

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

Unedited transcript

756th Meeting

Friday, 30 March 2007, 10 a.m.

Vienna

Chairman: Mr. R. González (Chile)

The meeting was called to order at 10.08 a.m.

The CHAIRMAN (*interpretation from Spanish*): Good morning delegates, I call the 756th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space to order. Before we move on to our debate, I would like to give the floor to Spain.

Mr. R. MORO-AGUILAR (Spain) (*interpretation from Spanish*): Since this is the first time I have taken the floor, I am anxious, sincerely, to congratulate you upon your chairmanship and I would also like to congratulate the Secretariat of the Office, that has been so effective in preparing this meeting. Spain is determined to enforce and promote the current space law regime. We are parties to the following treaties, that is, the Outer Space Treaty, the Rescue of Astronauts Agreement, the Convention on International Liability, Convention on Registration, in addition, article 13 of the 1967 Treaty and the 1996 Declaration and Spain, has thus, chosen cooperation in spatial matters and we are an active member of ESA and of other international organizations dealing with space matters. EUMETSAT, the European Organisation for the Exploitation of Meteorological Satellites, which, as was said last year, declared that it had accepted the Rescue Treaty, this is something particularly important because it is a long time since an organization had become party to such a treaty and, in addition, to these steps which I have just mentioned, Spain has a significant number of bilateral agreements in the area of space cooperation. What is of great importance in this regard, is the agreement on cooperation in the area of the exploration and use of outer space for peaceful purposes. This was signed in February 2006 with the

Russian Federation. This framework treaty will put us in a position to conclude a very advantageous agreement, such as that with Russia and other States, with the aim of the development and launch of space objects, called the World Space Observatory, which is an astrophysics observatory, a spatial one, which is going to work in the ultraviolet wave range. As regards domestic Spanish space regulations, the single only norm in force is, Royal Decree 1995, which establishes a Spanish national registry of space objects. This is an effective norm which has reached its goal, namely, the proper application of the Registration Convention. However, there is a debate underway in Spain to find out whether it is important to have legislation leading to a new national Spanish norm, which would be a parliamentary law and we will inform the Subcommittee of any development in this regard.

Spain fully supports efforts made by the Legal Subcommittee to achieve universal acceptance of the international legal regime governing outer space and we welcome the successes of the model letter drafted by the Working Group of the Legal Subcommittee on item 4 and that the Secretary-General of the United Nations has sent to States and organizations, in order to promote accessions of these treaties and Spain will support any other initiative of this kind in the Committee to make sure that these treaties are universally accepted.

The CHAIRMAN (*interpretation from Spanish*): I should like to thank the distinguished representative of Spain for his statement and I would like, as a representative of a Latin American country, to say that my country is particularly grateful and satisfied to see that Spain, has for a long time, been

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involved in the Space Conferences of the Americas, this is cooperation which is not just a theoretical, it is entirely practical cooperation and there are very good reasons for considering that this cooperation is going to move forward and I am therefore particularly pleased to have heard that statement you have just made.

As regards the idea of the universal acceptance of the relevant instruments, that is something that adds to an existing consensus in the room on this matter and which is a matter of reinforcing the idea that we are going to have a complete legal framework which is accepted, so I should like to thank the representative of Spain once again.

We will now, without further ado, turn our attention to other matters. A point which has just been brought to my attention by the Secretariat, we will move onto item 6 of the agenda, that is, definition and delimitation of outer space and here, I would like to ask whether there are any delegations who wish to take the floor on this matter, who are going either define or delimit outer space and this early moment in time. No one? We have been thinking about this for the last 25 years when it comes to the definition and delimitation of outer space. In that case, we will move on to the geostationary orbit, I do not see any speakers on my list of speakers. I see my friend from Colombia who wishes to take floor.

Mr. A. REY-CÓRDOBA (Colombia) (*interpretation from Spanish*): Apologies for taking the floor once again on this matter but I would just like to point out some very tangible matters. By way of developing this matter, I would like to start by asking the Director and the Chairman, whether the ITU delegate has been present in the last few days. Is the ITU delegate going to take part in our meeting or not?

The CHAIRMAN (*interpretation from Spanish*): There was a very brief appearance, to my knowledge but as far as I know now, the delegate is not here now. I recognize Colombia.

