

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

Unedited transcript

794th Meeting

Monday, 30 March 2009, 3 p.m.

Vienna

Chairman: Mr. V. Kopal (Czech Republic)

The meeting was called to order at 3.12 p.m.

The CHAIRMAN: ... of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

I would first like to inform you of our programme of work for this afternoon.

We shall continue and hopefully conclude our consideration of agenda item 8, Draft Protocol on Matters Specific to Space Assets, and agenda item 9, Capacity-Building in Space Law. We will also continue our agenda item 10, National Mechanisms Relating to Space Debris Mitigation Measures, and agenda item 11, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space.

There will be two presentations this afternoon pertaining to agenda item 11 by the representative of France entitled "French Space Law", and thereafter by the observer of EUTELSAT/IGO entitled "Comments from EUTELSAT/IGO on the French Space Law".

The Working Group on agenda item 11, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, will hold its first meeting, and the Working Group on Agenda Item 4, the Status and Application of the Five United Nations Treaties on Outer Space, will also hold its sixth meeting.

Once again, I would like to remind delegations that the Secretariat circulated last week the Provisional List of Participants distributed as Conference Room Paper 2. In this regard, I would like

to request delegations to kindly provide the Secretariat with possible corrections to the list by the end of today.

Finally, I would also like to remind delegates that the United States of America has invited you, following the conclusion of the work of both Working Groups, to a reception to be held at 6.00 p.m. this afternoon at the VIC Restaurant, Mozart Room, located on the Ground Floor of the 'F' Building.

Are there any questions or comments on this proposed schedule?

I see none.

Draft Protocol on Matters Specific to Space Assets to the Convention on International Interests in Mobile Equipment (agenda item 8)

Distinguished delegates, I would now like to continue and hopefully conclude our consideration of agenda item 8, Draft Protocol on Matters Specific to Space Assets to the Convention on International Interests in Mobile Equipment.

I have on my list of speakers the distinguished delegation of the United States of America.

Mr. S. McDONALD (United States of America): Thank you Mr. Chairman for affording us the opportunity to present the United States views regarding the work of UNIDROIT and the development of Space Assets Protocol.

As we have stated in past years, my Government is a firm supporter of the goals of the proposed Space Assets Protocol. This Protocol offers

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 D0771, United Nations Office at Vienna, P.O. Box 500, A-1400, Vienna, Austria. Corrections will be issued in a consolidated corrigendum.



an opportunity to facilitate the expansion of the commercial space sector, as well as to enable a broader range of States in all regions and at all levels of economic development to benefit from this expansion both by having a better opportunity to acquire interests in space equipment, as well as acquiring services generated from space equipment.

The Protocol would accomplish that by creating a framework under the Cape Town Convention for secured financing interest in assets used in outer space commercial activities.

Such a framework has already been established for air space and was coordinated with rights and obligations under existing multilateral treaties applicable to commerce in air space.

The same coordination has taken place and will continue with regard to the Outer Space Treaty of 1967 and other related instruments previously elaborated by COPUOS.

We believe that it is appropriate that the examination of the preliminary draft Space Assets Protocol has remained on the Legal Subcommittee's agenda so that appropriate review of developments in this regard continues.

We would like to comment on two issues. First, as we have noted previously, there has been a lack of consensus on the possibility of the United Nations serving as a supervisory authority for the Registry for financing interest to be established under the draft Protocol and we do not see further consideration of this aspect as useful at this time.

Another issue is the relationship between the terms of the preliminary draft Protocol and the rights and obligations of States under the legal regime applicable to outer space. As we, and other members of this Committee, have stated before, the Space Assets Protocol is not intended to affect rights and obligations of States Parties to the outer space treaty system or the rights and obligations of member States of the International Telecommunication Union. Indeed, our delegation proposed that this principle be explicit in the text of any space assets protocol recognizing that UNIDROIT's draft Protocol is intended to address only the distinct issue of private transactional law related to financing for commercial space activities.

With respect to the Subcommittee, we believe that the Legal Subcommittee and its members have expertise that may be valuable in the development of

the Protocol, while the UNIDROIT's Space Assets Protocol will be negotiated by UNIDROIT member States through the UNIDROIT process. We note that the process has included many members of this Subcommittee and we note also the practice that UNIDROIT to consider requests from non-member States who wish to attend such sessions.

We also note that, while work on the Space Assets Protocol was deferred while UNIDROIT was concluding a second Protocol to the Cape Town Convention on Other Matters, we understand that informal discussions are expected to be resumed in the near future, leading to a resumption of intergovernmental negotiations on space assets at UNIDROIT.

We hope the Legal Subcommittee will continue to offer its assistance where appropriate. We were pleased that the Office for Outer Space Affairs has participated as an observer in UNIDROIT Negotiating Sessions and we hope that that participation will continue to be helpful in informing the positions of various member States.

Given the ongoing work on this topic, we would look favourably upon the continued inclusion of this topic as a one-year agenda item. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished representative of the United States of America for your statement on the agenda item 8, UNIDROIT Space Assets Protocol. You referred to your earlier statements in this body and emphasized once again that the Government of the United States was a firm supporter of the goals of the proposed Space Assets Protocol and that this would enable a broad range of States in all regions and at all levels of economic development to benefit from this expansion.

You then mentioned that the examination of the preliminary draft Space Assets Protocol has remained on the Legal Subcommittee's agenda so that appropriate review of developments in this regard continues. You then commented in a little bit more detail on two issues of this consideration.

And finally you expressed the hope that the Legal Subcommittee would continue to offer its assistance where appropriate. You also were pleased that the Office for Outer Space Affairs has participated as an observer of UNIDROIT Negotiating Sessions and hope that that participation would continue to be helpful in informing the position of various member States.

Finally, you expressed the desire or hope that the discussion would continue and at this point would remain as on the agenda of the Legal Subcommittee as another year topic. Thank you very much distinguished representative of the United States for your statement.

Is there any other delegation wishing to speak on this particular item at this meeting of the Subcommittee which would be, of course, the last opportunity to do so this afternoon.

I see none but we have here the distinguished representative of the UNIDROIT, the Under-Secretary-General of UNIDROIT, Mr. Martin Stanford, and I welcome you on your behalf and would like to give him the opportunity to provide for us an information about the proceedings within the UNIDROIT and about the outlook of further developments in this respect.

Mr. Stanford you have the floor.

Mr. M. STANFORD (International Institute for the Unification of Private Law, UNIDROIT): Thank you very much Mr. Chairman. Good afternoon your Excellencies, ladies and gentlemen. The International Institute for the Unification of Private Law, UNIDROIT, greatly appreciates the invitation which it has received from the United Nations Office for Outer Space Affairs to report to the forty-eighth session of the Legal Subcommittee on the developments that have taken place since the last session of the Legal Subcommittee concerning the preliminary draft Protocol to the Cape Town Convention on Matters Specific to Space Assets.

In the first place, we wish the Legal Subcommittee every success in its deliberations and I apologize for the fact that I have only just been able to get here today and I thank you for having kept this subject on your agenda so as to enable me to participation in these deliberations. I have been busy getting out, getting ready all the invitations for the next meeting so I was certainly I hope usefully employed but thank you very much, as I say, for keeping this subject on the agenda pending my arrival and I really appreciate it.

So UNIDROIT is pleased to be able to report excellent progress in respect of the preliminary draft Protocol over the past 12 months. While the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment continue to attract ever

more Contracting Parties, currently there are 30 Parties to the Cape Town Convention and 27 to the Aircraft Protocol, and the International Registry for Aircraft Objects goes from strength to strength. As of 20 February 2009, approximately 139,000 international interests have been registered in the International Registry since its entry into operation on 1 March 2006 and these interests registered against some 50,000 aircraft, helicopters and aircraft engines.

So while the Convention, as I say, has continued to attract new Contracting States and the International Registry goes from strength to strength, over the past 12 months we have also seen substantial progress in the work of the UNIDROIT Steering Committee, established by the General Assembly of UNIDROIT member States, to build consensus around the provisional conclusions reached at the Government Industry Meetings called pursuant to the decision by the UNIDROIT Committee of Governmental Experts at its last session to refer certain key outstanding issues to intersessional work.

The principle objective of the Steering Committee is to permit an early reconvening of the Committee of Governmental Experts and thus timely completion of the preliminary draft Protocol.

The Steering Committee has been structured in such a way as to permit the governments of the leading space-faring nations and representatives of the international commercial space and financial communities to participate in its work on an equal footing, the intention being thereby to construct a bridge between government and industry, designed to permit the reaching of conclusions that may be expected to command broad consensus within the Committee of Governmental Experts, once we convened on the key outstanding issues and thus ensure that the future instrument is commercially viable.

Participation in the Steering Committee is open to all those governments and all the representatives of the international commercial space and financial communities who have participated in the Government Industry Meetings held in London and New York in 2006 and 2007 respectively.

The Steering Committee got off to a particularly good start thanks to the generous invitation of the Government of Germany for it to hold its launch meeting in Berlin on 7 to 9 May 2008. Both the governments of most of the leading space-faring nations and the different sectors of the international commercial space and financial communities were well-represented. The Secretary of State for Justice of

the Federal Republic of Germany opened the proceedings and Professor Sergio Marchisio, representing the Government of Italy, was appointed Chairman. Professor Marchisio being also Chairman of the Committee of Governmental Experts, this assures a very helpful element of continuity in the further development of the project.

It was agreed that the Steering Committee should essentially focus on the sort of solutions that might be expected to answer the key outstanding issues and that the answers it came up with should be enshrined in an alternative version of the preliminary draft Protocol that might, once the Committee of Governmental Experts is reconvened, be laid before that Committee, side-by-side with the existing text of the preliminary draft Protocol, as established at the conclusion of the first session of the Committee.

It is clear, of course, that such an alternative version is in no way intended to supplant the existing text but simply (symmetry?) to show the Committee of Governmental Experts how, in the opinion of the Steering Committee, the key outstanding problems might most usefully be resolved.

There was broad consensus in Berlin regarding the desirable content of the definition of space assets out of the preliminary draft Protocol, notably as to which types of component ought to be covered. The manner in which the preliminary draft Protocol should be amended in order to secure the extension of the application of the Cape Town Convention, as applied to space assets, to debtors rights and related rights, and the criteria to be enunciated in the preliminary draft Protocol for the identification of space assets, a matter of the utmost importance for the registration in the International Registry for Space Assets intended to underpin the future Protocol.

