 10.22 a.m.

The CHAIRMAN: The meeting is called to order.

Distinguished delegates, I declare open the 660th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

**Status and Application of the Five United Nations
Treaties on Outer Space (Agenda Item 4)**

Distinguished delegates, we shall now continue our consideration of agenda item 4, Status and Application of the Five United Nations Treaties on Outer Space.

Are there any speakers on this particular item because I do not have any delegation inscribed on the list of speakers? Is there any delegation wishing to speak? If not, perhaps I will ask Mr. McDougall to make an announcement about the exact number of State Parties to the United Nations space treaties. You have the floor Sir.

Mr. P. R. McDOUGALL (Office for Outer Space Affairs Secretariat): Thank you Mr. Chairman. Mr. Chairman, distinguished delegates, you will find on your desks, I hope, a copy of a non-paper which the Secretariat has distributed entitled "Current Status of International Agreements Relating to Activities in Outer Space". It has a table on the front. This has been produced by the Secretariat, pursuant to a request made by yourself, Mr. Chairman, yesterday afternoon, I believe, when you asked for an indication as to the current status of the five United Nations treaties relating to outer space.

I regret to inform delegations that, in going through this one more time, the Secretariat identified two typographic errors within the table which we had previously released. The first of these is that Indonesia was listed as having ratified the Outer Space Treaty of 1967. In fact, Indonesia, to our record, has signed the Treaty but not ratified it. So we would ask you to make that correction.

And the second typographical error is the fact that with regard to the Rescue Agreement of 1968, the Republic of Congo is listed as having signed that Agreement. In fact, it was the Democratic Republic of Congo that signed that Agreement and so unfortunately we have a duplicate listing for that. So that will have to be deleted.

With those two corrections, Mr. Chairman and distinguished delegates, you will note the table on the page we have just distributed this morning, the current status is as follows for the Outer Space Treaty of 1967. There are currently 97 States Parties to that Treaty and an additional 27 States have signed the Agreement. The Rescue Agreement, there are 88 Parties, an additional 25 States have signed the Agreement and there has been one Declaration of Acceptance by an international organization.

In the Liability Convention, there are 82 Parties, 26 States have in addition signed the Agreement and there have been two Declarations of Acceptance by international organizations of that instrument.

The Registration Convention, there are 44 Parties, four signatures by States, in addition, and two

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.

Declarations of Acceptance by international organizations.

Finally the Moon Agreement. There are now 10 Parties to the Moon Agreement. There are five States that have signed the Agreement and, in fact, the Agreement does not provide for a Declaration of Acceptance by international organizations.

These are the figures according to the records available to the Secretariat as of this date. I would note that there have been a number of recent actions which would perhaps account for some of the differences in numbers from previous years, specifically that in 2001, there was an accession by the United Arab Emirates to the Outer Space Treaty of 1967. Similar in the case of the Rescue Agreement, there were accessions by Indonesia and Spain. In the last two years, the Liability Convention did see an accession by the United Arab Emirates. As far as the Registration Convention is concerned, we have accessions by two countries, the United Arab Emirates and Kazakhstan and an accession of Yugoslavia to obligations already undertaken by the Former State.

Finally with regard to the Moon Agreement, Kazakhstan has become a full Party to that Agreement recently on 11 January 2001. The Secretariat would note that the ratifications by Kazakhstan to the Registration Convention and the Moon Agreement were not available to the Secretariat when we produced the booklet insert. We have only recently become aware of those ratifications.

Thank you very much Mr. Chairman.

The CHAIRMAN: Thank you Mr. McDougall for your announcement and information. I think this information has been very valuable for us because in this way we can observe a certain movement although rather slow and perhaps too not big but still it is still a certain step forward.

In the meantime, the Chair has received two applications for the discussion on item 4 and I will give first the floor to the distinguished representative of Brazil.

Mr. S. LEITE DA SILVA (Brazil): Thank you Mr. Chairman. We would like to thank the Secretariat for the preparation of this important document "Current Status of International Agreements" and also for the explanations provided. We consider it very important for all the delegations, for all the member countries of COPUOS, to follow the status of the treaties as well as the whole approach of

the rules and procedures concerning space activities because without them, there will be no possibility of a centralized environment between the nations concerned in space activities.