Mr. A. REY-CÓRDOBA (Colombia) (*interpretation from Spanish*): I wanted to ask you because if the ITU representative had been here, then it is that representative who might be in a position to answer a number of questions or to convey some information to the plenary and yet this is not the case because the representative of ITU is absent, therefore, I would like to make a number of comments. I would like to talk about what has been going on in ITU with regard to the geostationary orbit, it is of interest to all of us to know more in this regard. I would like to know

whether OOSA has information from ITU on this matter? Since a resolution was sent to ITU, can anything be brought to my attention in this regard? No, that is not the case, thank you, Mr. Chairman. I have some information in this regard, which I can provide if you would so like.

One has to recall, a point of which we are all already aware for that matter, namely, that 8(d) of the agreement on the geostationary orbit says that, this document should be brought to the attention of ITU. I have already had an opportunity last time I took the floor, to say that I thought that when we would _____ (*inaudible*) is not just a matter of sending ITU a document by way of entertaining the ITU delegate, that was not at all the idea, what the point was, is that pursuant to the statutes of ITU and, with regard to the telecommunications sector, in particular, and given the competencies of which ITU disposes, the point was that given all that, that in the Legal Subcommittee, as part of negotiation, that we should, and this is something that was very clearly recognized when we talked about ITU's competences, the point is that this wording was chosen deliberately and it means that there can be cooperation between the Legal Subcommittee and the International Telecommunication Union. It seems quite clear that OOSA has done everything, all appropriate documents have been sent to ITU, in addition, it has to be noted that no note was sent to Legal Subcommittee by ITU but things have developed in a different way. ITU had its plenipotentiary conference, which took place in Istanbul and this is a document that was adopted in 2000, immediately after Istanbul plenipotentiary conference and on that occasion, receipt was acknowledged of this document. In addition, at the World Conference in 2000 in Istanbul, document _____ (*inaudible*) the radiocommunications sector said, that is to say the actual assembly, states in paragraph (g) in the preambular section, mention is made there of the competencies provided by article 1244 of ITU's statutes and in this article, one finds the basis for the use of the spectrum and geostationary orbit and other orbits in addition. It is ITU's competence that is invoked for the regulation of this matter and paragraph (g) states, that the Legal Subcommittee of COPUOS of the United Nations General Assembly has drafted relevant recommendations, that is to say that, via its world conference and via a resolution, note was taken of the document that had been approved here and indeed, one goes even further. The Conference notes, in paragraph (b) that, pursuant to article 160 of the radiocommunications sector, this group will participate in the examination of any issue to be submitted to it, namely, that it recognizes that and that it undertakes to

work on these issues. In paragraph (c) of that same resolution, we hear that in the report _____ (*inaudible*) various members of the council or board, mentioned difficulties that might be caused for their government, especially in developing countries and here there is a whole list of principles and first come, first served, developing countries that do not have any real advantages, as well as, matters of fictitious satellite notifications that limited access, such as, the use of ever greater wavebands 30 and 30A. These wavelengths and all such matters that are relevant to the very issue under discussion here at the moment. Given all these antecedents and the same resolution, that I have already mentioned, this resolution instructs the Radiocommunication Advisory Group to undertake studies and to envisage draft recommendations and draft provisions that would bind the formal notification procedures for registration and this would be to be linked to the principles in article 44, paragraph 3, of the Telecommunications Regulations and that these studies would take account of reports made by the Board and of said Conference. In particular, difficulties which might arise and would take into account contributions made by other bodies and then it goes on to say, in paragraph 2, that it requests that the Board undertakes studies and look into possible draft recommendations and draft provisions which would bind the formal procedures of notification and coordination and registration, with the principles in article 44 of ITU's statutes. In addition, it instructs the telecommunications office to present a detailed report and there are other bodies which have been in receipt of such contributions. There is nothing unusual or new about this, in the whereas? clauses mention is made in (g), that this Legal Subcommittee made a recommendation and that, as part of the terms of reference, they are obliged to take account of the proposals sent. Which means what? Legally, it is absolutely immaculate, they fully understood that the question should be studied, they have admitted that. How is this going to be finally resolved, one does not know but we know that it should be studied.

Three years after the 2000 Istanbul conference, in 2003, a report is requested and the question as to what the various different bodies within ITU have done on this matter and all this is said, and here I am talking about ITU, that no proposals were made by developing this matter, that is what ITU states. Therefore, it has not done what the 2000 resolution requested when instructed, namely, that have been given terms of reference or a mandate but nothing has been done within that mandate and that is clear in the 2003 report to which I have referred. Therefore, having encouraged ITU, one has to bear in mind the bureaucracy of organizations that sometimes gets in the

way of issues being dealt with for years and that nothing really is taken up or changes and the status quo persists.