Consensus, however, not being able to be reached in Berlin as regards the desirability of a rule in the future Protocol on default remedies in respect of components, it was agreed to establish a Subcommittee to advise on the reaching of a solution agreeable to all. Importantly, in view of the importance of the view of financial institutions on this issue, Kommerz(?) Bank kindly offered to host the meeting of this Subcommittee which was, therefore, held in Berlin on its premises on 31 October and 1 November last. The proceedings were opened by the Chief of the Berlin Liaison Office of Kommerz Bank and were again enriched by the attendance of a broad cross-section of governments and representatives of the international commercial space and financial communities.

While it is true that the Subcommittee's deliberations revealed doubts as the desirability of all components being encompassed in the future Protocol's swift(?) application, this was acknowledged to be a general policy question needing to be further examined by the Steering Committee.

But on the specific issue referred to the Subcommittee, it was agreed that two governments should prepare a joint proposal again for consideration by the Steering Committee at its next meeting.

At its inaugural meeting, the Steering Committee decided to refer the question of public service to a Subcommittee which was asked for clear options for solution to this problem. This Subcommittee, the members of which again represent a cross-section of governments and international commercial space and financial communities, is already at work by electronic means and the results of its deliberations will be filtered into a meeting to be hosted by Crédit Agricole in Paris on 13 May.

In the meantime, at the request of the Steering Committee, the Co-Chairman of the Drafting Committee of the UNIDROIT Committee of Governmental Experts, Canada and the United Kingdom, both being represented on the Steering Committee, were invited at the inaugural meeting of the Steering Committee, to prepare a first alternative version of the preliminary draft Protocol to reflect the decisions reached in Berlin. This first alternative version, as agreed by the Steering Committee, was subsequently circulated among members of the Steering Committee for comment, and a second alternative version is being finalized as I speak. This is designed to reflect the comments submitted by Steering Committee members as also the Joint Proposal on Default Remedies in relation to components.

This second alternative version will be before the Steering Committee at its second meeting to be held under the auspices of the European Centre for Space Law at the Headquarters of the European Space Agency in Paris on 14 and 15 May. At that meeting, it will be for the Steering Committee in particular in the light of the conclusions reached by the Subcommittee on Default Remedies in relation to components and the Subcommittee on Public Service to advise whether this alternative version of the preliminary draft Protocol, subject to any amendments that it may deem appropriate to make at the Steering Committee meeting, whether this alternative version may be considered to provide a sound basis for the reconvening of the Committee of Governmental Experts, meaning that it has a good chance of

commanding broad consensus among the various parties serving thereon and, therefore, or permitting speedy completion of the planned Protocol.

Clearly, it would not be politic for me to anticipate the outcome of these deliberations but, on the basis of the substantive progress that has been made by the Steering Committee over the past 10 months, the UNIDROIT Secretariat is cautiously optimistic that, in the consultations that it will hold with Professor Marchisio after the Paris meetings, it will be able to give the green light to the holding of a third session of the Committee of Governmental Experts later in the year, hopefully from 13 November to 5 December 2009, with a view to a Diplomatic Conference for adoption of the future draft Protocol in the autumn of 2010.

UNIDROIT greatly values the input made by members of the United Nations COPUOS in the development of this project to date and looks forward to working closely with them in the exciting work that lies ahead. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished Under-Secretary-General of the UNIDROIT for your thorough information about the proceedings within the UNIDROIT on the Space Protocol to the Cape Town Convention of 2002. You reported to us that an excellent programme in respect of the preliminary draft Protocol over the past 12 months was reached and expressed the hope that this progress would continue.

Also valuable for us are the footnotes on the first page of your statement because they included the precise number of the present States of adherence to the main Convention, to the base (Space?) Convention, and also to the Aircraft Protocol. And you also included in another footnote that a number of international interests had been registered in the International Registry since it entered into operation in 2006.

You then described to us in greater detail the proceedings within the Steering Committee that was established for consideration of specific aspects of this issue. And finally you also indicated the forthcoming session that should be held somehow towards the end of this year and probably also the second meeting held at the Headquarters of the Centre for Space Law in Paris on 14 and 15 May.

Finally, you, using a very special English phrase, expressed your anticipation, the outcome of these deliberations and you indicated that upon the consultations with the Chairman of the Working Group

of Experts, Professor Marchisio, who was here last week and already has briefly informed us about the progress of negotiations within the UNIDROIT, so that upon these consultations you would give the green light to the holding of a third session of the Committee of Governmental Experts later in this year with your hope for expectation to adopt the future draft Protocol as early as possible in 2010.

Thank you very much once again Mr. Under-Secretary-General of UNIDROIT for your thorough information.

I now have another delegation on my list of speakers and it is the distinguished delegation of Japan. Japan has the floor.

Ms. C. SHIMAZU (Japan): Thank you Mr. Chairman. Our delegation would like to express our gratitude to the distinguished representative of UNIDROIT for his detailed and clear explanation considering the remarkable progress made during the year 2008 with respect to the key outstanding questions, including the sphere of applications, related rights, transfer of the related rights and the identification of space assets as found in the alternative version of the preliminary draft Protocol on Space Assets and also taking note of the fact that the agreement was made at the Subcommittee in Berlin in October 2008 about the scope of default remedies as just enumerated by the distinguished representative of UNIDROIT.

Our delegation is ever to be cautiously optimistic, if I can borrow the word from Dr. Stanford's impeccable English, was that the Steering Committee would reach a reasonable conclusion on the nature(?) of difference such as on the public interest at the Paris Steering Committee to be held in May of this year.

Thus, Japan supports to retain agenda item 8 for the forty-ninth session of this Subcommittee as a single item. Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much distinguished representative of Japan for your statement by which you commented some specific questions under discussion within the UNIDROIT bodies and reiterated the cautious optimism of the Under-Secretary-General of UNIDROIT.

You also recommended to retain this item on the agenda of the Legal Subcommittee. Thank you very much once again.

Yes, I now have on my list of speakers the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece)
(*interpretation from French*): Thank you very much Chairman. Chairman, I would like to start off by thanking my friend and colleague, the Under-Secretary-General of UNIDROIT, Martin Stanford, for his contribution on the evolution of this whole process of the developments of the draft Convention on Space Assets.

I very carefully followed his presentation and because he was so kind as to actually give me his text with the contents of his whole presentation actually, nonetheless, Chairman, I would have some minor questions to address to my eminent colleague, through you Sir, which questions, I believe, might well facilitate our debate and consideration of this matter especially in subsequent stages when we broach the development of protocol stage.

To date, not all countries are participating in this process. It is the major countries, if I could term them that way, before we used to call them major powers but, well, now I think if one hears incomprehension(?), one thinks about banking entities actually. I must admit that I am not really used to the processes and procedures traditionally followed by UNIDROIT, but I am somewhat astonished at the presence of only those who are directly interested.

Up until now, and for a whole 50 years, all of the process seeking to regulate outer space was demonstrated in the presence and participation of all States actually so I think it is a bit of a procedural handicap to have less than that. And I am somewhat astonished to have the chairmanship of the Steering Committee and the chairmanship of the Governmental Experts to which governmental group I am participating in. We have not seen each other for a long time and we have not been duly informed as to how the texts have been coming along in the interim. So much for the procedural aspects.

I do not know whether UNIDROIT has also requested Greece to participate, has sent any invitation to Greece to participate in these meetings because I believe that at one point we contacted, we had the opportunity of contacting somebody from the private sector but in Berlin there was this encounter that I have just referred to.

My problem is one of substance actually to start off with. How are we going to seek to define these space assets which are not necessarily social

assets. They are probably private property actually, private assets, they are not the property of any community.

And secondly, if these are real assets, we have to really decide whether these are real or intangible assets, possibly we are talking the law of intangibles here actually rather than law of tangible assets.

And thirdly, in terms of civil procedure, how can one deal with any possible enforcement of a decision handed down by a Earth-bound and land-based court of an asset that could be in outer space, be it a satellite or a component of another flying object in outer space, a spacecraft, for example, and would there be some possibility which would precipitate consideration of this matter? For example, could a company or a lending institution, through the intermediary of its States that is the State where its business is headquartered, indeed possibly would there be something impelling by a given company to go out there in outer space even though there is nothing regulating that outer space over and above the 100 kilometres above the surface of the Earth.

You know full well that I am not much, I am not really somebody who is going to be arguing in favour of a private practice or a private company or a privatism(?) in general, but here you know that there are processes taking place in parallel to our form of consideration which do have to do with outer space activity. So what bothers me actually is that here we are witnessing the incursion of the private into outer space, basically, as we say in Greece, through the back door. I do not believe that my distinguished friend and colleague would be able to respond to my questions and comments directly but I think that this does indeed make us think along the right lines. I am not very happy now with UNIDROIT's involvement as it relates to the registration of devices, be it helicopters, aircraft, launch vehicles, whatever, I am not astonished but I am not happy to see this. These devices can be indeed covered in any airport, anywhere in the world, through civil procedures. But if my questions are not addressed and responded to properly, I think that I could not even properly think in terms of the text that he has referred to before the meeting of the Crédit Agricole is scheduled between 13 and 15 May in Paris. If someone could kindly get these texts for me before then, in other words, towards the end of the upcoming month, then possibly we could prepare ourselves properly to participate in this meeting otherwise I fail to see how we could distinguish these two situations, these two scenarios, in legal terms. In other words, how can Earth-based, Earth-bound courts possibly have orders that can be executed in outer space?

So, through you, I would like to thank the colleagues present for their patient for having borne with me but that, I think, is the gist of the problems in hand. I believe, I hope that the issues before the Office for Outer Space Affairs have been properly justified, that the role has been accomplished, the role of supervising authority. I believe, and I hope that this role no longer needs any more discussion. It is incredible to conceive of the possibility of the United Nations to becoming the instrument of a banking entity or entities, especially given the backdrop of the present economic crisis. We have been going in this direction since the end of the 1990s, but now the situation in which we are finding ourselves has undergone a sea change, to change metaphors, and quite frankly, I think that this is something we should bear in mind. Thank you very much to all colleagues.

