Space Law and Economic and Social Development - The role of the Legal Subcommittee

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Legal Subcommitee - Origins

- **1958** (resolution 1348 (XIII)) General Assembly establishes *ad hoc* Committee on the Peaceful Uses of Outer Space

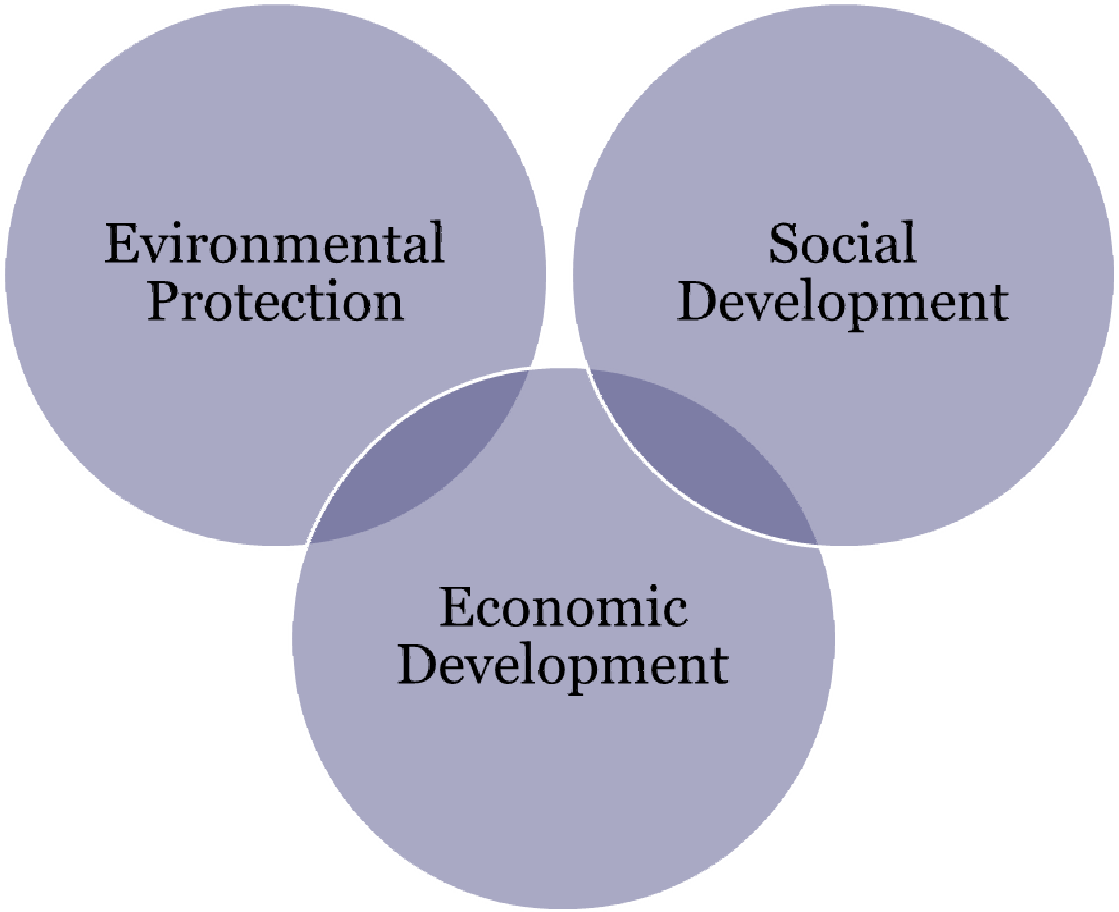
- **1959**, (reaffirmed mandate) resolution 1472 (XIV), GA establishes Committee as a permanent body