That is the summary of my situation and, essentially, OOSA has this mandate and in its radio-communications conference, which is the one of the governing bodies of ITU, a resolution was produced on this issue. This is my summary now, in that resolution clear mention is made of the Legal Subcommittee's document and we know that all of this was adopted by the General Assembly and I have already quoted the relevant paragraphs. However, three years passed after that resolution was adopted and nothing happened. At the 2003 conference, Colombia brought the attention of delegates to this matter, however, the logical thing would have been to expect the ITU representative to be present by way of explaining what has happened and how this matter has been developed, the question submitted by the Legal Subcommittee and approved by the General Assembly, that is not what happened and this is why, on the basis of everything that I have said, by way of not wishing to take any more time, might I propose a way forward, on the basis of the document that was sent to ITU, on the basis of the legal mandate of COPUOS. On the basis of the undertaking of the Istanbul conference, where the document was received and where it was taken into consideration and, pursuant to that, a request was made, that ITU specialist bodies should look into the matter and given, that despite all that, given the fact that they have a mandate that the contents of the request have not been implemented, on that basis I suggest that we should proceed as follows. I have heard from the Director of OOSA, that the Legal Subcommittee could be an observer in ITU bodies and I am not just thinking of the geostationary orbit, I am thinking generally of all matters there are of interest to us because whenever we deal with such issues, we need to have a very close link between the Legal Subcommittee of COPUOS and relevant bodies, so not just the geostationary orbit, any such relevant issue. Here we are talking about a particular resolution and OOSA and the Chair of the Legal Subcommittee should be able to be present at such meetings to which I have just referred and they could then inform us of what has been going on and how all these situations are developing. I am not asking anything extraordinary, I am just asking, quite simply, that we should implement an existing mandate, namely, the mandate that has been approved by the United Nations. We need to pursue this existing mandate, which has already been given to the relevant bodies within ITU, namely, the Radio-communications Advisory Group and the Regulations Board have a specific mandate from the world conference, they had a mandate to study this matter and they have not done so. Therefore, having set out this

point at length, there is no point in our approving things which are not then taken up and might I reiterate, that I am not passing any kind of judgement here, countries of course are free to take up whatever resolution and so on, there are the various relevant bodies in which this should be done but we have got to mention these things, unless mandates are implemented what is the point of drafting resolutions and adopting them because the whole matter remains a dead letter if that is the case and therefore, we have become redundant. What is going to happen in future? A delegate from a developing country has with great expense come here, such as I have done, to take up this issue. This is a proposal which I would like to make officially, so it should be taken up by the Chairman of the Legal Subcommittee.

The CHAIRMAN (*interpretation from Spanish*): I thank the distinguished representative of Colombia. I am going to sum up very briefly, just a few conclusions which I have picked up. Firstly, information provided by you is extremely useful, so could I ask you, to sum this up in a conference room paper, so that all the countries may have access to this objective information. I would like this also, to serve as an example for all the other delegations who, on other issues, have some objective background to provide us with because it can only enrich the debate, so we would like all delegations to have in their hands, the background, the history, sometimes it is not possible to take on board all the details of the background you gave in an oral statement, so it would be nice to have it in writing. As regards the non-attendance of ITU, it is a failure in diligence in meeting the dictates of respective mandates. I have the delegation of South Africa to whom I would like to give floor, then we will come back to what you proposed.

Ms. J. SCHNEEBERGER (South Africa): It is in relation to the discussion on ITU and we would just like to note, as you have said, that there is a lot of cross-cutting issues and that the delegations can benefit from cross-fertilization between the two issues and also between information sharing between the member States. In this regard, we would just like to share some information and make a comment. We have noticed that a number of delegations have made reference to the fact that the International Telecommunication Union needs to be engaged more fully in the work of this Subcommittee. We are in full agreement with the need for interaction between the Subcommittee and ITU and we would just like to, in this regard, highlight the fact that ITU will be hosting the World Radio Conference in Geneva, from 22 October to 16 November this year. One of the items for the ITU conference is to consider the allocations and regulatory

issues relating to the earth exploration satellite service, space research service and the meteorological service. We would therefore, recommend, that OOSA perhaps keeps abreast of the developments and decisions of this conference, as well as, member State delegations, and to inform the members of the potential impact in terms of the deliberations and decisions at the Subcommittee level. In relation to the proposal made by the distinguished delegate of Colombia, is that, regarding the observer status, we would also like to explore whether the Office for Outer Space Affairs is already an observer at ITU and, if not, whether they could explore further in becoming an observer at ITU. In this regard, we would just like to note that, the recent plenipotentiary conference of ITU has expanded the rights of observers, so that they may now actively participate in the conference meetings of ITU.

