

Canada**Agenda Item 10 – General exchange of information on non-legally binding UN instruments on outer space.****Delivered by: Curtis Schmeichel, Global Affairs Canada**

Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
Sixty-fourth session, Vienna, May 5-16, 2025

Chair, Distinguished delegates,

The development of international law is a relatively slow process. It usually evolves over time based on the practice of States and the gradual recognition that a given practice is required, and that it should be legally binding, on States. Sometimes these practices are codified in treaties for greater certainty and accompanied by the creation of international intergovernmental organizations.

The development of International Space Law is somewhat unique amongst areas of international law. The first legal principles were developed at a time when there was very little practice, and very few participants. The first treaty, the Outer Space Treaty, was concluded a little over ten years after the first space object was placed in Earth orbit. This is a remarkable amount of progress in legal norm building over a short period of time in a novel area of human activity. Humans navigated the seas for millennia before the first maritime laws were codified into treaties. International Air Law moved more rapidly towards law making, with the first treaty appearing 16 years after the inaugural flight by the Wright Brothers, but still almost 140 years after humans first took flight over Paris in the Montgolfier Brothers' hot-air balloon.

When looking back on the swift development of International Space Law, it is instructive to consider how this was achieved. International Space Law was developed

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by a committee of States from different regions of the world representing different legal traditions. COPUOS was formed shortly after the first space object was placed in orbit to review international cooperation in the peaceful uses of outer space and to study the nature of legal problems which may arise from the exploration of outer space. It offered an open forum where States could discuss and debate technical and legal issues related to the peaceful exploration and use of outer space, as it still does to this day.

If the forum was one key ingredient in the success of space law, the approach to legal norm building was another. COPUOS did not attempt to conclude a detailed treaty governing every aspect of outer space exploration. Indeed, it did not have the mandate to do so at that time. Instead, it outlined general legal principles relevant to the peaceful exploration and use of outer space in a non-legally binding format; UN General Assembly Resolutions. Opting for the flexibility of non-binding resolutions facilitated acceptance of new legal principles. Once adopted by the UN General Assembly, often unanimously, these principles were put into practice on a voluntary basis by States. For example, States began submitting registration information after the adoption of Resolution 1721B of 1961 long before the Registration Convention created a legally binding obligation to do so. The legal principles, put into practice by States, were then transformed into treaties, starting with the Outer Space Treaty. The approach to legal norm building through non-legally

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binding instruments proved to be a very successful model for rapidly developing International Space Law.

The final component in the successful development of International Space Law was the willingness to make steady progress. The resolutions adopted in 1961 and 1962 contained only a few paragraphs with 2 or 3 legal principles each; this was also true of Resolution 1884 adopted 1963 which only addressed one topic, the call to refrain from placing nuclear weapons and other weapons of mass destruction in orbit. While the General Assembly was calling for comprehensive legal principles right away, COPUOS resisted the temptation to do everything at once and instead delivered modest and consistent results each year. The modest results eventually culminated in a more comprehensive set of legal principles, which were set out in Resolution 1962 adopted on 13 December 1963. These legal principles went on to become the foundation for the Outer Space Treaty. The history of the development of space law illustrates that monumental achievements can be made in a relatively short time by combining small, consistent results on a regular basis. International Space law did not follow an all or nothing approach to development but instead, adopted a slow and steady pace to achieve great success.

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The use of non-legally binding instruments has been the method of choice for the progressive and successful development of International Space Law. While the pace has slowed over the years, progress on legal principles relevant to the peaceful exploration and use of outer space continues to this day. Some of the principles contained in current non-legally binding UN instruments may one day form the foundation of future treaties. The Legal Subcommittee should continue to look for opportunities to advance the development of International Space Law through whatever format is most appropriate based on the situation, including non-legally binding UN instruments.

Thank you.