

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

*Unedited transcript*

641<sup>st</sup> Meeting

Monday, 3 April 2001, 10 a.m.

Vienna

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*Chairman:* Mr. Kopal (Czech Republic)

*The meeting was called to order at 10.17 a.m.*

**The CHAIRMAN:** Distinguished delegates, I declare open the 641<sup>st</sup> meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

Before continuing with our deliberations this morning, I would like to say a few words concerning the use of cellular telephones and laptop computers in the Conference Room during proceedings of the Subcommittee. While recognizing that the use of these devices has increasingly become an integral part of the work of many colleagues, I would remind delegations that, in addition to the distraction that they cause to other participants in discussions, they also interfere in the operation of the electronic facilities of the Conference Room, for example, interpretation systems. Therefore, I would request the cooperation of all delegations in keeping the use of these devices within the Conference Room to a minimum during our proceedings. So I beg for your cooperation in this respect.

**Agenda item 3, general exchange of views**

Now we will start again the discussion on agenda item 3, general exchange of views and fortunately, we have had a number of delegations that applied for this discussion and I will immediately give the floor to the first delegation which is from my list of speakers for today and it is the delegation of the Russian Federation. Professor Kolosov, you have the floor.

**Mr. Y. M. KOLOSOV** (Russian Federation)  
(*interpretation from Russian*): Thank you very much

Mr. Chairman. Mr. Chairman, you are chairing the fortieth session of the Legal Subcommittee of the Outer Space Committee of the United Nations and this is a very important figure because it is the fourth time that eminent diplomats are meeting in order to develop completely norms and principles which are presently comprised within international outer space law. Forty years is the first stage in the development of outer space law. Now we are stepping into a new stage of this development and the reason for this is well known to all. There is a very lively commercialization taking place of outer space activities, the development of new technologies, changes in international relations, new forms of international cooperation in outer space as well and the outer space generation has come into being. We recall that the Forum of the Space Generation in UNISPACE-III. This was the generation of those people who cannot imagine their daily lives without outer space.

The Russian Federation, which is the successor of the USSR in outer space activities and the development of outer space law, remains firmly attached to the regulation of outer space activity of the gradual development of international space law. The reinforcement of the role played by United Nations bodies in this process including the role played by the Legal Subcommittee. In other words, we recognize that outer space is the territory of general use and its regime represents the legitimate interest of the international community as a whole.

Furthermore, the regime of international outer space cannot be a just one and a stable one without recognition of the norms of outer space law for all international communities.

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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, Translation and Editorial Service, Room D0708, United Nations Office at Vienna, P.O. Box 500, A-1400, Vienna, Austria. Corrections will be issued in a consolidated corrigendum.

We cannot fail to refer to the fact that the fortieth session of the Legal Subcommittee coincides with the fortieth anniversary of space flights of the first man, Yuri Gagarin. At present, man in outer space is no longer a headline but in 1961 this really was sensational news.

Politicians do not really care for all sorts of anniversaries necessarily but the flight of Yuri Gagarin does not belong to politicians but it is the realm of all mankind. It is no happenstance that in the Space Treaty and in the Astronauts Rescue Treaty. There is reference to the fact that the cosmonaut is indeed someone sent by mankind, the envoy of mankind of humanity to outer space.

Russians could in no way skip out and miss on this anniversary and have suggested indeed that in Moscow, we should celebrate an international conference from 11 to 14 April this year. Unfortunately, the Conference will have to discuss not only the prospects of manned flights in outer space, it will also have to speak about the prevention of the militarization of outer space as well. We are sure that mankind will have enough sound common sense to resolve this problem in the interests of future generations, in the interests of our children and grandchildren.

Mr. Chairman, our delegation intends to present its views on other agenda items as appropriate when we come to them.

*Inter alia*, on the matter of our initiative, which has been supported by a series of other delegations. Here I am referring to the establishment of an ad hoc working group to discuss the issue of the usefulness of developing a comprehensive convention on international outer space law. It is possible, Mr. Chairman, that such a group could be convened as of now on an unofficial(?) basis so that under agenda item 10, we could present the Subcommittee several preliminary considerations in that regard.

To conclude Mr. Chairman, we cannot fail but react to some of the comments made during the session and here I am referring, of course, to the Rio Group's statement. We understand the concern. Indeed the proposal to develop legal mechanisms is something which we do not understand. There are few precedents for this. There is very little experience for this and the scientific, technical evaluations we do not have and we do not have any environmental assessments at all.

In outer space, one cannot make haste. Everything there has to be done with great precaution.

