



# General Assembly

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

**Report on the United Nations/Republic of Korea Workshop  
on Space Law on the theme “United Nations treaties on  
outer space: actions at the national level”**

**(Daejeon, 3-6 November 2003)**

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## **I. Introduction**

### **A. Background and objectives**

1. A continuous increase in space activities has meant that space law, policies and institutions have become a priority for a greater number of countries worldwide. It has also highlighted the need for ratification and effective implementation of the five United Nations treaties on outer space.
2. The Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III)<sup>1</sup> called for action to promote the development of space law to meet the needs of the international community. The Conference emphasized the importance of the United Nations treaties on outer space and invited States that had not yet done so to ratify or accede to the treaties.
3. A review by the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee revealed that one of the likely reasons for the low level of ratification of some of the treaties was a lack of awareness of the benefits of adherence to the outer space treaties.
4. The need for effective laws and policies on space activities, not just at the international level, but also at the national level, has become clear to the increasing number of States now actively involved in the field of space. The successful operation of space law, policies and institutions in a country relies on the presence of suitable professionals.
5. The Action Plan of the United Nations Strategy for an Era of Application of International Law called on every office, department, programme, fund and agency of the United Nations system to review its current activities and consider what else it might do, within its existing mandate and given existing resources, to promote the application of international law and to provide technical assistance to help Governments implement their commitments under the treaties to which they are or might wish to become parties.
6. In order to address those needs and actions, the United Nations, together with the Republic of Korea, organized a Workshop on Space Law in Daejeon, Republic of Korea, from 3 to 6 November 2003 for the benefit of countries of Asia and the Pacific. The main objectives of the Workshop were to promote understanding, acceptance and implementation of the United Nations treaties and principles on outer space, especially in Asia and the Pacific, and to discuss the implementation of the United Nations treaties on outer space at the national level.
7. The Workshop was the second in a series of workshops being organized to build capacity in space law and the first for Asia and the Pacific. The first such workshop was held in The Hague in 2002 (A/AC.105/802 and Corr.1).
8. The present report was prepared for submission to the Committee on the Peaceful Uses of Outer Space at its forty-seventh session and to its Legal Subcommittee at its forty-third session. Papers presented at the Workshop will be published as proceedings of the United Nations/Republic of Korea Workshop on Space Law.

## **B. Structure and programme**

9. The programme of the Workshop was divided into two segments. The government official segment was designed to be of special benefit to government officials, in particular those from ministries of foreign affairs and justice. The segment included a detailed briefing on the United Nations treaties and principles on outer space, as well as national registries and licensing regimes. The space law specialist segment was aimed at participants with advanced knowledge of space law and allowed them to discuss specific issues related to the United Nations treaties on outer space.

10. At the opening of the Workshop, introductory and welcoming statements were made by representatives of the Netherlands, the Ministry of Foreign Affairs and Trade and Ministry of Science and Technology of the Republic of Korea, the Korean Aerospace Research Institute and the United Nations Secretariat. In addition, the Workshop heard presentations on national space policies and institutions, in particular from countries of Asia and the Pacific.

11. The government official and space law specialist segments focused on the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the Outer Space Treaty, General Assembly resolution 2222 (XXI), annex), the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the Rescue Agreement, resolution 2345 (XXII), annex), the Convention on International Liability for Damage Caused by Space Objects (the Liability Convention, resolution 2777 (XXVI), annex), the Convention on Registration of Objects Launched into Outer Space (the Registration Convention, resolution 3235 (XXIX), annex) and the five sets of United Nations principles on outer space.

12. Twenty-six papers were presented by invited speakers from both developing and developed countries.

## **C. Attendance**

13. Legislators, government officials, practitioners and educators from developing and developed countries in all regions were invited by the United Nations to participate in the Workshop. Participants held positions in governmental departments, space agencies, international organizations, national universities, research institutions and private practice.

14. Approximately 100 participants from the following 27 countries attended the Workshop: Australia, Brazil, Cambodia, China, Colombia, Czech Republic, France, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Malaysia, Mongolia, Morocco, Nepal, Netherlands, Nigeria, Myanmar, Republic of Korea, Singapore, Sri Lanka, Thailand, United States of America, Uzbekistan, Vanuatu and Viet Nam.