The CHAIRMAN (*interpretation from French*): Thank you very much distinguished colleague of Greece for your recommendation and your comments and suggestions. You have at the beginning of your statement mentioned the fact that though you indeed do appreciate the report presented to us by the distinguished representative of UNIDROIT, you cannot completely share his espoused view of the negotiations undergoing that you have expressed concerns with the way things are developing, to put it mildly. And you have put three questions through the Chairman, myself, to the distinguished representative of UNIDROIT in our midst and you have indeed referred to the problem of aerospace objects and space objects. You have said that they could be either tangible or intangible, real or unreal, as you have said, and then asked for the land-based terrestrial jurisdiction over outer space activities and devices, you have expatiated upon this matter to a certain extent. This could possibly be a further development. And you also have mentioned various points that I cannot personally share because I believe that that is beyond our mandate. I do not think that our mandate is just limited to international matters. The mandate of our Subcommittee comprises legal issues and considerations, generally speaking.

As concerns the problem of the authority, the supervisory authority, this item is not under consideration at this session, that I can assure you.

And now I would like to give the floor to the distinguished representative of UNIDROIT, after which I will give you the possibility to react once again.

So, UNIDROIT, you have the floor.

Mr. M. STANFORD (International Institute for the Unification of Private Law, UNIDROIT) (*interpretation from French*): Thank you very much. I would like to thank you for the very interesting comments made by my friend, Mr. Cassapoglou. We have already discussed these issues several times and I share his concerns, of course, or at least I understand them. You have to understand first of all that the Group of Experts is different from the Steering Committee. Our Group was set up by the General Assembly of UNIDROIT to carry out or to develop a consensus on the provisional conclusions that we managed to come to, representatives of government and industry. So the General Assembly believed it worthwhile before reconvening the Governmental Experts, that is the Committee of Experts, to continue the work, the preliminary work or intersessional work through a Steering Committee which used the same procedures, otherwise the governments which had participated in the Government Industry Meeting and representatives of the commercial sector. Of course, other governments indicated their willingness to participate, including Greece, as we have just discussed. Professor Wustar(?) from the University of Athens will be the representative of Greece on the Steering Committee, which is to meet in Berlin.

So there you have the difference between the Steering Committee and the Committee of Experts, the Committee of Governmental Experts.

I surely hope that we will be able to reconvene the Meeting of Experts so we have all of the members of COPUOS and UNIDROIT to participate in this debate so that we will be able to present the results of this consultation. The work that has been undertaken in the Steering Committee's intersessional work which really hinges on the decisions of the Committee of Governmental Experts as well as consultations with other parties, the idea being to come up with the result that is viable from a commercial viewpoint. We really have recognized that without a product which is, the product is not viable commercially, it will not be worth it, it will be just a worthless scrap of paper.

The different questions raised by Professor Cassapoglou, space assets, first of all, well, as I said in my statement, we have really been talking about what makes this up, how we can define space assets, to come up with a new version and especially following the components of the Subcommittee Meeting on 14 and 15 May in Paris will be meeting to look at the space assets and how they come under this decree d'application.

The second point also has to do with space assets and he was in the Experts Group. The rights of debtors and related rights so much are frequency questions.

Concerning the feasibility of international State guarantees, obviously it depends on the efficiency of our Registry, our International Registry, because if it is in the Registry we will find the listing of guarantees and the priorities thereof. The Convention itself establishes clear and precise rules concerning the competencies here, first of all, of courts. In the case where it comes to examining the registers, I think the idea that we exclude the private sector from these negotiations would actually be difficult at this stage because from the very start we came to the conclusion, following the Cape Town Agreement, we felt, let us say the majority of member States thought it quite advisable to invite banks, operators, insurers, to make sure that what we were proposing was commercially viable and they said otherwise developing a treaty which aims at fostering the development of this kind of practice as a based financing. In order to do that, it is absolutely essential to have the viewpoint of the practitioners, as Professor Cassapoglou will remember doing the Governmental Expert Group Meeting, governments often had to turn to the practitioners to find out what the reality of a certain issue was in practice in order to establish the legal framework.

I think this is the most important point now, as our friend, the representative of Japan said, I am cautiously optimistic that following the Steering Committee's meeting in May, we will be able to envisage a reconvening of the Governmental Experts, and, of course, Greece and other member country including COPUOS, is cordially welcomed to attend. And, as I said in my opening remarks, the reason why I was not here last week was that I was working on the invitations for the Steering Committee and the Public Service Subcommittee. I can reassure Professor Cassapoglou that the invitations are already being sent out and should be reaching his Foreign Ministry very soon. Thank you.

The CHAIRMAN (*interpretation from French*): Thank you very much for those replies. Just the distinguished representative of Greece. And Greece has the floor.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): Just one short remark on what you said about the mandate of our Subcommittee. Of course, this has to do with legal, any legal questions, but international private law. I am not sure what we can do because throughout the workings of

this Subcommittee we have often tried to solve questions of international law and what I am saying is that we cannot say we are not capable of doing this but we have other major issues such as insurance, creditors insurance and so on. But I would really like to express my heartfelt gratitude to my colleague, an excellent legal expert and francophone as well, Dr. Martin Stanford, for his efforts. He has, in fact, been dedicating himself to this effort in elaborating law but I am still awaiting responses to my questions to see whether the fields of application, the scope and especially the means of implementation should be included in the provisions of the Protocol on Space Assets which could be the total respect for the international space law.

Let me again thank our colleague from UNIDROIT for his great effort. Thank you.

The CHAIRMAN (*interpretation from French*): Thank you very much distinguished representative of Greece for your additional remarks.

Let me now give the floor to the distinguished representative of Belgium.

Mr. J.-F. MAYENCE (Belgium) (*interpretation from French*): Thank you Chair. First of all, let me thank Mr. Stanford for the information he has given us on how things have been unfolding concerning the UNIDROIT Protocol on Space Assets. You know that Belgium has followed this very intently with any prejudging of our position. This is not my role here and not today's discussion.

Let me, however, react to what was said by the delegate from Greece. First of all, to reiterate the fact that the control authority here or the supervisory authority, on this point we are, I think, fully in tune with them but we are still very interested in UNIDROIT, its draft Protocol.

Let me just kind of reorient the discussion here. UNIDROIT, this is international public law even though it is talking about private law but it is a law that belongs to States and it is part of the public domain in that sense. But perhaps one content. The fact that we have associated UNIDROIT with COPUOS' work and vice versa, it has always been seen very positively. I think this is even more evident today because, as you know Chair, since we began this debate on space assets, and this concept has changed, has evolved and we know that today certain States have, in their jurisdictions, recognized property rights on assets or values that are not necessarily seen under space law as being something that can be appropriated. I am

thinking of all the jurisprudence that is currently being developed on the possibility of patenting orbits or at least having a patent that includes orbits as part of the patented material. Here I am thinking there are also things like selling plots on the Moon, this is of by way of anecdote, of course, but the problem it has raised by this possibility of patenting space orbits is something then that gives rise to questions in international space law and in UNIDROIT's role in the way that private interests and space law must be understood is to recognize the fundamental role of UNIDROIT. We are not going to, of course, put the main kind of space principles or objectives on the sidelines. We are not going to have laws that fly in the face of the Protocol or other international. UNIDROIT certainly has a role to play in forming the response that is going to be developed by certain States and there may be a tendency to ignore the basic principles and head towards an appropriation of space. Thank you.

The CHAIRMAN (*interpretation from French*): Let me thank the distinguished delegate from Belgium in which you highlighted UNIDROIT's role and highlighted an aspect which we had not looked at before, which we had not considered in this Subcommittee or in UNIDROIT. Hence, the need to highlight this problem.

(*Continued in English*): Is there any other delegation wishing to speak on this particular item now? I have to bring to your attention once again that this is the last opportunity to speak on this subject at the level of the Subcommittee because tomorrow we will no longer have it on our agenda.

I see no speaker on this particular item from among the delegations and neither do I see any other observer to speak on this item at this very moment and, therefore, I believe that our consideration of this agenda item, Draft Protocol on Matters Specific to Space Assets to the Convention on International Interests in Mobile Equipment, is now concluded.

Capacity-building in space law (agenda item 9)

Ladies and gentlemen, distinguished delegates, I would now like to continue our consideration of agenda item 9, Capacity-Building in Space Law.

I have two delegations on the list of speakers for this afternoon, namely the distinguished delegate of Poland and the distinguished delegation from Brazil.

So I now give the floor to the distinguished representative of Poland.

Mr. G. ZYMAN (Poland): Thank you Mr. Chairman. Thank you Mr. Chairman for giving me the floor and I am very happy to have this opportunity to contribute to this important exchange of information regarding capacity-building in space law.

My delegation would like to state that air and space law models are incorporated in the general international law courses which are compulsory in all law faculties in Poland. Furthermore, at the University of Warsaw, the Faculty of Law and Administration and the Faculty of Journalism and Political Science, organized special courses on space law.

In addition, as an extra-curricula activity, the Polish universities participate in the Manfred Lachs Space Law Moot Court Competition.

Thank you once again Mr. Chairman for giving me the floor.

The CHAIRMAN: Thank you very much distinguished representative of Poland for your contribution to our discussion on capacity-building in space law by which you informed us about the present situation in this respect in your country and also about the participation of Polish universities in the Manfred Lachs Space Law Moot Court Competition. Thank you once again.

I now give the floor to the distinguished representative of Brazil.

Mr. A. TENÓRIO MOURÃO (Brazil): Thank you Mr. Chairman. The Brazilian delegation wishes to express its appreciation for the very informative statements which have been made during this item of capacity-building in space law in this year's session of the Subcommittee.

As a country that defends the need for further development in space law, as well as a growing inclusion of developing countries in the sharing of space benefits, Brazil attaches great importance to this issue and is happy to cooperate in its advancement. In this sense, we are pleased to inform the Subcommittee under this item that, in accordance with the Space Law Programme approved in 2008, the Governments of Brazil and Argentina are currently taking action for the establishment of an International Centre for Space Law which we expect will be able to contribute to the studies of this subject in our region. As soon as the competent bodies of both countries have gone through the final legal arrangements, COPUOS will be adequately informed.

Mr. Chairman, Brazil also takes this opportunity to commend the work being undertaken by the Group of Experts on the creation of a curriculum for a basic course on space law, following the request of the Subcommittee. We thank the Group for the submission of this preliminary draft which we regard as a solid basis for further discussions.

