

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

Unedited transcript

716th Meeting

Wednesday, 6 April 2005, 3 p.m.

Vienna

Chairman: Mr. S. Marchisio (Italy)

The meeting was called to order at 3.14 p.m.

The CHAIRMAN: Good afternoon distinguished delegates, I now declare open the 716th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

This afternoon, we shall continue and conclude our consideration of agenda item 4, Status and Application of the Five United Nations Treaties on Outer Space. We will continue item 5, Information on the Activities of International Organizations Relating to Space Law, and item 6, Matters Relating to (a) the Definition and Delimitation of Outer Space and (b) the Character and Utilization of the Geostationary Orbit.

I then intend to adjourn this meeting of the Subcommittee so that the Working Group on the Definition and Delimitation of Outer Space can hold its first meeting.

Status and application of the five United Nations treaties on outer space (agenda item 4)

Distinguished delegates, I would now like to continue and conclude consideration of item 4 of our agenda, Status and Application of the Five United Nations Treaties on Outer Space.

The first speaker on my list is the distinguished representative of Argentina. You have the floor Sir.

Mr. S. SAYÚS (Argentina) (*interpretation from Spanish*): Thank you very much Mr. Chairman. Mr. Chairman, as this is the first time that my

delegation has asked for the floor at this session, first of all I would like to say that our delegation is pleased to see you once again in the Chair. You can count on our full support and cooperation for this meeting to be fruitful.

We would also like to back the statement made by Bolivia on behalf of GRULAC.

We would also like to take this opportunity to express our thanks to the Director of the Office for Outer Space Affairs for the complete report given to us at the beginning of our work.

Mr. Chairman, on the item of business before us, my delegation believes that it is particularly important to repeat here principles supported by Argentina whereby it is only for States Parties to treaties to give interpretation and determine implementation of existing agreements.

Thank you.

The CHAIRMAN (*interpretation from Spanish*): I thank you very much for your statement and for your kind words.

(*Continued in English*) Are there any other delegations wishing to take the floor at this afternoon's meeting on agenda item 4? This is the last chance for speaking on this item. Would you like to intervene? No.

I see none.

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, Conference Management Service, Room D0708, United Nations Office at Vienna, P.O. Box 500, A-1400, Vienna, Austria. Corrections will be issued in a consolidated corrigendum.



We have, therefore, concluded our consideration of agenda item 4, Status and Application of the Five United Nations Treaties on Outer Space.

Information on the activities of international organizations relating to space law (agenda item 5)

Distinguished delegates, I would now like to continue our consideration of agenda item 5, Information on the Activities of International Organizations Relating to Space Law.

The first speaker on my list is the observer of the International Astronautical Federation. You have the floor.

Mr. P. VAN FENEMA (International Astronautical Federation): Mr. Chairman, thank you very much for giving me the floor.

I would like to report briefly on the Space Security Workshop that took place in Montreal on 25 and 26 February of this year.

The Workshop is an annual event and aims at collecting and discussing information for the publication of the so-called Space Security Index, SSI, an annual evidence-based comprehensive and integrated assessment of contemporary space security trends and developments.

SSI is a joint research project of Project Ploughshares, the Space Generation Foundation and the International Security Research and Outreach Programme of the International Security Bureau of the Department of Foreign Affairs of Canada. It was hosted by McGill University's Institute of Air and Space Law in Montreal and supported by the Secure World Foundation.

The term "space security", as used by the Workshop, includes two key elements. One is secure and sustainable access to and use of space and, two, freedom from space-based threats.

"Space Security" thus deals with and addresses the activities, interests and concerns of all space actors, whether civil, commercial or military.

The annual publication resulting from the input given by the participants prior to and during the Workshop, on the basis of questionnaires and a free and open debate on the issues, is called Space Security and is published by the Eisenhower Institute in Washington D.C.

"Space Security 2004" will reflect the questionnaires and discussions of the February Workshop supplemented by a second workshop to be held in Europe later this year. It will give answers to the question whether and, if so, to what extent space security was enhanced or has been reduced in the year 2004.

The topics of this year's questionnaire and workshop basically cover all uses of space and all space actors, as reflected by the various so-called indicators assessed by the participants.

I quote:

The space environment, which includes, for instance, space debris and allocation of frequencies and use of orbital slots;

Two, space security laws, policies and doctrines, which includes a discussion of progress made, amongst others, in this forum, Mr. Chairman;

Three, civil space programmes and global utilities;

Four, commercial space;

Five, space and terrestrial military operations;

Six, space systems protection;

Seven, space systems negation; and

Eight, space-based strike weapons.

All in all, a valuable effort based on the contributions of hundreds of respondents and experts in the various areas and topics addressed in the study.

I believe this to be of some interest to the distinguished delegates, Mr. Chairman.

I thank you for allowing me to share this with the members of the Legal Subcommittee.

Thank you very much.

The CHAIRMAN: I thank the distinguished representative of the International Astronautical Federation for his statement.