15. Funds provided by the United Nations and the Government of the Republic of Korea were used to cover the travel and living costs of participants from developing countries and countries with economies in transition. Twenty-six participants from those countries were sponsored after selection on the basis of their experience and

potential to influence the development of space law, policy and education in their countries.

## II. Summary of presentations

16. Presentations were made on the national space policies and institutions of Australia, China, India, Indonesia, Japan, Malaysia, Morocco, the Republic of Korea, Thailand and the United States.

17. The government official segment focused on the history, background, general aspects and substantive provisions of the Outer Space Treaty, the Rescue Agreement, the Liability Convention, the Registration Convention and the five sets of principles on outer space adopted by the General Assembly. The space law specialist segment considered specific issues addressed by the discussion and commentary papers presented on articles II and VI of the Outer Space Treaty, on the Rescue Agreement, the Liability Convention and the Registration Convention.

18. Under the United Nations principles on outer space, the government official segment considered, among other things, the rights and obligations of States under the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting (resolution 37/92, annex); the provisions regarding access to and distribution of data and information under the Principles Relating to Remote Sensing of the Earth from Outer Space (resolution 41/65, annex); the safety, notification, responsibility and liability provisions of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (resolution 47/68); and the promotion of international cooperation as provided for by the 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, annex).

19. Under the Outer Space Treaty, the government official segment focused on the provisions of articles VI-VIII of the Treaty as well as on issues relating to the military use of outer space, the status of astronauts and the role of intergovernmental organizations under the Treaty. The formal clauses of the Treaty were also discussed. The space law specialist segment discussed articles II and VI, in particular, the principle of non-appropriation and its implications; questions relating to property rights in outer space; the general features of article VI; the concepts of “international responsibility”, “national activities” and “appropriate State”; as well as the obligation of authorization and continuing supervision.

20. Under the Rescue Agreement, the government official segment reviewed the obligations of States relating to the rescue and return of astronauts and the return of space objects. The space law specialist segment reviewed the rights and obligations of States in relation to articles 1-5 of the Agreement; considered recent State practice under article 5; and discussed reasons for ratification of the Agreement by Member States.

21. Under the Liability Agreement, the government official segment considered the provisions of the agreement from the points of view of the victim and the launching State. Participants also considered the national legislation or measures put in place by some Member States regarding liability for space activities. The space

law specialist segment considered the concepts of “launching State”, “space object” and “fault” in terms of the Liability Convention, the type of damages that could be claimed, the provisions on the Claims Commission and domestic legislation enacted by some Member States.

22. Under the Registration Convention, the government official segment reviewed the provisions of the Convention in relation to the establishment of national registers, as well as information to be provided to the United Nations registry. The space law segment considered the Registration Convention in the light of the increasing commercialization and privatization of outer space, with emphasis on understanding concepts such as “launching State”, “space object” and “State of registry”, international cooperation among launching States and questions arising from the transfer of ownership of space objects.

### **III. Observations and conclusions**

#### **A. United Nations treaties and principles on outer space**

23. The Workshop agreed that the United Nations outer space treaties considered by it, taken together, provided a comprehensive legal framework for the exploration and use of outer space. It also agreed that the treaties offered numerous benefits and encouraged States to ratify them.

24. The Workshop further agreed that the United Nations principles addressed important specific space activities and were available for considering the ongoing development of space law.

##### **1. The Outer Space Treaty**

25. The Workshop noted that the Outer Space Treaty, in particular articles VI, VII and VIII, strongly encouraged States to consider establishing national space legislation, in particular where private entities became involved.

26. The Workshop encouraged States to authorize and provide continuing supervision for national space activities by way of national legislation or any other means in order to ensure that national activities were carried out in conformity with the provisions of the Outer Space Treaty.

27. With reference to article VI of the Treaty, the Workshop noted that the concept of “international responsibility” was broader than “state responsibility” and included all acts and not only wrongful acts.

28. With reference to article II of the Treaty, the Workshop agreed that the principle of non-appropriation remained fully valid and vital.