The CHAIRMAN (*interpretation from Spanish*): I thank the distinguished representative of South Africa. She has made a very important, useful supplementary statement, what we have already been hearing from the distinguished delegate of Colombia. As regards the attendance of OOSA, I can tell you that, OOSA has all the legal credentials to be able to attend so important a conference. I would ask you, if you have the details, to provide this information on that ITU conference because it is a bit schizophrenic, on the one hand, ITU is failing to discharge its mandates to OOSA, we have no official record of what they are doing, so briefly, you could give us some written text about what is going to be discussed there, then that would be a very good idea. We are facing a proposal which has a modicum of logic, which does not really require debate and that is the question of the importance of observers' attendance on the ITU with the Chair of the Legal Subcommittee, the Chair of the Scientific Committee as well I would add and the Chair of the Committee not to mention the Director of OOSA. I would put this proposal to you, we would simply be discharging our mandate if we were to act on this proposal. It is a mandate which has already been established.

Mr. A. REY-CÓRDOBA (Colombia) (*interpretation from Spanish*): I will certainly do this formerly but at the very least, we need to get things moving over the next two years but I am in your hands as to how you propose this should be done.

The CHAIRMAN (*interpretation from Spanish*): I suggest that we do this in the very near future, if we accept this proposal. Do we agree?

It is so decided.

Let us move on to item 7 of the agenda and I have pleasure in giving the floor to the distinguished representative of the United States.

Mr. M. SIMONOFF (United States of America): This standing item is a welcome 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 commend the Scientific and Technical Subcommittee for its continued work on this topic. As you are aware, the Scientific and Technical Subcommittee recently finished its work to establish the objectives, scope and attributes of an international technically-based framework of goals and recommendations for the safety of planned and currently foreseeable, space nuclear power source applications. At its meeting, in February of this year, the Scientific and Technical Subcommittee reached consensus to pursue a joint effort with IAEA to develop an international safety framework for the use of nuclear power sources in outer space. The Scientific and Technical Subcommittee has outlined a new three-year work plan for its working group on nuclear power sources, which enables a joint group of experts from interested member States of both the Scientific and Technical Subcommittee and IAEA, to develop a safety framework who will review an approval by the Scientific and Technical Subcommittee and IAEA in 2010. We applaud the progress of the Scientific and Technical Subcommittee in this regard and look forward to developing an international consensus on the technically-based framework for space nuclear power source applications. We are happy to keep 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 of the United States' views on this agenda item.

The CHAIRMAN (*interpretation from Spanish*): I thank the distinguished representative of the United States. One way or another, what he said has highlighted something which is very important, that is, the pooled efforts of IAEA and the Scientific and Technical Subcommittee. That has been very useful, so I would like to thank you for your statement. I have no further speakers on this item. Would there be any further comments? The distinguished representative of the Russian Federation.

Mr. T. ZAGAYNOV (Russian Federation) (*interpretation from Russian*): Our delegation would also like to say a few words on this item. In our opinion, the development of space activities, above all, plans for inter-planetary flights, is going to involve the

use of nuclear power sources in space. In 1992, the General Assembly adopted a resolution on the use of nuclear power sources in outer space and this continues to play a major role in guaranteeing the safety of such activities, particularly in preventing the negative effects of nuclear energy on the environment. In this connection, we would like to note with satisfaction, the work which has been carried out by the experts of the Scientific and Technical Subcommittee in conjunction with IAEA in developing framework goals for the safe use of nuclear power sources in outer space. The effectiveness of this work may serve as a good example for organizing interaction between COPUOS and the experience of other international organizations. The Russian delegation feels that, the frameworks developed by IAEA and COPUOS for the safe use of nuclear power sources in outer space, may after their adoption and approval by COPUOS, be put to our Subcommittee for discussion, in order to consider the question of whether it is advisable to revise the principles governing the use of nuclear power sources.

The CHAIRMAN (*interpretation from Spanish*): I thank the distinguished representative of Russia for his contribution. I have no further speakers so I shall adjourn this meeting within a few moments. First of all, I would like to report on the schedule of work for the afternoon. We shall meet at 3 p.m. sharp to take up items 6(a) and 6(b) of the agenda and we shall continue with our consideration of agenda item 7, nuclear power sources and we will also begin our consideration of agenda item 9, practice in registering space objects. The Working Group on the definition and delimitation of outer space will hold its fourth meeting, under the chairmanship of Mr. José Monserrat Filho. The Working Group on practice in registering space objects will hold its first meeting, under the chairmanship of Mr. Kai-Uwe Schrogl of Germany. I now adjourn this session.

The meeting closed at 10.47 a.m.