Brazil is of the view that it is important to disseminate knowledge on space law to other audiences, especially those involved with the more practical aspects of space science and technology. In this sense, we see with great satisfaction the results that this curriculum may achieve, particularly in the activities of the Regional Centres on Space Science and Technology.

We also welcome the possibility that elements of this curriculum can be used by different types of courses and educational institutions.

Brazil hopes that the discussions on this draft curriculum continue in a successful manner.

Mr. Chairman, Brazil has listened with great attention to the presentations of several delegations on the reactions and initiatives to build capacity in space law, as well as on the available educational opportunities in this area. Brazil is pleased to have information on scholarship programmes in space law, particularly on those which have special provisions for developing countries. We share the views presented by other delegations on the importance of expanding these programmes.

Mr. Chairman, Brazil associates itself with other delegations which expressed their concerns with the general reductions in the United Nations budget. Brazil is particularly concerned with the facts of this cut on capacity-building activities and, therefore, we request that the Office for Outer Space Affairs make all possible efforts to avoid negative effects on developing countries.

Finally, Brazil is of the view that this item should remain on the agenda for the next session of the Subcommittee. Thank you for your attention Mr. Chairman.

The CHAIRMAN: Thank you distinguished representative of Brazil for your statement on agenda item 9, Capacity-Building in Space Law, by which you informed us about a great importance that is attached by your Government to this issue and its willingness to cooperate in its advancement.

You also informed us about the action that is being taken for the establishment of an International Centre for Space Law which you developed together with Argentina. You also commended the work being undertaken by the Group of Experts on the creation of a curriculum for a basic course of space law and you said that you regarded it as particularly as soon as it is finished and finalized as a solid basis for further discussions.

Brazil also emphasized the role of the Regional Centres on Space Science and Technology in expanding the knowledge of space law and you also mentioned that Brazil received the information on scholarship programmes in this particular field particularly if the scholarship programmes are concentrated on special attention to developing countries.

Finally you expressed the request that the Office for Outer Space Affairs make all possible efforts to avoid negative effects on developing countries that would be the consequence of budget cuts in the United Nations.

And finally you expressed the view that this item should remain on the agenda for the next session of the Subcommittee. Thank you very much.

I now have on my list of speakers the distinguished delegation of Colombia. Distinguished representative of Colombia you have the floor.

Mr. J. E. DÍAZ POSADA (Colombia) (*interpretation from Spanish*): Thank you. I would like to thank the delegate from Brazil. We also have some concern here because teaching in terms of space law is something which, for developing countries, is very important and hence Regional Centres would be an appropriate way to move forward so that all of our countries could share curricula and have the personnel to produce similar laws for our different Regional Centres so that in the future we will be able to have a cohesive process in terms of law in all of our countries. It is important that this access to education be ensured for all countries then and we would be very grateful for any input here. We are very grateful from any cooperative programmes in this regard from any country. Thank you.

The CHAIRMAN: Thank you very much distinguished representative of Colombia for your contribution by which you shared the concerns expressed in the statement of the distinguished representative of Brazil. You also emphasized that the

input that would be made by the elaboration of the curriculum on space law, particularly for the work of Regional Centres, if I understood you correctly. Thank you very much for your contribution.

And, in this way, I have exhausted the list of speakers on this particular subject but if any delegation wants still to make a statement or a simple contribution to this discussion, you will have the opportunity to do so.

I recognize the distinguished representative of Nigeria.

Mr. A. OTEPOLA (Nigeria): Thank you Mr. Chairman. My intervention is to seek clarification from the Bureau, from the Secretariat, as to how we move forward to concerning this agenda item. We have heard several delegations speak about the imperative of having this agenda item set forward in terms of implemented additions of the Subcommittee.

First of all, I would again like to join other delegations to thank very much the members of the Expert Group that put together the Conference Room Paper 5, that is the draft education curriculum. The clarification I am seeking in terms of timelines for the implementation of whatever we decide here. For instance, when do we expect this curriculum to be finalized and when does the Subcommittee intend to ask for the implementation of this education curriculum in the United Nations Centres across the continents? And if this is so, how prepared is the Secretariat in terms of empowering the Regional Centres to take on these additional responsibilities? Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much distinguished representative of Nigeria for your contribution by which you put some questions to the Secretariat about further efforts in this particular field, particularly relating to the finalization and application of the curriculum that is under elaboration.

Mr. Secretary or Deputy Secretary, you have the occasion to speak.

Ms. N. RODRIGUES (Deputy Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman. I can possibly partly answer the question of the distinguished delegate of Nigeria. Currently the idea is to try and complete the curriculum in 2010 so we have a final draft during the course of 2010. Exactly when that will happen is still not clear and if all would go well then as far as the Regional Centres

could be invited to take on board the curriculum from 2011-2012 onwards.

As to whether the Secretariat will be in a position to support the Regional Centres, obviously in the implementation or bringing on board the curricula, we obviously are cognizant of the fact that, I think, particularly for the African context, that you had difficulties with a lack of experts who can actually teach the curriculum. So this is something we are going to have to give some consideration to and see how we might be able to support the Regional Centres in that regard. Of course, similar support would be looked at in the context of the other Regional Centres as may be necessary.

Like I said, it is a partial answer at this point but it is something that we are going to continue looking at in the future. Thank you Mr. Chairman.

The CHAIRMAN: Thank you Miss Deputy Secretary for your answers offered to the distinguished representative of Nigeria to his questions.

Is there any other delegation wishing to speak on agenda item 9, Capacity-Building in Space Law?

I see none and, therefore, we have concluded our consideration of this agenda item, it means item Capacity-Building in Space Law at this session of the Subcommittee.

National mechanisms relating to space debris mitigation measures (agenda item 10)

I would now like to continue our consideration of agenda item 10, National Mechanisms Relating to Space Debris Mitigation Measures.

The first speaker on my list is the distinguished representative of the Russian Federation to whom I give the floor.

Mr. E. T. ZAGAYNOV (Russian Federation) (*interpretation from Russian*): Thank you very much Chairman. In our statement under item 10 of the agenda, we would like to tell you about what is being done in the Russian Federation in order to mitigate and prevent the generation of man-made space debris. Right now we are working on the development of standard setting and technical documents which determine mitigation requirements for man-made generation of space debris. And the activity to counter the generation of space debris is being dealt with within the context of national legislation evolved on outer space activity with due consideration for the

dynamics of corresponding measures being introduced into the field by various international space organizations and agencies.

The measures addressing this have been included in the appropriate sections in our Federal Russian Federation Outer Space Programme for 2006 and through 2015.

As of 1 January 2009, the Russian Federation National Programme Decree entered into force the artefacts of outer space technology and general requirements for outer space devices to mitigate man-made generation of near-Earth outer space debris. And the provisions of this document correspond to the requirements set in the document "Guiding Principles of the United Nations Outer Space Committee to Prevent the Generation of Space Debris". These requirements of the National Standard indeed cover both new as well as re-vamped space devices used in all spheres of human activity and comprise the entire lifetime of such devices, both the design, the production, the commissioning, the operation and de-commission of such devices.

In our National Standard which has been implemented, a whole list is given indicating the main sources of man-made space debris as well as the means to mitigate that sort of debris.

In the National Standard, for example, it is stated that there have to be included in the design and operational documentation for outer space devices indications of it what exactly is being done in construction and organizational and technical angles specifically to meet the space debris mitigation requirements and corresponding justification for this must be provided as well.

In planning programmes, projects and experiments, planning the launch and placement of such devices on orbit, it is indispensable to have the trajectories for such devices to be subject to termination and this with the use of available observation technologies.

The bodies delivering certification after such devices have been duly checked out and proven to be corresponding to the requirements of the standards set, also determine to what degree space debris mitigation in near-Earth indeed is being truly met. Each and every instance of space debris arising must be analyzed. We must have examined the exact cause of such an incident. We have to develop recommendations for the prevention of recurrence of the same sort of space debris generation. And our

orbital devices and launch systems or having reached their end-of-life and which are in the near-Earth orbit or transiting through it or likely to do so must indeed be guided onto an orbit where the following conditions apply. One, a continuity of passive ballistic state in the remaining atmosphere and that for a period not exceeding 25 years or, secondly, preclusion of the possibility of air entry into near-Earth low orbit and this on the basis of the objects being guided onto a disposal orbit.

For orbital devices with radioactive, toxic or dangerous substances on board, the de-orbiting procedure must be conducted in such a fashion as to preclude any contamination by the substances of the atmosphere or the surface of the Earth. We believe that this National Standard that we have been referring to will enable Russian rocket and outer space technologies to meet present day requirements in terms of space debris mitigation.

We are continuing the work which was commenced in 2006 with regard to establishing under ROSCOSMOS, a specialized inter-agency automated system to analyze information to draw up long-term prognoses and establish early warnings as to dangerous situations which might arise in orbiting constellations and around Earth as determined by technogenic generation factors and risk mitigation measures. This system first started its operations in 2008.

An important role in the work is attached to the problem of determining to greater accuracy the precise parameters for technogenic space debris in the near-Earth area, especially around the geostationary orbit. In this regard, the Russian Academy of Scientists organized an international cooperation of observers, the involvement of whom ensures the registration of objects throughout that GEO.

In concluding, once again, I would like to stress that addressing the problem of space debris mitigation is something that we are doing ever so much work on at present in the Russian Federation. Thank you very much.

The CHAIRMAN (*interpretation from Russian*): Thank you very much for your contribution under agenda item 10 of our Subcommittee's session. You have stressed that at present in the Russian Federation, the basis for standard setting, normative documentation and legal basis is being developed to determine mitigation of space debris activities. And you have also described the efforts which started up in 2006 and which are going to be pursued through 2015.

You have also shared information as to the various activities and measures which indeed are entailed in these efforts to mitigate space debris. You have also referred to the National Standard which is being developed and which has gone into force in the Russian Federation which indeed comprises space technology and space devices and which enables Russian rockets and outer space technology to meet present day requirements in space debris mitigation.

And you have also stressed that space debris mitigation necessarily involves growing accuracy in determining the parameters of such space debris generation especially in the area around the geostationary orbit itself.

And in conclusion, you have noted that recently in the Russian Federation ever so much attention is being paid to this issue of space debris mitigation and how it can best be conducted.