And I would also like to inform you and the plenary that the Registration Convention is, in the moment, in the Foreign Affairs Commission and in the National Defence Commission of the Chamber of Deputies of the Brazilian Parliament. We expect that very soon Brazil will be one of the countries that will ratify the Registration Convention. Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much distinguished representative of Brazil for your statement and also for the good news about the expected increase of the number of Parties to the Registration Convention.

The next speaker on my list is the distinguished representative of Ukraine.

Mr. O. BIYEGLYI (Ukraine) (*interpretation from Russian*): Thank you Mr. Chairman. Before addressing the status of the five United Nations treaties on outer space, I would like to make a brief comment regarding the document distributed by the Secretariat at this session, known as A/AC.105/768, Review of the Concept of the Launching State. The quality of the translation of this document is not satisfactory to our delegation, specifically with regard to item (d), which refers to subjects of space activities willing to pursue space activities in the Ukraine or within Ukraine's jurisdiction and, I quote "must receive an appropriate licence". As opposed to the original, which is correct, the English text and the French text contain inaccuracies and we would like to ask the Secretariat to amend the English and French versions accordingly. This would be helpful in our work. For the English and French speakers who follow the English and French versions, as distributed by the Secretariat, may get the wrong idea regarding Ukraine's legislation. Specifically, in the English text, there is mention of facility and, of course, it is specified on the front page that the original is English. However, in the Russian text, we see a reference to objects or subjects of space activities, meaning entities that pursue activities in outer space or intend to pursue such activities.

The French text says "les participants des activités spatiales" and that is closer to the Ukrainian original. Participants in space activities, not objects or subjects. As you see, there is a discrepancy here and I would like to ask the Secretariat once again to review the document A/AC.105/768 in the part that I have

referred to and clarify who is meant when we refer to subjects of space activities, pursuing such activities in the Ukraine or within the Ukraine's jurisdiction. If necessary, we will be happy to submit the original text of the Ukrainian law which is written in the Russian language.

The CHAIRMAN (*interpretation from Russian*): Thank you distinguished representative of Ukraine for your statement and thank you for drawing our attention to certain discrepancies in the various versions of the document, with reference to the review of the concept of the launching State. This falls under item 9 of our agenda and we will address the matter when we discuss the matter defined under item 9. You will not need to take the floor again. We have taken note of your statement and when we get to item 9 we will address that.

(*Continued in English*) The next speaker on my list of speakers is the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece): Thank you Mr. Chairman. Good morning to everybody. I, first of all, to congratulate the Office for the statistical note distributed this morning and as I cannot resist the temptation, make some statistical remarks, I can say on these figures that in 190 United Nations Member States, only 124 States have either ratified or signed the 1967 Outer Space Treaty which means 66 States are not either signature, have not signed the Treaty.

As it concerns the second, the Agreement, 77 Member States of the United Nations have not signed, the Liability Convention 80, the Registration Convention 52 States and the Moon Convention 75 States. You can imagine the margins of non-participation even by signature to the five conventions. That is the statistical remarks and I again thank very much the Office for its work.

The CHAIRMAN: Thank you very much distinguished representative of Greece. In this way, the list of speakers on this particular item is now exhausted. Is any other delegation or observer perhaps wishing to speak? Yes, I recognize the distinguished representative of Japan.

Mr. M. KAMOHARA (Japan): Thank you Mr. Chairman and we thank very much the Secretariat doing this very clear paper for us.

Mr. Chairman, recently the situation surrounding the space activities seen in the development of space scientific technology and the

commercial activities has been changing drastically. However, we recognize that the existing space treaties do meet our present situation and that these treaties have been serving enough for the current situations, as mentioned by the United States delegation yesterday.

Due to the recent development of a variety of space activities, it is expected that a growing number of States are to enter space activities. Welcoming such developments, we would like to express our belief that both States which have already been engaging in space activities, as well as those which are to embark on space activities, require to ratify the United Nations space treaties in order to implement the space activities under the framework of internally established order. Thus, it is our view that this Subcommittee would put more effort to bring more countries into the existing legal framework. Thank you very much.

The CHAIRMAN: Thank you very much distinguished representative of Japan for your statement, for your observations. Any other delegation wishing to speak on this item still during this morning's session of the Subcommittee?

I see none. We will continue our consideration of item 4, Status and Application of the Five United Nations Treaties on Outer Space, this afternoon.

Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Agenda Item 7)

Distinguished delegates, we shall now continue consideration of item 7 of our agenda, Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

I have on my list of speakers one delegation and it is the delegation of the United States of America and I give the floor to the distinguished representative of this delegation.