- **1961,** first meeting of Permanent COPUOS facilitated adoption of GA resolutions 1721 A to E (XVI)
  - Resolution 1721 A - principles commended to States for their guidance:
    a.) international law, including the Charter of the United Nations, applies to outer space and celestial bodies;
    b.) outer space and celestial bodies are free for exploration and use by all States in conformity with international law and are not subject to national appropriation
  - Resolution 1721 B, - GA *inter alia* expressed belief that United Nations should provide a focal point for international cooperation in the peaceful uses of Outer Space, and stipulated the first mandate for the registration of objects launched into outer space

- COPUOS currently has 71 member States , in addition to international organizations (intergovernmental and non-governmental organizations) having observer status

- Decisions subject to agreement without voting (Consensus)

Sustainble Development



Sources of International Law

- Treaties
- Custom
- General Principles of International Law
- Resolutions, Judicial Decisions of International Courts and Tribunals
- Doctrines of Legal Specialists

Emerging Principles of International Law

- Duty of States to ensure sustainable use of natural resources
- Public participation and access to information and justice
- Good Governance
- Integration and interrelationship in relation to human rights and social, economic and evironmental objectives

International Space Law

- Five United Nations Treaties (including Other Bilateral / Multilteral Agreements)
- Custom
- Declarations and Legal Principles
- General Assembly Resolutions

Treaties

- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, entered into force on 10 October 1967 (***101 States parties, signed by 26 additional States***)

- Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer, entered into force on 3 December 1968 ***(91 States parties, signed by 24 additional States with acceptance by two international intergovernmental organizations)***

- Convention on International Liability for Damage Caused by Space Objects, entered into force on 1 September 1972 ***(88 States parties, signed by 23 additional States with acceptance by three international intergovernmental organizations)***

- Convention on Registration of Objects Launched into Outer Space, entered into force on 15 September 1976 ***(55 States parties, signed by 4 additional States with acceptance by two international intergovernmental organizations)***

- Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, entered into force on 11 July 1984 ***(13 States parties, signed by 4 additional States parties)***

Declarations and Legal Principles

- Declaration of Legal Principles Governing the Activities of States in the Exploration and Uses of Outer Space (General Assembly resolution 1962 (XVIII) of 13 December 1963)
- Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting (resolution 37/92 of 10 December 1982)
- Principles Relating to Remote Sensing of the Earth from Outer Space (resolution 41/65 of 3 December 1986)
- Principles Relevant to the Use of Nuclear Power Sources in Outer Space (resolution 47/68 of 14 December 1992)
- Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries (resolution 51/122 of 13 December 1996)

Custom & Treaties (I)

- Custom - Binding on all States
  - State Practice and the Corresponding Views of States
- Treaties - Binding amongst the Parties
- Codification
  - Updates to law by treaty making processes

Custom & Treaties (II)

- Declaration of Legal Principles Governing the Activities of States in the Exploration and Uses of Outer Space (General Assembly resolution 1962 (XVIII) of 13 December 1963

- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, entered into force on 10 October 1967

Custom & Treaties (III)

UN GA Resolution 1962 (XVIII)

- **Principle 1** - Exploration and use for the benefit and in the interests of all mankind
- **Principle 2** - Freedom of exploration and use in accordance with international law
- **Principle 3** - Non- appropriation
- **Principle 4** - Exploration and use of outer space in accordance with international law, and Charter of the United Nations
- **Principle 5** - International responsibility for national activities in outer space
- **Principle 6** - Cooperation and mutual assistance
- **Principle 7** – Jurisdiction, control and Ownership
- **Principle 8** - Internationally liability for damage
- **Principle 9** - Astronauts as envoys of mankind

1967 Outer Space Treaty

- Exploration and use for the benefit and in the interests of all mankind – **Article I**
- Principle of non-appropriation - **Article II**
- Compliance with International Law and Charter of the United Nations – **Article III**
- Weapons of mass destruction - **Article IV**
- Astronauts as envoys of mankind - **Article V**
- Responsibility for national activities in outer space - **Article VI**
- International liability for damage - **Article VII**
- Jurisdiction, control and ownership - **Article VIII**
- Cooperation and mutual assistance – **Article IX**
- Installations on the Moon and other celestial bodies - **Article XII**