Thank you ever so much to the Russian Federation for that contribution.

(Continued in English) I now give the floor to the distinguished representative of India for his contribution.

Mr. V. GOPALAKRISHNAN (India): Mr. Chairman, India attaches the utmost importance to the issue of space debris as it poses obvious dangers to all space efforts and thereby _____(?) applications as well for peaceful purposes.

The Indian delegation recalls the centre role in the formulation of the Mitigation Guidelines by the IADC and subsequently by the Scientific and Technical Subcommittee of the United Nations COPUOS which were endorsed by the United Nations General Assembly in 2007.

Accordingly, the Indian Space Research Organization, ISRO, has been implementing appropriate of mechanisms in the design and operational phase of all the launch vehicles and satellite programmes in order to mitigate the possible creation of space debris.

The polar satellite launch vehicle, VSLV, which uses Earth's terrible corpulence has been designed with the corpulent venting system on the geostationary satellite launch vehicle VSLV, has been equipped with a passivation system in its cryogenic upper stage to serve at the end of its useful mission life. Thus, the possibility of on-orbit fragmentations has been minimized. The geostationary satellites which are

designed with a _____(?) margin of fuel are promptly re-orbited at the end of their useful mission life.

Furthermore, ISRO has developed mathematical models and algorithms to predict the course of approach of debris to orbiting functioning satellites. Space debris capacity(?) models developed and analyzed through advanced modelling techniques are used for planning the launch windows for all our missions very effectively.

Mr. Chairman, it is evident that all the legality of space exploration activities in the future will largely be _____(?) at the _____(?) of the Space Debris Mitigation Guidelines by all.

Through that, once again, all member States to follow the Space Debris Mitigation Guidelines as endorsed by the United Nations General Assembly in letter and spirit. Assured safety and security of space assets is in the interest of all and of a fair amount of importance for prospering together. Thank you Mr. Chairman for your kind attention.

The CHAIRMAN: Thank you very much distinguished representative of India for your statement on item 10, General Exchange of Information on National Mechanisms Relating to Space Debris Mitigation Guidelines. You assured us that India was attaching the utmost importance to the issue of space debris. And you informed us about the measures that have been applied by ISRO and in this particular field. And you documented it by a specific satellite launch vehicle which uses Earth storage, storable propellant and so on and so on.

You also informed us about the other measures that are being taken in order to minimize the generation of space debris such as the necessity to avoid on-orbit fragmentations in order to minimize them.

Finally, you made an appeal that all States, as your own country, should follow the Space Debris Mitigation Guidelines as endorsed by the United Nations General Assembly in letter and spirit.

Thank you very much distinguished representative of India for your contribution to our discussion.

Distinguished delegates, is there any other delegation wishing to speak on this particular subject at this moment? And I believe that this is probably the last opportunity to do so because we do not, excuse me, I make a mistake because we have several items on our agenda and that we will still continue on our

consideration of agenda item 10, National Mechanisms Relating to Space Debris Measures, tomorrow morning.

But before adjourning this discussion today, I will give the floor to the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): Thank you Chairman. Well, actually I asked for the floor at the tail end of the discussion on the last item before this present item. I wanted to transmit our gratitude and appreciation to the Office for Outer Space Affairs for the capacity-building in space law contribution. Very important it was. Unfortunately, names are not given, the names of the Office colleagues involved in this effort. Their contribution is over and above all their contribution to the establishment of the Internet library which we can tap into as a most invaluable resource for our work. And what I said the year before, with regard to our effort to allocate the necessary funds to the Office for Outer Space Affairs from the United Nations to extend and expand upon this activity of the Legal Section of the Office for Outer Space Affairs, I am most pleased indeed to see that very few colleagues, distinguished legal experts, would be able to provide such an excellent piece of work. And this is what I wish to say, in no uncertain terms, to the Office with respect to the preceding item on the agenda.

As for the present item of the agenda, I would like to say that, on space debris, that is, for once we can be somewhat more optimistic, especially after having heard what our colleague from the Russian Federation has said. Unfortunately, I am not able to tune in to the musical original Russian of what he said but certainly I listened to him through the French interpretation channel but I must admit that if the other major space-faring nations were to follow that splendid example, this morning, for example, I referred to the excellent example given by the Canadian Government, right now the Russian Federation has given us a model initiative. If we were to pattern ourselves upon these splendid examples, then, I think, we could actually possible get somewhere when it comes to preventing and mitigating this major threat which is space debris. I was listening to the Russian interpretation, I heard "technogen", in others words, it is a Greek word which I heard in the French. I would prefer to suggest that we should call this anthropogenic, man-made, because "technogen" rather means that it is artificially produced or generated. Unfortunately, outer space congestion and pollution is something that is very, very much man-made. "Anthropo" being "man", "gen" being "created", "anthropogen" mean "man-made", so I

really suggest that, I have mentioned natural and man-made disasters, I think we could legitimately speak in terms of man-made anthropogenic space debris.

The CHAIRMAN (*interpretation from French*): Thank you very much Greece. The first part of what you have said referred to capacity-building in space law. Of course, this is a subject which has been dealt with already. But the second comment had to do with the subject which is before us in our discussion. I believe that all delegations have fully understood the purport of your comment with respect to a statement which has been perused(?), possibly more can be said tomorrow. And your comments on the adjective to be used that instead of "technogen" in the French, we could rather say "anthropogen" or "man-made" in the French and the English respectively, is very interesting.

(*Continued in English*) Is there any other delegation wishing to speak on this particular item, it means agenda item 10, National Mechanisms Relating to Space Debris Mitigation Measures, at this session of the Subcommittee?

I see none. Neither do I see any observer wishing to speak and, therefore, this discussion on this particular item is now concluded for the time being and we will continue again the discussion on this topic tomorrow morning.

National legislation relevant to the peaceful exploration and use of outer space (agenda item 11)

Distinguished delegates, I would now like to continue our consideration of agenda item 11, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space.

I have several speakers on this particular item and I would like to give the floor first to the distinguished representative of Italy.

Ms. N. BINI (Italy): Mr. Chairman, distinguished delegates, the Italian delegation welcomes the discussion that the Subcommittee is devoting to agenda item 11, General Exchange of Information on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space. We are convinced that the examination of existing legislation and practices will help us in identifying common principles, norms and procedures and the solutions which are more adequate with respect to our national interests, needs and peculiarities.

Let me begin by reminding that Italy is party to four United Nations space treaties and conventions,

namely the Treaty of Principles Governing the Space Governing Activities of Space and Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies of 27 January 1967, incorporating through an Italian legal system through Law No. 87 of 28 January 1970.

Second, the Agreement on Rescue of Astronauts and the Return of Astronauts and the Return of Objects Launched into Outer Space of 22 April 1968, incorporating through Presidential Decree No. 965 of 5 December 1875.

Third, the Convention on International Liability for Damages Caused by Space Objects of 29 March 1972, incorporating through Law No. 426 of 5 May 1976.

And finally, the Convention on Registration of Objects Launched into Outer Space of 14 January 1975, incorporating through Law No. 135 of 12 July 2005.

Within this general legal framework, the current legislation on outer space activities developed progressively in different times and in a context where outer space activities were conducted mainly by entities of a public nature.

The issue of compensation of damages caused by objects launched into outer space was firstly covered by Italian Law No. 23 of 25 January 1983 as an instrument for implementing and complementing the 1972 Liability Convention and which applies to damages caused by objects launched into outer space by a State Party to the 1972 Convention. The legislation aims at protecting more extensively the potential victims of damages.

Law No. 23 of 1983 is based on the following principles. Firstly, Italian physical and legal persons shall obtain compensation from the Italian State for damages caused by space objects launched by a foreign State if equally requested and obtained compensation for the damage by that foreign State under Article 8, paragraph 1 of the Liability Convention. Moreover, Italian victims of such damages shall be compensated even though they can assert(?) as not obtained compensation from the liable launch State under the Convention.

Secondly, Italian physical and legal persons are also entitled to receive compensation if the Italian State has presented no claim for compensation, provided that, in that case, the claim has not been presented to the liable State by the State on whose

territory the damage was sustained or by the State in which the person concerned are permanent residents.

Thirdly, Law No. 23 also recognizes a right for compensation to foreign, natural and legal persons as long as the State on whose territory the damage occurred or the State in which such persons are resident as long as not requesting and obtain compensation for the same damage from the launching State. However, this right is recognized only when, and to the extent to which, the _____(?) State has presented a claim and obtained compensation.

Finally, Article 5 specified that liability of the Italian State absolute and cannot be waived. This provision is in line with the United Nations treaties and in particularly the Liability Convention.

After being _____(?) and launching activities and acceptance by Italy of the 1975 Convention on the Registration of Objects Launched into Outer Space, Law No. 153 of 12 July 2005 on the registration of space objects has been adopted, filling another gap in the Italian legal system. Before acceding to the 1975 Convention, the Italian Government transmitted, on a voluntary basis, to the Secretary-General of the United Nations, information on national spacecraft launched into orbit, in accordance with the resolution 70/21(b), paragraph 1, adopted by the General Assembly on 20 December 1961.

Under Article 3.2 of the Law 153 of 2005, the Italian Space Agency is entrusted with the institution and maintenance of the National Registry, as well as the collection of all information related to the implementation of the Convention.

Under Article 3, paragraph 3, of the Law 153, the National Registry shall be filed with any space object launched by physical or legal persons of Italian nationality, the launches or fulfilled the launch of their space object; (b) any object launched into outer space from a launch site located in the national territory or under Italian jurisdiction or control of Italy by foreign physical or legal persons.

The physical or legal persons referred to in Article 3, paragraph 3 of the Law, shall no notify the Italian Space Agency the launches carried out and transmitted to the Agency all information required under Article 4 of the Registration Convention.

Article 5(?) of Law 153 of 2005 also requires the concerned person to notify ASI when the space object enters the Registry are no longer in Earth orbit.

Under Article 6 of the Law, it is a task of the Italian Space Agency to communicate the information into the Registry to the Ministry of Research, the Ministry of Economic Development, and the Ministry of Foreign Affairs. The latter shall foresee the international requirements under the Registration Convention.