Mr. S. MATHIAS (United States of America): Thank you Mr. Chairman. Mr. Chairman, I appreciate this opportunity to share my delegation's views regarding the Legal Subcommittee's consideration of the principles relevant to the use of nuclear power sources in space.

First, I would like to recognize the excellent progress the Working Group on Nuclear Power Sources of the Scientific and Technical Subcommittee has made under that Subcommittee's multi-year Work Plan on the use of nuclear power sources in outer

space. The Work Plan establishes a process and framework for developing information or data to facilitate future discussions of nuclear power sources. Development and sharing of information relevant to nuclear power sources remains, in our view, extremely important in fostering cooperation and coordination.

My delegation firmly believes that the continued implementation of the Scientific and Technical Subcommittee's Work Plan will be crucial for establishing a firm scientific and technical consensus for any future nuclear power sources deliberations. The report reflecting several years of data gathering and deliberations was completed by the Nuclear Power Sources Working Group and adopted by the Scientific and Technical Subcommittee.

The progress that has been made to date within the Scientific and Technical Subcommittee has been significant and has set the stage for the final year of the Scientific and Technical Subcommittee Work Plan next year. At that time, we will have an opportunity to consider what next steps with regard to nuclear power sources should be taken within COPUOS, if any.

To encourage continued progress and to facilitate the discussions next year, the Scientific and Technical Subcommittee has called for informal consultations in June, during the session of the full Committee, to develop a set of potential options for consideration by the Subcommittee on any additional steps that might be deemed appropriate with regard to space nuclear power sources, including that of drawing up a multi-year work plan. We do not object to keeping a reference to this agenda item on next year's Legal Subcommittee agenda to track the work of the Scientific and Technical Subcommittee.

Thank you for your consideration in listening to our views on this item, Mr. Chairman.

The CHAIRMAN: Thank you very much distinguished representative of the United States of America for your statement on agenda item 7, Nuclear Power Sources in Outer Space.

Ladies and gentlemen, I do not have any other speaker on my list of speakers on this particular item. Do some of you wish to speak on this item at this meeting of the Subcommittee?

I see none. I see no other speaker for the time being. We will continue our consideration of item 7, Review and Possible Revision of the Principles

Relevant to the Use of Nuclear Power Sources in Outer Space, this afternoon.

I should like to inform delegations that it is my intention to conclude consideration of item 7 at this afternoon's session. Therefore, I would urge those delegations still wishing to make statements under this item to inscribe their names on the list of speakers with the Secretariat as soon as possible. So the last opportunity to speak on this particular item, number 7, will be this afternoon. Please, those delegations wishing to speak on this item, inscribe your name, it means the name of your country, on the list of speakers for this afternoon with the Secretariat.

Review of the Concept of "Launching State" (Agenda Item 9)

Distinguished delegates, we shall now continue consideration of item 9 of our agenda, Review of the Concept of "Launching State". On my list of speakers, I have one delegation and it is that of France. I give the floor to the distinguished representative of France. You have the floor Madam.

Ms. S. CALLARI (France) (*interpretation from French*): Thank you Mr. Chairman. It is this year that the Work Plan for the examination of the concept of the launching State has come to its end. After hearing presentations on launching systems in the year 2000 in the Subcommittee, we examined the concept last year and this year we are back to examine measures to promote accession to the Convention on International Liability for Damage Caused by Space Objects and to the Convention on Registration of Objects Launched in Outer Space and observance law of the provisions therein.

The mission assigned to our Subcommittee and its Working Group is not that of proposing changes to the Convention at all I must insist. It has two elements in it and I will reverse the terms just for the sake of clarity.

What we have to do is examine measures to promote the observance of all provisions of the relevant conventions. As indicated by the French delegation on several occasions here in this Subcommittee, we believe that the rules set by the treaties should be maintained.

Contrary to what is often sustained, such rules do not stand in the way of private activity being conducted. These assure a satisfactory balance between freedom of action of private undertakings under the responsibility of the relevant States and with

the relevant guarantees since the beginning of activity to potential victims on the ground. As has been indicated, the rules set out in the conventions, and in particular in the 1967 Treaty as well as the Liability Convention of 1972, these do not pre-empt on the sharing of risks. These set an obligation to control and a safety net for potential victims. Thanks to national law, States may decide for the assuring of risks to be applied between themselves and the relevant undertakings. Thanks to international agreements, the risks can be shared between the different launching States. This does not in any way presuppose any amendments to existing texts. Envisaged in such a manner, activity of private undertakings can be developed in full observance of all provisions of the conventions, which is, exactly what our Subcommittee should promote.

