

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

Unedited transcript

737th Meeting

Thursday, 6 April 2006, 10 a.m.

Vienna

Chairman: Mr. R. González (Chile)

The meeting was called to order at 10.12 a.m.

The CHAIRMAN (*interpretation from Spanish*): Good morning distinguished representatives. Before I formally call to order this session, I would like to call on my distinguished friend, the representative of Greece who has some comments to make and I think they are important.

Vassilios, please.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): Thank you so much and good morning to all, both those in the room and also the interpreters.

The reason why I asked to speak is to bring to your attention a very unfortunate set of circumstances, very sad too, concerning access to the building. A philosophy(?) we tend to call disabled persons. It is totally inappropriate if you look at access to this building and it is a very embarrassing and difficult process of getting here if you have to work or if you want to come into the building.

I must say that it is not acceptable to have this very unfortunate situation in this building which is devoted to peace. The Checkpoint should not deal with people in this matter. It is very humiliating.

As to access, I must say that we should immediately try to find a practical co-solution(?). The Director-General should take all the necessary steps to make sure that any colleague with a physical disability can enter the building.

I am very excited, of course, I must apologize for this, but my mother and my sister also had to go through this. They died from multiple sclerosis so I am very aware of these problems and of the physical suffering. And my friend, as well as Sergio with his wife, has very much the same problem.

It is impossible. It is simply not acceptable to treat people in this manner. You cannot stand up and defend human rights and at the same time do this to people.

Thank you Sir.

The CHAIRMAN (*interpretation from Spanish*): I thank my distinguished friend from Greece. I think that this is a reference to a general problem but also a special one that has had an adverse impact on common friends, friends we share.

I am also fully aware of the fact that the Director of the Office and the Secretariat have taken the necessary steps to make sure that such a situation does not repeat itself.

I would like to thank the distinguished representative of Greece.

We will now start the 737th meeting of this Subcommittee and we will continue our consideration of item 8, Matters Relating to the Definition and Delimitation of Outer Space, and the Character and Utilization of the Geostationary Orbit.

Furthermore, we will also continue with 10, Examination and Review of the Developments of the

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UNIDROIT Text, and I would invite delegations wishing to refer to those agenda items to announce their intention to do so.

As for the Working Group on 8, Mr. Monserrat Filho will be presiding over this session later on. He comes from Brazil. On 8, therefore.

Matters relating to (a) the definition and delimitation of outer space and (b) the character and utilization of the geostationary orbit (agenda item 8)

We will now consider the definition and delimitation of outer space and furthermore the character and utilization of the geostationary orbit.

I would like to draw attention to the fact that 8 will also be before the Working Group.

I have no speakers on my list on this agenda item so I turn to the room to ask whether there are any speakers announcing themselves.

I have none so we will continue the consideration of that agenda item this afternoon.

Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment (agenda item 10)

And now we shall be looking at item 10, this relates to UNIDROIT.

I would like to take a step further in this direction. Yesterday we heard the statement from the distinguished representative of the United States of America but no further statements.

I am sorry, the distinguished representative of Italy, I call on you Sir.

Mr. S. MARCHISIO (Italy): Thank you Mr. Chairman. My delegation is pleased to take this opportunity for joining other delegations and reiterating its support to the work of UNIDROIT concerning the draft Protocol to the Cape Town Convention on Matters Specific to Space Assets.

As the Subcommittee will certainly recall, the first session of a Committee of Governmental Experts was held in Rome in December 2003. Thirty-nine governments and a number of intergovernmental and international non-governmental organizations took part in the session, including representatives of the

European Space Agency and the European Centre for Space Law. The membership of the First Committee was extended beyond that of UNIDROIT to take in also that of the United Nations Committee on the Peaceful Uses of Outer Space.

The second session of the Committee of Governmental Experts was held in Rome in October 2004 and remarkable work was done in order to develop the text of the draft Protocol and to identify the main issues that required further action.

It is now foreseen to convene in Rome the third session of the Committee of Governmental Experts within 2006. Following a fourth and final session of the Committee, the negotiating process may be finalized by convening a Diplomatic Conference for the adoption of a Space Protocol in 2007.

My delegation supported this negotiating process, characterized by the fact that the Committee of Governmental Experts was working in partnership with the Space Working Group, representing the international commercial aerospace and financial communities and participating fully in the negotiations alongside governments.

My delegation appreciates the efforts made by UNIDROIT to focus on modernizing private law, in particular with a view to improving access to cheaper finance for the countries most in need of such finance for the development of their infrastructure.

The new international regime made up of the Cape Town Convention and its Protocols is an example of the way in which UNIDROIT has found it opportune to move towards modernization of law.

Mr. Chairman, my delegation is convinced that a modern new international legal framework to govern the taking of security in high-value mobile equipment, including space assets and related rights, is an important step to improve access to secured financing facilities in respect of the acquisition of these kinds of assets.

We support the objectives pursued by this new international regime, which are both legal and economic. We recognize that they key features of the new international regime satisfies the essential requirements for asset-based financing. The preliminary draft Protocol adapts, in fact, the rules of the Cape Town Convention to the specific characteristics of space assets, taking into account their special characteristics.