The legal framework for the registration of objects launched into outer space is now in the process of completion. The Italian Space Agency is about to finalize a regulation which sets up the National Registry and the five new procedures for the registration. It will be then submitted for approval to the Ministry of Foreign Affairs and the Ministry of Research.

It is worthy to mention that these regulations take in duly consideration United Nations resolution 62/101 on recommendation on enhancing the practice of space and international and intergovernmental organizations in registering space objects.

The last point that the Italian delegation would like to touch upon is the legal system for the authorization and licenses for the operation to terra(?) -communication systems which are regulated by rules and procedures of an administrative nature under the supervision of the National Authority for Telecommunication and in conformity with the relevant directives on telecommunication of the European Community. The general legal setting is contained in the Code for Electronic Communication.

Furthermore, Decision No. 407 of the National Authority for Telecommunication dated 19 July 2000 regulates the conditions for the general authorization concerning telecommunication services including satellite services. According to these provisions, all telecommunication service operators are a regime of general authorization, with the exception of the services which need an individual licence. Satellite services are subject to conditions that can be considered particularly open and sustainable in order to facilitate the development of this field.

Mr. Chairman, in line with the most recent developments, Italy is now intensifying its efforts aimed at elaborating a more comprehensive legislation on space activities in order to fully address the requirement established by Article 6 of the Outer Space Treaty. We are confident that the work carried out by the Legal Subcommittee on this specific issue will be fundamental to our reflection on such a legislative perspective. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished representative of Italy for your statement on agenda item 11, General Exchange of Information on National Legislation Relevant to the Peaceful Exploration of Outer Space, by which you gave us complete information about the state of affairs in the Italian regulation of space activities. You first informed us about the adhesion of Italy to the United Nations space treaties and then you declared that within this general legal framework, the Italian legislation on outer space activities had developed progressively in different times and in different contexts. And you then enumerated the most important legislative Acts in this particular field.

You also informed us in some greater detail about Law No. 153 of 2005 on the registration of space objects that includes a number of principles and the accomplishment, the execution of this Law was entrusted to the Italian Space Agency.

You finally informed us that the Italian Space Agency is about to finalize a regulation which sets up the National Registry and defines the procedure for registration and this regulation takes in duly consideration the resolution of the General Assembly of the United Nations on recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects.

You also touched the problem of the legal system for the authorization and licences for the operation of telecommunication systems in accordance with the regulations of the ITU.

So this was your information about Italian activities in this field and, at the same time, you assured us about the Italian efforts aimed at elaborating and more comprehensive legislation on space activities going on during this period, during this year.

Thank you very much once again.

And I now give the floor to the distinguished representative of the United States.

Mr. S. McDONALD (United States of America): Thank you again Mr. Chairman. We are pleased that this Subcommittee is exchanging information on national legislation relevant to the peaceful exploration and use of outer space. We think that the presentations made last year were quite informative and our continued discussions will help the members of this Subcommittee understand the different

approaches that countries have taken regarding this subject.

We wish to congratulate Professor Irmgard Marboe of Austria on her election as Chairman of the Working Group and we look forward to productive discussions in the Working Group under her leadership. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished representative of the United States for your brief statement. Yes, we remember the detailed information provided by the United States of America at the last year's session of the Subcommittee.

I now give the floor to the distinguished representative of South Africa.

Ms. L. MAKAPELA (South Africa): Mr. Chairman, distinguished delegates, thank you for providing the South African delegation an opportunity to exchange information on our national legislation relevant to the peaceful exploration and use of outer space.

Mr. Chairman, South Africa has a number of legal instruments governing the conduct of space activities. The primary framework formulation(?), coordination and promotion of space activities is the Space Affairs Act of 1993, as amended in 1995. The important provisions of the Outer Space Treaty, which South Africa is a Party to, are incorporated in this Act.

Mr. Chairman, the Act establishes the South African Council for Space Affairs, which is the statutory body responsible for the development of regulations on how space activities should be conducted in South Africa, for instance, development of a regulation on the procedure for the issuing of a launch licence.

The Space Council is also mandated, among other things, to take care of the interests, responsibilities and obligations of South Africa regarding space and space-related activities, in compliance with international conventions, treaties and agreements entered into by South Africa.

Furthermore, the Act, in terms of Section 2, Sub-Section 1(a), also provide an opportunity for the development of the National Space Policy to be followed in the country, with a view to meet South Africa's international agreements and commitments in respect of the peaceful utilization of outer space.

The policy was approved together with the National Space Strategy in December 2008, as was indicated in the statement during the general exchange of views.

Mr. Chairman, one of the principles of the National Space Policy is a commitment for South Africa to continue being a responsible user of the space environment and utilize outer space for the peaceful purposes and for the benefit of all humankind.

The policy also commits South Africa to ensuring that all public and private activities are conducted in accordance with the national legislation, relevant international treaties and international best practices. On the other hand, the Strategy also provides practical effect to the policy and also provides the direction necessary for a viable space programme.

Mr. Chairman, the Space Affairs Act also sufficiently addresses the issue of registration and liability and has in place enforcement penalty provisions for non-compliance with the provisions of the Act.

As mentioned in the statement under the general exchange of views, the Registration and the Liability Conventions were considered by Cabinet last week and now they would require ratification in terms of Section 2312 of the Constitution of the Republic of South Africa by Parliament.

Mr. Chairman, the other legal instrument governing space activities in South Africa is the National Space Agency Act of 2008 which is administered under the Department of Science and Technology. As we indicated in our statement under the general exchange of views, this Act was promulgated in January 2009. The Act provides for the establishment of a Space Agency as a new public entity which will coordinate and integrate national space science and technology programmes and conduct long-term planning for and implementation of space-related activities in South Africa for the benefit of all citizens. The Act sets out the primary objectives of the Space Agency Act, promoting the peaceful uses of outer space, supporting the creation of an environment conducive to industrial development in space technologies, fostering research and astronomy, Earth observation, communications, navigation and space physics, advancing scientific engineering and technological competencies and capabilities through human capital development and outreach programmes, and fostering international cooperation in space-related activities.

Mr. Chairman, in addition to the above-mentioned instrument, there are other supporting legal instruments in support of the South African space activities that are relevant to the conduct of space and space-related activities in our country that are worth mentioning to the Subcommittee.

These include, firstly, the Spatial Data Infrastructure Act of 2003, which provides for a policy framework to facilitate the capture, management, maintenance, distribution and use of spatial information, including data sharing.

Secondly, the Disaster Management Act of 2002, which promotes utilization of outer space data for management of disasters. The Act provides for an Integrated Disaster Management Policy that focuses on preventing or reducing the risk of disasters, mitigating severity of disasters, emergency preparedness, rapid and effective response to disasters, and post-disaster recovery. The Act also provides for establishment of national, provincial and municipal disaster management centres and disaster management volunteers.

Thirdly, is the Independent Communications Authority of South Africa of 2000, which establishes a regulatory body responsible for allocation of frequencies in compliance with the International Telecommunication Union Regulations.

And lastly is the Astronomy Advantage Act of 2007, which provides for the preservation and protection of areas within the Republic that are uniquely suited for optical and radio-astronomy for intergovernmental cooperation and public consultation on matters concerning national and significant astronomy advantage areas. The relevant objects of the Act include provision of measures to advance astronomy and related scientific endeavours in the Republic, development of this field's capabilities and expertise of those engaged in astronomy and related scientific endeavours in Southern Africa, and identification and protection of areas in which astronomy projects of national strategic importance can be taken.

Mr. Chairman, while we are aware of the view that our present legislation framework is advocated to address our current level of space activities, we are sensitive to the fact that this legal framework may have to be elaborated on and expand in the future, especially once we have ratified the remaining space treaties. Thank you Mr. Chairman and distinguished delegates for your attention.

The CHAIRMAN: Thank you very much distinguished representative of South Africa for your statement on agenda item 11, General Exchange of Information on National Legislation. By this statement, you informed us about a number of legal instruments governing the conduct of space activities in your country. Particularly you informed us about the Space Affairs Act of 1993 and which established the South African Council for Space Affairs which is the statutory body responsible for development of regulations on how space activities should be conducted in South Africa.

You also mentioned another Act, namely, the National Space Agency Act No. 36 of 2008, so it is quite a recent Act, which provides for the establishment of a Space Agency as a new public entity which will coordinate and integrate national space science and technology programmes.

You then elaborated in greater detail about the primary objectives of the Space Agency and you also mentioned some additional legal instruments that are supporting the main Acts that have been in force in South Africa.

Finally, you said that this legal framework might have to be elaborated on and expanded in future and we will certainly welcome your further information about this continuing process.

Thank you very much distinguished representative of South Africa for your statement.

I now give the floor to the distinguished representative of Poland.

Mr. M. KUBERSKI (Poland) (*interpretation from French*): Thank you very much Chairman. Let me take this opportunity to share some information of a few members of the Subcommittee on work undertaken by our Expert Group in Poland on the new space law.

After 40 years of activities involved with space, my authorities decided to pass a law which would be a fairly complex law providing for different peaceful uses of outer space. It is a compound law which will be able to deal with both research and the involvement of public and private sector actors from Poland for peaceful uses of outer space. This is why an Inter-Ministerial Group has been set up to continue this work and we would hope that by the end of the year the work on the new Polish Space Law will be concluded.

We also say that this is an important year for us in this field for another reason. By the end of the

year we are also going to conclude our work on the National Space Policy Strategy.

The CHAIRMAN (*interpretation from French*): Thank you very much Poland. You informed us on the work of a Group of Experts dealing with the preparation of a major law to govern space activities as well as your efforts in this field.

Thank you Poland. I now give the floor to the distinguished representative of France.

Mr. P. CLERC (France) (*interpretation from French*): Thank you very much Mr. Chairman, distinguished friends. France has acquired space legislation in June 2008. The idea of this Law is to seek to situate the conditions according to which the French Government will authorize and command space operations under its jurisdiction or its responsibility in conformity with the main United Nations space treaties, in particularly the 1967 Treaty, Articles 6 and 7, the 1972 Convention on Liability for Damage Caused by Space Objects, and the 1975 Convention on Registration.

Now this Law also stems from commitments that have been made by the French Government, in particularly with the European Space Agency and also with concerning the Space Centre in Guyana since 1975 and renewed since. This concerns all of the ground installations for Ariane and now Soyuz launches, which are all part of the ESA Programme.

