

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

Unedited transcript

661st Meeting

Thursday, 4 April 2002, 3 p.m.

Vienna

Chairman: Mr. Kopal (Czech Republic)

The meeting was called to order at 3.10 p.m.

The CHAIRMAN: Distinguished delegates, I declare open the 661st 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)

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

I have a speaker on my list on this particular item and it is the distinguished representative of Ukraine, to whom I give the floor, Ms. Malysheva.

Ms. N. MALYSHEVA (Ukraine) (*interpretation from Russian*): Thank you Mr. Chairman. Mr. Chairman, esteemed colleagues. The distinguished representative of the Russian Federation in his statement on item 3 of the agenda, General Exchange of Views, mentioned yet again the suggestion that we consider the status of the five outer space treaties in the context of the matter of developing a universal convention on outer space. This is not a new idea in the Legal Subcommittee. It was first suggested in the working document A/AC.105/C.2/L.213.

This concept of a universal convention on outer space was first raised in 1998 and then mentioned again in the document A/AC.105/L.225 in the year 2000. In the same year, the Russian Federation's initiative met with support on behalf of a number of delegations and this led to a suggestion that an

informal working group, with an open member, should be set up to discuss the matter. This was the working document submitted by China, Colombia and the Russian Federation, A/AC.105/C.2/L.226. Such a group was not set up either at the fortieth or the forty-first session because their mandate did not envisage setting up working groups. To date, the idea of developing a universal convention on outer space law has been actively supported by a number of States in the Legal Subcommittee but roughly the same number of States object to this change in the development of international space law. And their argument primarily is that such a codification could destroy the progress that has already been achieved with much difficulty throughout the years of the United Nations previous activities in the field of outer space law.

Controversial estimates have been voiced with regard to the possibility of using maritime law as a model for a possible universal convention on outer space law. Specifically, the United Nations Convention on Maritime Law developed 20 years ago could or could not be used as a model. Most States that are members of the Legal Subcommittee have not yet come up with a clearly stated position regarding the matter of a universal convention on outer space law and, more broadly, the matter of codifying international outer space law.

Today, this is one of the problems that we are still divided on and it is not likely that the Legal Subcommittee will reach a consensus on it in the near future unless the matter is studied further. In this context, our delegation welcomes the idea of setting up a working group headed by Professor Cassapoglou on this item, item 4 of the agenda, and we hope that the work of this Working Group will prove effective and

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will make a step in the right direction towards finding answers to many of these bedevilling questions.

As for my own delegation's position on this issue, it is as follows.

We proceed from the understanding that most outer space treaties have served us well for more than 30 years and they continue to serve as a good foundation for regulating States' activities in space exploration and peaceful uses of outer space. Today, these treaties continue to play an active role in regulating States' space activities. Therefore, in our view, it is necessary to continue hard work towards making sure that these treaties are ratified by the States that have failed to do so to date.

Furthermore, wherever possible, work needs to be done to modify these treaties to introduce the necessary additions and amendments and adopt additional protocols on these issues as necessary. This refers specifically to the concept of the launching State and its relationship to the matters of registration and liability for damage caused in the course of space activities. The concept of the launching State, as defined in the Registration Convention and the Liability Convention, in our view, is not satisfactory in terms of the present day requirements of commercial uses of outer space. There are a number of other aspects on which the outer space treaties adopted in the 1960s and 1970s can and must be modified.

At the same time, our delegation believes that it is worthwhile and expedient, parallel to the improvement of the existing outer space treaties and their continuing ratification, to start a profound, in-depth study of the matter of codifying international space law through developing a draft universal convention.

We believe that this matter is worthy of a serious study and, in terms of arguments in favour of this position, we could refer to a number of aspects that at present require international legal instruments to regulate them but cannot be addressed through modifying the existing outer space treaties.

What are these matters? First of all, these are the key issues of international space law terminology, definitions of such fundamental concepts as space activities, space objects, space debris, etc.

At the Colloquium held here on the first day of our session, we considered matters relating to space traffic regulation. It would be interesting to ask which of the existing outer space conventions can be modified

to address those issues. And, of course, there are many other aspects, especially pertaining to the commercial uses of outer space or environmental issues arising from space activities that were not addressed in the 1960s and 1970s in the treaties that we now have in effect, all of these require additional legal instruments.

In international space projects, very often we run against the matter of the protection of intellectual property and the mechanism for protecting intellectual property rights is another matter that needs to be addressed by an international legal instrument. And, of course, I could go on with the list of such examples.

The experience of the development of outer space law in the last decade demonstrates that gaps in the international legal infrastructure are mostly filled by States through their domestic laws, through non-uniform rules regulating specific key issues and this, of course, cannot but have a negative impact on international cooperation and on international outer space projects. It seems that while working on a universal convention on outer space, that we will be able to draw hard and fast lines between matters pertaining to international law and matters that fall under domestic law, as far as outer space activities are concerned.

Furthermore, while developing such a convention, it would be necessary to analyze the entire preceding process of the ratification of the major international outer space treaties. Specifically, we might analyze the reasons why the Moon Agreement does not seem to be very attractive to States and also why many States have failed to ratify the Registration Convention. Our delegation is aware that the process of developing a universal convention is a matter for more than one year, or even for more than five years, and, therefore, we are emphasizing the need to deploy this work here and now, necessarily in parallel to continuing the ratification of the existing outer space treaties and conventions and their modification, where necessary.

If an informal working group is set up, our delegation would be prepared to become a member of this group and take an active part in its deliberations. Thank you for your attention.

The CHAIRMAN (*interpretation from Russian*): Thank you esteemed representative of Ukraine for your statement and I do not have any other delegations on my list.

(Continued in English) Are there any other delegations wishing to speak on this item for this afternoon's session of the Subcommittee?

I see none. I believe that we will continue our consideration of item 4, Status and Application of the Five United Nations Treaties on Outer Space, tomorrow morning.

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 do not have any speaker that would be inscribed on the list of speakers on this particular item for this afternoon's meeting. Is there any delegation wishing to speak on this item at this moment at this meeting?

I see none. We have, therefore, concluded our consideration of item 7, Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, for this session. This was the last opportunity to speak on this point.

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".

Again, I do not have any speaker on this item at this meeting of the Subcommittee. Is there any speaker wishing to speak?

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

Distinguished delegates, I will shortly adjourn this meeting of the Subcommittee to allow for the convening of the fourth 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 afternoon, the Working Group on Item 9, Review of the Concept of "Launching State" might also convene its third meeting.

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

Tomorrow morning, we shall continue our consideration of agenda items 4 and 9. Following adjournment of the Subcommittee's meeting tomorrow morning, the Working Groups on Items 4 and 9 might convene their fifth and fourth meetings respectively.

Are there any questions or comments on this proposed schedule?

I see none. This meeting is adjourned and immediately after the adjournment, the Working Group on Item 4 could start its consideration.

The meeting closed at 3.25 p.m.