29. With reference to article II, the Workshop noted the existence of divergent views as to whether, and if so, to what extent, the use of resources by private entities required specific authorization under article VI. Many legal specialists were of the view that authorization by the appropriate State party was always required, while others were of the view that no specific authorization was required and that any breach of obligations under the Treaty would be a matter to be resolved between

the private entity and the State party. Nevertheless, the State party would have the international responsibility for any breach of the private entity.

30. The Workshop agreed that the use of resources by any private entity, whether or not specifically authorized, did not impute ownership of territory or resources in situ.

31. The Workshop agreed that development of an appropriate legal framework could encourage and facilitate the private use of space resources in ways that would be fully consistent with the principles of articles I-III and VI of the Outer Space Treaty. The Workshop noted that appropriate national space legislation should be a high priority for States involved in space activities.

## **2. The Rescue Agreement**

32. The Workshop noted that some States not parties to the Rescue Agreement had nevertheless provided information to the Secretary-General of the United Nations on objects discovered in their territory. The Workshop welcomed such notifications and agreed that other States that had not yet become parties to the Rescue Agreement should be encouraged to provide information on objects discovered on their territories in accordance with the provisions of the Agreement. The Workshop discussed whether the continued provision of information by States not parties to the Agreement could lead to the conclusion that the notification provisions of article V of the Rescue Agreement had become customary international law.

33. The Workshop noted that under the Rescue Agreement “territory under the jurisdiction of a Contracting State” should include maritime zones under the territorial sovereignty of a State.

34. The Workshop noted that, while the Rescue Agreement provided that the launching authority should bear the expenses of a contracting party in relation to fulfilling its obligations to recover a space object and to return a space object, there was no such equivalent provision for the rescue and return of astronauts.

35. The Workshop agreed that it was desirable for a launching authority to provide advance information to the greatest extent possible, to the States concerned and to the Secretary-General, on objects that are returning to Earth, in particular those of a potentially hazardous nature. The Workshop noted that such information could be provided under article IV of the Registration Convention, which provides that the State of registry may, from time to time, provide the Secretary-General of the United Nations with additional information concerning a space object carried on its registry.

36. The Workshop noted that States might wish to consider developing the principle of providing assistance for rescue of astronauts in outer space as set out in article V of the Outer Space Treaty.

37. The Workshop agreed that the term “personnel of a spacecraft” employed in the Agreement should be construed to encompass all persons on board a spacecraft.

38. The Workshop noted that non-registration of a spacecraft under the Registration Convention was no impediment to the application of the Rescue Agreement with respect to such a spacecraft.

### 3. The Liability Convention

39. The Workshop noted that the changing nature of space activities, in particular the commercialization of outer space, had presented new challenges to the Liability Convention.

40. It also noted that the application of the concept of fault could be problematic in cases of damage to space objects in outer space where control of a space object was transferred from one State to another. While the Liability Convention clearly provided for direct damage to be compensated, indirect damage could only be claimed if a clear link between the space activity and the damage could be established. The Workshop noted the view that it was doubtful whether “moral” damages could be claimed.

41. The Workshop noted that, while the Liability Convention provided for the option of a non-binding Claims Commission award, there would, nevertheless, be a strong impetus for the States concerned to honour such an award.

### 4. The Registration Convention

42. The Workshop noted that the Registration Convention was useful both for space-faring and non-space-faring States, provided that timely, complete and up-to-date information was furnished by the State of registry. It also noted that effective national regulations and prompt and complete reporting on space objects launched on the national registry by the States concerned could further increase the effectiveness of the Convention.

43. The Workshop noted that a State’s liability did not depend on whether or not that State registered a space object in accordance with the provisions of the Convention.

44. The Workshop noted that the Registration Convention did not provide for the transfer of control and supervision from the State of registry to another State.

45. The Workshop noted that any questions arising from the transfer of a space object from one State to another could possibly be addressed by the interpretation or application of the Registration Convention in such a manner as to enable the transferee to register the space object.

## B. Conclusion

46. The Workshop expressed its appreciation to the Government of the Republic of Korea and the Office for Outer Space Affairs for organizing the Workshop.

### Notes

<sup>1</sup> See *Report of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space, Vienna, 19-30 July 1999* (United Nations publication, Sales No. E.00.I.3), chap. I, resolution 1.