This also gives translation to _____(?) efforts(?) we have made concerning the operation of launches with concerned European States whose cooperation and firms participate in the operation and exploitation of the Ariane and soon the Vega Programmes, concerning launch operators, were foreign operating under French jurisdiction. This is what this Law covers. It also covers French satellite operators where the control of their satellites or for authorizations for launch in other territories when France's liability is invoked.

The system of authorization and control will be set forth in an upcoming French Government Decree and will become law in 2010. This is under the responsibility of the Ministry of Space which is a part of our Ministry of Research, basing itself on the technical, the competency of the CNES, the French National Space Agency.

So it is that Agency, the CNES, which has to propose the required technical regulations and make sure that they are properly implemented. The President

of the CNES also has a safeguard role to play, safety and coordination for all launch activities, as well as others because there are certain industrial activities on these bases, when carried out on our French base is Vierra(Guyana?).

Now the aim of the text is to codify existing practices and certainly not to create additional constraints, the idea is to avoid these, or to create new bureaucratic or technical hindrances. Concerning the CNES, measures will be implemented to avoid any conflict of interest with its other public, that is governmental, or activities as a Space Agency. It is understood, of course, that CNES will _____(?) any commercial activity.

Concerning private operators and their foreign clients, with this Law will provide them with greater legal security, particularly in interests concerns liability with a formulized State guarantee from the Government on the behalf of these operators, for any compensation for damages caused to third parties on the ground or in air space exceeding a range of 50 to 70 million Euros compensation.

This Law also enabled us to validate the cross-waiver claims among actors here, not only confirming our legal validity, but making them systematic, default clauses for any operation involving a launch. Again here the spirit is to avoid, to provide legal guarantees.

The technical regulation to be adopted is currently being concerted with our operators and we are also undertaking international contacts and meetings, recently very fruitful that we had with our American friends who have explained their practices, already veteran to this practice in terms of space.

So this text and the Application Decree will be the subject of a more detailed presentation later.

Chairman, distinguished delegates, thank you very much for your attention.

The CHAIRMAN (*interpretation from French*): Thank you very much distinguished representative of France for that contribution of yours to our discussion. In your contribution you have shared information with us as to a space law adopted in June 2008 and you have stressed that this Law sought to set the conditions according to which the French Government would authorize and control the space operations under its jurisdiction or within its sphere of responsibility.

You have also proceeded to inform us as to the efforts made in the Guyana Space Centre since 1975 and this over the entire set of Ariane and Soyuz launch facilities.

You have also indicated that the system of authorization and control is going to be made applicable following a Decree and it is going to go finally into operational force as of 2010.

And finally, you have explained that this responsibility is exercised by the Ministry of Research under their aegis. And you have also informed us, I believe that it was very interesting to note that the presidency of CNES also has safeguards or safety authority for all the activities emanating from the Guyana Space Centre Facility and this instrument seeks to codify not to restrict or introduce new constraints into existing practices.

Thank you very much for your presentation distinguished representative of France.

(Continued in English) In this way, dear colleagues, distinguished delegates to the Subcommittee, my list of speakers for this afternoon is exhausted.

Is there any other delegation wishing to speak at this very moment?

I see none.

We will, therefore, continue our consideration of agenda item 11, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, tomorrow morning.

Distinguished delegates, I would now like to turn to our presentation that I informed you about it at the beginning of this afternoon's meeting.

I now give the floor to Mr. Philippe Clerc of France who will make a presentation entitled "French Space Law".

(Continued in French) Mr. Clerc you have the floor.

Mr. P. CLERC (France) *(interpretation from French)*: Well, I am going to be making this presentation in French and I have given you a PowerPoint presentation in English which might prove useful for some of us.

This Space Law was adopted after several months long Parliamentary work. There was the French Senate consideration then Assembly work then there was a joint adoption made in 2008 so there was broad consultation and now this has been passed but it is going to really go into force actually once the Application Decrees, Enforcement Decrees and the Technical Regulatory Acts have gone through. And indeed there will be a transition period for operators of one year after this goes into full swing.

The purpose of this Law is to set up a space legislation at a national level to ensure that operations are properly regulated. This is a very complete set of legislation. There are three levels of this. There is the Parliamentary adoption. Then there is Enforcement Decrees, Application Decrees and then there are the Technical Modification Decrees and Orders which come from ministerial sources or from the Head of the CNES, when it comes to CNES missions.

So not only is there an authorization control system which is set up but this also comes as an amendment to the CNES Law which had not undergone any change since 1961 you see. So I am going to be very quick in my presentation but I have gone through all of the points screened above.

So who are the potential applicants to be granted authorizations or not? What are the general conditions for authorizations, the more specific regimes, etc.? Then we are going to be going to the procedure, the technical, regulatory angle, the procedures and requirements in technical terms. I am also going to be speaking about the control regime which goes into swing. I will be swinging at somewhat greater length about the French Guyana Space Centre which is, of course, something which goes beyond the purview of strictly French jurisdiction alone. I will explain to you what the liability regime is as per this Act and I will give you some specific provisions relating to these activities.

The background, I think, has been sufficiently dealt with. There is the United Nations Outer Space Treaty and our cooperation with space launching States. As for the satellites, EUTELSAT as a société anonyme was a purely governmental one and then it was privatized in 2001 and it was subjected to the Code of Post and Telecommunication Services. So this is the Radio Code. In other words, it is going to be submitted to the corresponding authorizations.

This Law, this Act, concerns space operation authorizations. So the operations are all activities consisting in launching or seeking to launch an object

in outer space and of ensuring the command of that self-same space object during its trajectory in outer space. Here, we are referring to the operator as being a free agent and not a sub-contractor.

Now who and what applicants are subject to this authorization regime? To start off with, any operator exercising within French territory, French nationality operators, because sometimes the French operators may exercise their operations elsewhere. The Starcell(?), for example, was a prime demonstration of that. A French jurisdiction-based entity was flying from Balkanour(?), you will recall. And then it can concern satellites operators conducted, commanded from France or, for example, entities purchasing French launch capabilities.

Then there is also the transfer of the control of the satellite. There can be the case, for example, where a French satellite operator purchases a foreign satellite, takes control of it or vice versa where a French satellite is purchased by a foreign agent. There are all these liability issues. And this is what we sought to impose a regime which governed and regulated all of these operations.

Now, authorization conditions. There are two sets of conditions. They have to do with the personality of the entity and the Ministry of Outer Space goes into this. There are the financial, the professional, the guarantee of requirements whether it is a legal entity or not which is referred to. And then there is also the conditions for the operators. That is the CNES reserve domain.

There is one exception and that is that the technical regulations may not necessarily apply and that may be the case for evident jurisdictional reasons. There can be waivers for launch services under foreign jurisdiction. For example, an operator of a French satellite who is financed in the United States or in Russia, for example.

There is another specific regime characteristic which has free authorization conditions apply. Any industrialist or laboratory experimenter can submit to CNES very innovative experiments or projects, pre-prototype things, and file for Conformity Certificates which are very specific. This would, once delivered, speed up the subsequent authorization delivery, if there is pre-application. And then this is something that we have the equivalent mechanism in our ESA Agreement for the development of that launching facility.

So I have spoken to you about these items. Now let us get into procedure. All sorts of activities

are subject to authorization but depending on the operators who have a standing and who have a history and tradition, all of them are equal in the eyes of the law, with others necessarily. So we have indeed made provision to have a system of authorization licences to give them our stamp of approval, not just as operators, but to authorize the system that they are already using at present. For example, let us imagine a licence for Arian Espace using an Ariane-V generic system. That sort of a licence would simplify the granting of case-by-case licences subsequently because then once the general package licence or authorization is given, then we will only be looking at the specificity of the specific project seeking authorization subsequently. There are even cases, for example, where, and here we are thinking in terms of rendering greater flexibility possible or there are routine pre-licensing pre-authorizations, for example, with information submitted *expost facto*. And there are authorizations which are also specific to a foreign commanded control operations because they are not necessarily totally within the fold or purview of French jurisdictional approaches.

So the applications are made through the Ministry of Space which looks at the technical side of things and then CNES gets two months to pronounce or a much shorter two-week period in case there is a pre-authorization already in place.

Now the technical regulations. This is a one level of authorization lowered, just purely ministerial. There are three types here. One for launch operations, one for satellite operations and the third has to do with the Guyana Space Centre *per se*.

Now the idea of these technical regulations is that they should be safety driven and that they should be as close as possible to the practices and current and traditional uses in Europe. There will be technical regulations and to go along with that, there will also be a Good Practices Code which recognizes previously exercised practices and which will indeed give a presumption, operate on a basis of presumption that these good practices continue to be relevant and should be given precedence.

Now this is the sort of thing that is to be included in the technical file for the application. Now the apostural(?) or the *expost facto* control regime. Let us say that there is an A-OK which has been given, the operator is going to be preparing this operation, usually the authorization is granted, it has been done on paper and just needs consolidation, and this authorization also has certain specific prescriptions and the Ministry and the CNES are going to be going through the detail

making sure that each and every one of these specific points has been complied with in the preparation of the satellite in question. This is the coercative(?) part that I am not going to be stressing right now.

Now, as for the Guyana Space Centre, here this is also a novel element. The President of the CNES has been mandated with a specific administrative police role, enforcement role, as regards the exploitation and the facilities of the SCG, on behalf of the French Government for launch security and safety and this role the industrial elements of the manufacturing elements, the boosters. Basically, there is a lot of coordination work between the industrial manufacturing aspects and the Government regulatory angle.

So this goes for the safety and security. That I will not be dwelling on.

As for the State Government guarantees, the liability angles and the cross-waivers of liability, we have tapped into the 1972 regime with absolute liability, in other words, no fault liability for all damage on the ground and in airspace and this is only on the operator alone, not at all on the shoulders of the producer, the manufacturer. Only the operator is liable because he is the one filing for authorization.

It is also liability on a fault basis as per the Treaty of 1972 for Damage Caused in Outer Space, and this liability on the part of operators is also limited in time. He is obliged to comply with the space and time constraints of the licence authorizations. So he has to do the work he has been licensed to do within the pre-agreed, pre-authorized period of time.