The second mission assigned to us, Mr. Chairman, consists in examining measures aiming at promoting accession to conventions. Taking into account, the States that have not acceded to the Liability Convention of 1972 and the Registration Convention of 1975. Unlike what one might imagine, it is not States that at present conduct or might conduct in the short-term any space activities. In most cases, these are parties to the Convention.

The reason for which a number of States that do not have space activity have not ratified these texts is not linked to the fact that they do not feel concerned. One might imagine that some States are hesitant about ratification for fear of not being able to taking on any responsibilities that may be entered into should they wish to conduct space activities. In this respect, we could note that even if these States were not parties to the Liability Convention, general law, whether international or national regarding liability, would apply to any activities in space. We must note that launching States establishing agreements between themselves with launching agreements or national legal provisions allow them, are not to bear the burden of the risk but rather ... *(no microphone) ... (interpreter ... we cannot follow the speaker).*

(Speaker continues) First of all, one might note in this respect that even if the States are not party to the Convention on Liability, general law, whether international or national on liability, shall apply to any activity of theirs in outer space. We should observe that launching States establishment of agreements between themselves, with launching agreements or national legal provisions, are such that they do not have to bear the burden of the risk but rather these can be transferred to any States with which they cooperate, as well as to national or foreign companies and insurance

companies. Joint liabilities established under the 1972 Convention, furthermore would mean that victims may prefer to demand and put claims to the more solvent States. It is not a question of calling it a question of the current system if we wish to promote any accession to the Convention. What we have to do, on the contrary, is to have these better known and to show benefits for potential victims as well as possibility of an equitable sharing of risks.

These three works year under the effective and efficient leadership of our Chairman, has allowed us to highlight certain important questions. The Working Group has proposed measures that could respond to the needs without guarantees for responsible activity, whether undertaken by governments or private undertakings. The mechanisms established under the Convention are such that these activities can be developed in a secure way. They should be maintained and we should wish that provisions on liability focus on prevention rather than reparation or repair of damage. Thank you.

The CHAIRMAN *(interpretation from French):* I thank the distinguished representative of France. I would be most grateful to the French delegation if the text of your speech which contains many important substantive questions could be distributed. Thank you.

(Continued in English) Ladies and gentlemen, I do not have any other speaker on the list of speakers for this particular item. Is there any delegation wishing to speak now on this point?

I see none. We will continue our consideration of item 9, Review of the Concept of "Launching State", this afternoon.

Distinguished delegations, I will shortly adjourn this meeting of the Subcommittee to allow for the convening of the third meeting of the Working Group on Item 4, Status and Application of the Five United Nations Treaties on Outer Space. Time permitting, following the meeting of the Working Group on Item 4 this morning, the Working Group on Item 9, Review of the Concept of "Launching State", might also convene its second meeting.

Before adjourning the Subcommittee, however, I would like to inform delegates of our schedule of work for this afternoon.

This afternoon, we shall continue our consideration of agenda items 4, 7 and 9, as has been the case this morning. I would once again remind

delegations that it is my intention to conclude consideration of item 7, Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, and I will do it at this afternoon's session. Following adjournment of the Subcommittee's meeting this afternoon, the Working Groups on Items 4 and 9 might convene their fourth and third meetings respectively.

Are there any questions or comments on this proposed schedule?

I see none. I will now give the floor to the Secretary of the Subcommittee which has an announcement.

Mr. P. LÁLA (Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman. The Secretariat has been informed that today there will be a consultative meeting of ESA Members and Cooperating States, starting at 2.00 p.m. in Conference Room C0713. Thank you Mr. Chairman.

The CHAIRMAN: Excuse me Mr. Secretary, I think you misunderstood the title of the Group, it is the Group of West European and Other States, or like-minded States, because there is another group of the Member States of ESA and Cooperating States but this is not in this case. Today at 2.00 p.m., it will be the Geographical Group under the term of United Nations Geographical Groups of West European and Other States. Thank you very much.

Any other remarks or announcements? I see none. The meeting is adjourned.

The meeting closed at 11.00 a.m.