UN General Assembly Resolutions

- Recommendations on enhancing the practice of States and international intergovernmental organizations in registering space objects (resolution 62/101 of 17 December 2007)

- Application of the concept of the "launching State“ (Resolution 59/115 of 10th December 2004)

Implementation of International Rules

- States cannot invoke legal procedures of national systems for not complying with international rules - Article 27, 1969 Vienna Convention on the Law of Treaties

- States have complete freedom how they fulfil their international obigations

- Incorporation techniques based on Constitutional procedures (National Legislation and Regulations)
  - Standing Automatic
  - Legislative *ad hoc*
  - Automatic *ad hoc*

- Implement National (Domestic / Municipal), Policies, Laws, and Regulations taking into account the differing legal traditions, and distinct cultural, economic and industrial features of States

Legal Subcommitee - Agenda

- Status and application of the five United Nations treaties on outer space
- Examination and review of the developments concerning the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets
- Capacity-building in space law
- Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space
- Matters relating to:

  (a) The definition and delimitation of outer space;

  (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

Cross-cutting Items (I)

- **Review of international mechanisms for cooperation in the peaceful exploration and use of outer space**
  - Regional and interregional cooperation
  - Matters relating to remote sensing of the Earth by satellite, including applications for developing countries and monitoring of the Earth's environment
  - Space debris
  - Space-system-based disaster management support
  - Recent developments in global navigation satellite systems
  - Use of nuclear power sources in outer space
  - Near-Earth objects
  - International Space Weather Initiative
  - Long-term sustainability of outer space activities (4 Working Groups)
  - Examination of the physical nature and technical attributes of the geostationary orbit and its utilization and applications, including in the field of space communications, as well as other questions relating to developments in space communications

Cross-cutting Items (II)

- **National legislation relevant to the peaceful exploration and use of outer space**
  - Long-term sustainability of outer space activities – Terms of Reference (In accordance with Article VI of the 1967 Outer Space Treaty) Working Groups A, B & D
  - Matters relating to remote sensing of the Earth by satellite, including applications for developing countries and monitoring of the Earth's environment

Cross-cutting Items (III)

- **General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee**
  - Space debris
  - Long-term sustainability of outer space activities – Terms of Reference (In accordance with Article VI of the 1967 Outer Space Treaty) - Working Groups A, B & D

Cross-cutting Items (IV)

- **Information on the activities of international intergovernmental and non-governmental organizations relating to space law**
  - e.g., Permanent Court of Arbitration, 2011 Optional Rules for the Arbitration of Disputes Relating to Outer Space Activities – Open to use by States, international organizations and private entities (i.e., non-governmental entities)

Prospects for sustainable development (I)

1. Long-term sustainability of outer space activities – Terms of Reference (In accordance with Article VI of the 1967 Outer Space Treaty) Working Groups A, B & D
2. Space Debris
3. Use of nuclear power sources in outer space

- Vicarious Liability
- Standards of Negligence
- Establishment of Fault and Liability
- Review of the concept of "Responsibility"
- Procedures for removal of abandoned spacecraft

Prospects for sustainable development (II)

- Matters relating to remote sensing of the Earth by satellite, including applications for developing countries and monitoring of the Earth's environment

  - Principles Relating to Remote Sensing of the Earth from Outer Space (resolution 41/65 of 3 December 1986)
    - Review of current practices and application of the Principles; Access to data; Data protection; Privacy; National security, etc

Concluding Remarks

- Promote adherence to and compilance with UN Outer Space treaties, including their Interpretation and application
- Build capacity
- Implement National Policies, Laws, and Regulations
- Improve processes between COPUOS subcommitees and increase discussions on substantive items
- More agreements