This has been formalized throughout the sectors of French Government involvement. The State guarantee kicks in as from the 60 million Euro threshold at present and this is a guarantee that is two ways. For example, if the French Government is sued under the 1972 Convention as launching State, there the French Government's claim for compensation against the space operator is going to be limited to that 60 million Euro threshold, which applies today, and vice versa should the space operator be sued and ruled against him in a court, each indeed can also benefit from the State guarantee as from that 60 million Euro threshold. So at worst, it is 60 million Euros which is due.

The cross-waiver of claims were also validated. This does not go without saying in French legal tradition because these cross-waivers only are valid among professionals within a given sector of

activity. And we had some reservations as to whether satellite operators were exercising the same profession as a launching State or a launcher. So we decided to validate these cross-waivers of liability in explicit fashion.

Now, this Law covers a certain complement and that has to do with imaging technologies. Here we are no longer within the same regime because it is no longer pre-authorization regime which is going to be triggered. We are operating within a regime of pre-declarations, pre-notifications, in other words, any operator which receives data from a satellite must declare that that indeed is being done and that declaration should be filed with the French Government as from the point and time where French interests are involved or become at stake, then possibly there will be a reaction on the part of the Government towards the operator that has filed for authorization or declared intentions and that will be done on a case-by-case basis.

So to conclude, and this Act which was passed last June, still needs two Enforcement or Application Decrees which are going to be approved by the Conseil d'Etat(?) which is the supreme authority in legal terms within the French Government and these Decrees, which still remain to be passed, should be published in May, if everything goes through properly. And then the technical regulation, regulatory text will come towards the end of the year, once there is proper consultation with the industrial enterprise involved. In other words, this should be ready to go into force as per the end of next year.

To conclude, we believe that this Law represents a proper balance between the legal security afforded to operators in full observance of international treaties and in full consideration of the several constraints which might have to be imposed upon operators subsequently.

I have the text of Law which I have brought along with an English translation which is approximate. I would like to thank you for your attention Chairman.

The CHAIRMAN (*interpretation from French*): Thank you very much for your presentation, Sir, which has presented and engaged in explanations of the specificities of French national legislation which has just been adopted by the French Parliamentary structure which has been enacted by the French Presidency. This represents a major contribution to the development of national legislation which is now

officially presented for the consideration of this Legal Subcommittee.

Thank you very much for those two versions of the Law, in the French original and in the English translation thereof.

(Continued in English) Dear colleagues, we still have another presentation and, namely, it is the presentation by Mr. Roisse of EUTELSAT IGO who will make comments from EUTELSAT IGO on the French Space Law. You have the floor Mr. Roisse.

Mr. C. ROISSE (European Telecommunications Satellite Organization, EUTELSAT IGO) *(interpretation from French)*: Thank you very much Chairman. Ladies and gentlemen, I am going to be presenting the comments of EUTELSAT now on the GEO with regard to the French Outer Space Operations Act. As Philippe Clerc has stated in his presentation of this Law which stems from the international instruments, the Outer Space Treaty which entered into force on 10 October 1967, and the French have sought to regulate the outer space activities taking place under French jurisdiction and this goes for launching operations just as for satellite operations *per se*.

The legitimacy of this sort of a legal framework goes without question and is self-evident and is obviously the prerogative of any sovereign State to develop such a framework. It should be stated that this legislative will be applying in practice to the launch services provider, Ariane Espace SA, and to the satellite operator, EUTELSAT SA.

In this regard, at its thirty-fifth meeting in May 2007, the Assembly of the Forty-Eight States Members to the EUTELSAT _____(?) Convention, after due examination of the reports of the Advisory Committee and the Executive Secretary and the detailed presentation made by EUTELSAT SA noted the French draft Act on Space Activities. At the time, this was a draft and the text had not yet been published after approval, we noted that this might have an impact on EUTELSAT SA's operations. And the Assembly of Parties requested the Executive Secretary to follow the development of this new legal framework on behalf of EUTELSAT IGO and to keep the Advisory Committee and the Assembly of Parties informed of any events which might affect EUTELSAT SA's ability to abide by its basic principles.

In a letter of 17 January 2008 addressed to the Organization, the CEO of EUTELSAT expressed the

concerns of the company regarding the financial, operational and legal consequences of the draft Law on the activities of EUTELSAT. And the Executive Secretary and the Advisory Committee took into consideration the content of this letter during the work that they conducted on this subject as well as of the thrust of the information provided by the company on the consequences the new Law might have on the company's competitiveness. And it is for this reason that the Advisory Committee requested the Executive Secretary to commission a study, the contents of which was presented to Committee prior to being presented at the Assembly of Parties at its next meeting.

And one can usefully recall that the European Telecommunications Satellite Organization, EUTELSAT, was established by virtue of an international treaty, the Convention, to provide space capacity for telecommunications, public services through a satellite system. The restructuring of this Organization which took place on 2 July 2001 resulted in a transfer of all of the assets and operational activities to a company, EUTELSAT SA, operating under French law, and in the re-definition of the Organization's role, by means of amending this Convention, it is stated in the amended Convention, the text of which was approved by consensus by member States, that EUTELSAT would supervise EUTELSAT SA's activities. EUTELSAT IGO would supervise EUTELSAT SA in relation to principles called Basic Principles, which I have referred to a while ago, which the company is committed to abide by. These have to do with obligations of coverage for the satellite system of all member States' public service/universal service, non-discriminatory access to EUTELSAT's services and fair competition.

It should be added that the amended Convention also states that the State in which EUTELSAT SA operates will provide an environment conducive to the establishment and operation of the company.

Indeed, according to Article 2B(iii) of the amended Convention, it is stated that all Parties on the territory of which EUTELSAT is established or operated, must, in conformity with arrangements must be concluded with EUTELSAT SA, must facilitate the operations of EUTELSAT.

Of course, EUTELSAT is a company operating under French law and it is, therefore, subject to all the laws and rules in force in France and just the same as other French companies are. However, the above-mentioned points explain and justify the reasons for which EUTELSAT IGO is particularly and

specifically interested in the new national legal framework which will be applying to space operations in the future.

The Executive Secretary has been monitoring the development stages of this French legislation and has regularly reported to the Advisory Committee. This issue is on the agenda of the next meeting of the Assembly of Parties which will be taking place on 13 and 14 May 2009 and at this meeting two reports will be presented, one by the Executive Secretary, the other by the Advisory Committee and this, along with studies carried out on the subject.

Prior to its adoption in June 2008, there was some positive amendments made concerning operations in space to the Act in question which were particularly relevant for space operators like EUTELSAT SA. It appears that similar positive moves have occurred with respect to Decrees of Application, as Philippe Clerc has referred to quite rightly.

And the final stage of the process will chrysalises in the technical regulations which are currently being developed in consultation with field operators.

Since the purpose is to have this new legislative framework effectively in place mid-2010, the Executive Secretary intends to continue monitoring regularly the very stages of the process of work prior to its full entry into force.

After sufficient time has elapsed, we will be observing the application practice of the above legislation and will be reporting to the Assembly of Parties on the basis of the experience which will have been acquired in the interim period.

I would like to inform you that there is a copy of my statement at the back of the room towards the right. Thank you very much.

The CHAIRMAN (*interpretation from French*): Let me thank the observer from EUTELSAT for those remarks concerning the French Act on Space Operations. We are also very grateful to you for the distribution of the written text.

(*Continued in English*) Distinguished delegates, I would now like to adjourn this meeting but before doing so I have to apologize to the Chairperson of the Working Group on National Legislation that should have started its work during this meeting in the afternoon today. However, as you see, as everybody

agrees, it would be impossible to start it right now because we have another important task to attend the Reception offered by the distinguished delegation of the United States downstairs in the Mozart Room. But certainly we will take care of giving sufficient time to the Working Group tomorrow morning.

And I would like now to remind delegates of our schedule of work for tomorrow morning.

We will meet at 10.00 a.m. At that time, we will continue our consideration of agenda item 10, National Mechanisms Relating to Space Debris Mitigation Measures. We will also continue our consideration of agenda item 11, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space. At the end of the morning, we will have two presentations pertaining to agenda item 10 by the representative of Japan entitled "Space Debris Mitigation Mechanism in Japan: the Case in JAXA", and by the representative of Germany entitled "Implementation Mechanism of Space Debris Mitigation Guidelines by DLR".

The Working Group, as already promised, on National Legislation Relevant to the Peaceful Exploration and Use of Outer Space, will hold its first meeting, and the Working Group on the Status of the Treaties will hold its sixth meeting, if time permits, of course.

Are there any questions or comments on this proposed schedule?

Two questions. One coming from the distinguished delegate of Greece. The other coming from the distinguished Ambassador of Chile.

So Greece first.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): Thank you very much Chair. I think you forgot me Sir. In other words, we had also said that the Working Group on the Status of the Five Treaties would take place this afternoon after the Working Group of my colleague and friend from Austria. So please kindly include this in tomorrow morning's work so that our humble group can make its presentations.

Now since I have the floor, I would also like to request two things from those colleagues who preceded in taking the floor. I want to thank them for their contributions. But I would ask, through you Sir, and of other delegates who have presided new legislation, through electronic means or otherwise, give

us the English or French texts as many of us are not multi-lingual and, for example, throughout Mr. Clerc's presentation, I had taken three pages of questions. So this would help me organize myself a little bit better.

If you may remember that the year before last we organized an entire evening's session at the, say, concerning destruction of satellites and perhaps you could organize something similar according to availability of our colleagues, France and EUTELSAT IGO to do the same thing because we really have a lot of questions to ask them and this would give us the possibility of sharing experience with them and talk about the applicability of this new legislation.

Thank you and again let me thank the colleagues for their presentations.

The CHAIRMAN (*interpretation from French*): Let me thank the representative of Greece. Let me also apologize because I forgot to mention that your Group's session, just a moment please, I have already instructed Madam Marboe and I express my apologies to her like I did to you. Tomorrow the two Working Groups let us hope will be able to continue their work.

I give the floor to Chile.

Mr. R. GONZÁLEZ ANINAT (Chile) (*interpretation from Spanish*): A point of order, Mr. Chairman. I think we have already heard a long series of presentations. Let me make a proposal. Let us go to the cocktail now. Thank you.

The CHAIRMAN (*interpretation from French*): I fully agree with you Ambassador.

(*Continued in English*) If there is no other comment, this meeting is adjourned.

The meeting closed at 6.05 p.m.