And now I give the floor to the representative of the International Law Association. You have the floor.

Mr. N. HEDMAN (International Law Association): Thank you Mr. Chairman. At the outset, allow me to congratulate you upon your election as Chairman. I am confident that, under your able guidance, we will make progress in our work at this year's session of the Legal Subcommittee.

Mr. Chairman, a detailed report of the activities of the Space Law Committee of the International Law Association can be found in document L.254 and Corr.1.

Mr. Chairman, the Space Law Committee has permanent observer status with COPUOS and reports annually to the Committee and its Legal Subcommittee on the progress of its work on space law. For more detailed information, reference should be made to the ILA conference reports, which reflect the work of the Space Law Committee of ILA, including surveys and debates conducted during the working sessions of each conference, as well as the resolutions adopted by ILA.

The most recent biennial conferences were held in London in 2000, New Delhi in 2002 and Berlin in 2004. At the London conference, the Space Law Committee focused on the analysis of the space treaties to determine their consistency with the present international context, where commercial space activities have grown at an unprecedented scale. At the New Delhi conference, in its last stage of research on the topic, the Committee submitted its final report on the review of space law treaties in view of commercial space activities.

Mr. Chairman, the Seventy-Fifth Conference of ILA was held in Berlin in August 2004. The Chairperson of the Committee, Maureen Williams of the University of Buenos Aires, and the General Rapporteur, Stephan Hobe of the University of Cologne, referred to specific aspects of commercial activities in outer space, such as remote sensing and national space legislation.

For the preparation of the report for the Berlin conference, the Chairperson of the Space Law Committee invited three distinguished members of the Committee to produce a preliminary study concerning the major issues involved: two special rapporteurs for remote sensing, José Monserrat Filho of Brazil and Niklas Hedman of Sweden, and one special rapporteur for national space legislation, Frans von der Dunk of The Netherlands.

On the basis of the preliminary results and taking into account the comments and suggestions provided by Space Law Committee members and

further developments of the law in that domain, the Chairperson and the General Rapporteur of the Committee prepared the final text for the Berlin conference.

Drawn from the report on remote sensing and from further discussions at the working session of the Berlin conference, the general feeling on the topic is, *inter alia*:

that given that remote sensing technologies are today a commercial activity par excellence and that space activities carried out by private entities are growing at an unrelenting pace, it would appear to be appropriate to begin drafting guidelines to cover certain gaps in the Principles and to provide interpretative criteria to clarify some of the general principles;

that a realistic course of action at the present time would be the enactment of domestic law on remote sensing, coupled with a revision by governmental bodies and private institutions of the most controversial and/or incomplete aspects of the Principles; and lastly

that it appears timely, within the framework of commercial space activities and their various applications, to start considering guidelines and suggestions on the value of data collected by Earth observation satellites and their value as evidence in international and national litigation.

The Berlin working session on national space legislation recognized the importance of the "building block" procedure for further space legislation, as was applied in the context of Project 2001 and Project 2001 Plus, conducted from the University of Cologne. Taking into account the international legal obligation, stated in Article VI of the Outer Space Treaty, to enact national space legislation, in particular for cases of private activities in outer space, and also considering the strong need for national space legislation because of the increased privatization and commercialization caused by globalization, the search for practical solutions by the Space Law Committee seemed of great importance.

Mr. Chairman, on the basis of the result of the Berlin conference and taking into consideration the conclusions on remote sensing and national space legislation, as well as the relation between both topics and registration issues, the Space Law Committee has become involved in an overview of State practice underlying all three questions. To that end, a questionnaire is being circulated to members in

December 2004 as a “pre-stage” to the preparation of the report of the Committee for the Toronto conference, to be held in 2006. The problems arising from the use of Earth observation data in international and national litigation, in particular in boundary disputes, will continue to be analyzed. In addition, space debris and dispute settlement, on the basis of the ILA International Instrument on the Protection of the Environment From Damage Caused by Space Debris, and the ILA Draft Convention on the Settlement of Disputes Related to Space Activities, will remain under permanent review of the Committee.

Mr. Chairman, in concluding, I would also like to add that the Chairperson and the General Rapporteur of the Space Law Committee of the ILA were invited to take part as speakers in the United Nations/Brazil Workshop on Disseminating and Developing International and National Space Law: Latin America and the Caribbean Perspective, held in Rio de Janeiro from 22 to 25 November 2004, as well as specialists of note from the Space Law Committee, including Vladimir Kopal, Czech Republic, Frans von der Dunk, Netherlands, Armel Kerrest, France, Joanne Gabrynowicz, United States, and the host of the Workshop, José Monserrat Filho, Brazil.

Thank you Mr. Chairman.

The CHAIRMAN: I thank very much the distinguished observer of the International Law Association and I think that the Subcommittee looks at the Space Law Committee of the International Law Association with particular interest. Thank you.

Are there any other delegations wishing to take the floor on this agenda item?