The draft Protocol is in now way intended to affect the application of existing principles of space law, including those contained in the international space treaties concluded under the auspices of the United Nations. It reaffirms that, in case there might be any doubt on this issue, the Cape Town Convention, as applied to space assets through the preliminary draft Protocol, does not affect the State Party rights and obligations under the existing United Nations outer space treaties or instruments of the International Telecommunication Union.

Mr. Chairman, the negotiation process is still underway, so we can say that it will certainly know future developments. We are aware that a major question still to be resolved is whether the fact that a space asset is being used, even if only in part, to perform a public service should affect the possibility of the creditor exercising his remedies under the Convention and the preliminary draft Protocol, and if so, to what extent.

Within this context, it seems to us appropriate that this Subcommittee continues to share its interest in the Protocol with UNIDROIT. UNIDROIT brought it to the attention of the Legal Subcommittee from the very beginning of the process. It has actively cooperated with this Subcommittee and invited its member States to participate in the sessions of the Committee of Governmental Experts.

UNIDROIT addressed this Subcommittee to consider the possibility of the United Nations to assume the role of Supervisory Authority under the future draft Protocol. We discussed this issue last year and a draft resolution was submitted to this regard by several States. The recent developments within ICAO, that functions as Supervisory Authority of the Registry for the Aircraft Protocol, is a clear demonstration, in our opinion, that there are no legal obstacles for a universal organization specialized institution of the United Nations to assume the quality of Supervisory Authority and carry the functions of supervising the Registrar. In particular, it is clear that the functions of the Supervisory Authority under the draft UNIDROIT Protocol cannot be qualified as commercial activities outside the scope of action of the United Nations.

Finally, Mr. Chairman, just a few words concerning the participation to our work of the representative of UNIDROIT. I fully share your view that the observers from international organizations must try to do their best to attend our meetings. I would like to remember that Italy and the Czech Republic submitted a working paper in 2004 in order to discuss ways for improving this participation. In the

specific case of UNIDROIT, I am informed that valid reasons have impeded an extended participation of this organization to our work before Friday. I am informed that the Secretariat was aware of that, but evidently it was not possible to accommodate the agenda in a different way.

All in all, Mr. Chairman, my delegation supports the view expressed by other delegations to keep this item, Examination and Review of the Developments Concerning the Draft Protocol on Matters Specific to Space Assets, within the agenda of this Subcommittee for the next session.

Thank you Mr. Chairman.

The CHAIRMAN (*interpretation from Spanish*): I would like to thank the distinguished representative of Italy for that statement.

I would like to clarify the following. Neither the Secretariat nor the Chairman had any knowledge of the fact that the representative of UNIDROIT would not be able to participate during this session. That is the context I mentioned yesterday. I was not exclusively referring to UNIDROIT.

We are all aware of the agenda and the dates for this session two or three months ahead of time. So personally speaking, I think that is not a sufficient excuse. I repeat, we were not told, the Secretariat or the Chairperson, that UNIDROIT would not be able to attend.

Thank you distinguished representatives.

Any additional statement? Any requests for the floor on this agenda item?

That does not seem to be the case.

I call on the distinguished representative of Argentina.

Mr. S. SAYUS (Argentina) (*interpretation from Spanish*): Thank you so much Mr. Chairman. My delegation, Sir, has carefully listened to the deliberations on this agenda item. I merely wanted to enquire Sir, could you provide some information, at least for the benefit of my delegation, as to whether formally there is any documentation available to this meeting on the particular agenda item. What about the draft? Is there some document where we have all the new developments reflected? I say this because in looking at the agenda and the documents prepared by the Secretariat, in addition to the provisional agenda

and annotated agenda, we see that there is no particular documentation. We would very much appreciate additional material so as to have an in-depth and appropriate analysis and also to see how best to take this topic in the present session of the Subcommittee.

The CHAIRMAN (*interpretation from Spanish*): I would like to thank the distinguished representative of Argentina for that concern he has voiced. The usual procedure in the United Nations, I stand to be corrected, of course, is that documents should always appear on the agenda. That is what the annotated agenda is basically. But then, technically speaking, and from the procedural point of view, if that document is not officially on the agenda, it is not before the meeting, formally speaking. So for this session, we have solely what we have on the agenda. Some topics do make reference to this and that document. Others do not make any reference whatsoever. So that, strictly speaking, and in terms of the rules that apply to the United Nations system, we only have documents for discussion when they formally appear on the agenda.

Thank you.

Any additional comment?

That does not seem to be the case.

And we will continue our consideration of 10 this afternoon.

I will be adjourning the plenary so that the Working Group on Item 8 will be able to convene. However, I would like to draw your attention to the work plan for this afternoon.

We will meet at 3.00 p.m. sharp to continue consideration of 8, all matters having to do with the definition and delimitation of outer space, and the character and utilization of the geostationary orbit.

Furthermore, we will continue our consideration of item 10 on UNIDROIT.

If time permits, we will start on 7, Information on the Activities of International Organizations Relating to Space Law.

And then the Working Group on 8 will have its second session, if that is required, and the Working Group on 6 will have its fifth meeting.

Any questions please or comments?

I will invite Mr. Monserrat Filho from Brazil to take over and preside over the first Working Group on Agenda Item 8.

And this formal meeting of the Subcommittee is now adjourned.

The meeting adjourned at 10.31 a.m.