I see none.

I would like to remind delegates that the General Assembly, in its resolution 59/116, agreed that the Legal Subcommittee should, at the current session, address the level of participation of the entities having permanent observer status within the Committee, and to report to the Committee, at its forty-eighth session in June of this year, on the means of enhancing their participation in the work of the Subcommittee.

Are there any delegations wishing to make comments on this particular issue?

I see none.

We will, therefore, continue our consideration of agenda item 5, Information on the Activities of

International Organizations Relating to Space Law, tomorrow morning.

Matters relating to (a) the definition and delimitation of outer space and (b) the character and utilization of the geostationary orbit (agenda item 6)

Distinguished delegates, I would now like to continue our consideration of 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.

I have no speakers on my list.

I do recognize the distinguished Ambassador of Colombia. You have the floor.

Mr. C. AREVALO YEPES (Colombia) (*interpretation from Spanish*): Thank you very much Mr. Chairman. First of all, I would like to repeat what was mentioned by the Group for Latin America and the Caribbean, GRULAC, on this particular topic in the statement made during the general debate by the Ambassador/Coordinator for GRULAC, the Ambassador of Bolivia. We believe that the substance of that statement on the geostationary orbit applies here in this area.

Colombia would like to support the statements made by Indonesia as well on the geostationary orbit.

I would like to give a very brief summary on this topic as Colombia has always been the defender advocating a number of views on this involving the various arguments leading to consensus on the agreement on the geostationary orbit which was a historic agreement which was based on non-acceptance of the first come, first served principle which meant inequality and that being now replaced by rules recognizing equality regarding growing possibilities for the geostationary orbits with sophisticated methods and devices. This was also stated by Colombia in our preliminary statement. We have been working with a number of experts in this area and led by Professor Restrepo. At the Scientific and Technical Subcommittee, he introduced an instrument allowing to sound historic use of the geostationary orbit leading to a number of interesting conclusions and this is still being validated for the data and these basically support our views on this.

The agreement arrived is one with significant features and that is the importance here with correlation with the ITU, links with ITU for COPUOS. We have stressed this many times over, Mr. Chairman, because we believe that we should continue stressing the need to be consistent in legal instruments established by the two bodies so that ITU can recognize progress made in COPUOS. If we have legal, political progress here in this Subcommittee, there must be relevant developments in the technical organization, as it is also known. Needs in developing countries for planning and use of the orbit alone is important. We attach political priority with ITU, recognizing, of course, the different areas of work. It is important to maintain independence in powers and competence in the two bodies. ITU has the main aim of regulating access to the geostationary orbit and ranges as this is where there can be transmitters located.

COPUOS as a legal body has political definitions to work on that we believe should not mean that we stand alone without linking with other bodies, and ITU in particular. We are thinking of the various radio communications conferences in particular.

So here, the delegation of Colombia would like to reiterate the principles underlying our position and consider the agreement that was arrived at that was approved by the General Assembly of the United Nations. It is an agreement that has a number of important elements, ultimately suggesting a coordination mechanism that is clear. If you are not familiar with this, and if you want to know more, this is contained in A/AC.105/738. This is a General Assembly document and therein in Annex III you can find the Coordination Mechanism which was the agreement arrived at that has allowed us to concentrate on this topic.

Thank you.

The CHAIRMAN (*interpretation from Spanish*): I thank you for that statement Colombia.

(*Continued in English*) Distinguished delegates, I would now like to continue our consideration of this agenda item but are there any other delegations wishing to speak on this agenda item?

I see none.

We will, therefore, continue our consideration of agenda item 6, Matters Relating to the Definition and Delimitation of Outer Space and Character and

Utilization of the Geostationary Orbit, tomorrow morning.

Distinguished delegates, I will shortly adjourn this meeting of the Subcommittee so that the Working Group on the Definition and Delimitation of Outer Space can hold its first meeting. Before doing so, however, I would like to inform delegates of our schedule of work for tomorrow morning. We will reconvene here tomorrow morning promptly at 10.00 a.m. At that time, we will continue our consideration of agenda item 5, Information on the Activities of International Organizations Relating to Space Law. We will also continue our consideration of agenda item 6, Matters Relating to (a) the Definition and Delimitation of Outer Space and (b) the Character and Utilization of the Geostationary Orbit. Time permitting, we will begin consideration of agenda item 7, Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

I then intend to adjourn the plenary meeting so that the Working Group on Agenda Item 6(a) can hold its second meeting and so that a preliminary exchange of views on the report of the Open-Ended Ad Hoc Working Group on the Preliminary Draft Protocol on Matters Specific to Space Assets can take place.

Are there any questions or comments on this proposed schedule?

I see none.

I now invite Mr. José Monserrat Filho to chair the first meeting of the Working Group on the Definition and Delimitation of Outer Space.

This meeting is now adjourned until 10.00 a.m. tomorrow morning.

The meeting closed at 3.40 p.m.