We are not rejecting discussion of this matter as well but unfortunately, we do not have all that much to discuss for the time being.

Mr. Chairman, our delegation is convinced that outer space issues are intertwined with our daily lives to such a degree that they can only be addressed and resolved in a comprehensive fashion, with due regard to the interests of all States and with due regard to all aspects of international relations.

Thank you very much for your attention.

**The CHAIRMAN** (*interpretation from Russian*): Thank you very much Russian Federation for your statement. (*Continued in English*) The next speaker on my list for this morning is the distinguished representative of Peru, Ambassador Paulinich, to whom I give the floor.

**Mr. J. PAULINICH** (Peru) (*interpretation from Spanish*): Thank you very much Mr. Chairman. Let me begin by congratulating you on your official appointment as Chairman of this Subcommittee.

Mr. Chairman, our delegation would like to reiterate the commitment of my country, Peru, for an effective and efficient implementation of international space law. We would also like to renew our support for all of the initiatives which are being developed, the collective aims of which are to achieve a universal adherence to the five United Nations treaties relating to the peaceful exploration and peaceful use of outer space. On this topic, Peru would like to announce that through a supreme resolution we have submitted to the Congress of the Republic, the Agreement on International Liability for Damage Caused by Space Objects for its swift ratification.

Peru also believes that it is extremely important to study measures which will make it possible to supplement the current international legal regime in space issues in order to offer an appropriate and effective legal framework for the recent progress in space technology but also for the commercialization of space activities and for the delimitation of the geostationary orbit and for controlling space debris among other current topics.

And it is for this reason that Peru would like to express its support for the proposal which has been submitted by the Russian Federation, China and Colombia, the idea being to convene during this meeting an ad hoc, informal, open-ended working group which would look into the possibility and appropriateness and usefulness of developing a single

United Nations general convention on space law and my country will participate in such a group.

Turning now to the topic of the geostationary orbit, my delegation considers that to understand this orbit, this GSO, as a resource which should be used in equitable conditions, is a very fundamental basis in order to be able to stimulate international cooperation in the space area. We would like to express our satisfaction at the consensus that was achieved in the Legal Affairs Subcommittee during its thirty-ninth session.

Lastly, Mr. Chairman, my delegation would like to just touch briefly on the planned re-entry of the MIR Space Station in the waters of the South-Pacific. My delegation shares the concerns which were expressed by the Ministers of Foreign Affairs in the Rio Group at their meeting which was held just a few days ago and which referred specifically to the utilization of the Pacific Ocean as a dumping ground, or a dumping area for hazardous materials. These waters are contiguous to the coast of Peru and they are, therefore, a fundamental resource in the economic social development of my country. And because of this, we would like to urge Member States of COPUOS to when they develop space projects, they should take into account that it is important not to put at risk the marine environment and the natural living resources of it, the coast of my country, we are about 3,000 kilometres away from this area.

On this topic, my delegation would like to reiterate what has been expressed by the delegations in the sense that we should include in the agenda of the Legal Affairs Subcommittee, the topic relating to space debris, on the basis of the technical input which is provided by the Scientific and Technical Subcommittee in a legal perspective which would make it possible to evaluate the effectiveness of the international laws which already exist on this matter.

Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Peru. Your Excellency Ambassador Paulinich, for your statement at this meeting of our Subcommittee. The next speaker on my list of speakers is the distinguished representative of Colombia, to whom I give the floor.

**Mr. C. ARÉVALO YEPES** (Colombia) (*interpretation from Spanish*): Thank you very much Mr. Chairman. On behalf of the delegation of Colombia, I would like to congratulate you on your appointment for an additional period as Chairman of

the Legal Affairs Subcommittee. This second mandate is proof that your experience and knowledge of the subject will guarantee that we will have a successful conclusion of our work.

The delegation of Colombia supports the Declaration which was made on behalf of GRULAC by the Ambassador of Peru and we would like to offer a few additional points and considerations.

Mr. Chairman, Colombia has traditionally maintained its unswerving adherence to the principle of the utilization of outer space for peaceful purposes and it is in this framework that within COPUOS, we have supported mechanisms which assist in making of space technology and instruments so that States, in particular developing countries, can benefit from such activities, in particular as regard the economic and social aspects of the development of their countries. And that is why we attach a lot of importance to international cooperation in general and specifically to the Plan of Action as was endorsed by UNISPACE-III.

Mr. Chairman, since this is the first meeting of the Legal Affairs Subcommittee which is being held after the General Assembly approved, based on a proposal from COPUOS, the agreement reached on geostationary orbit in which is recognized that the principle of equity should be reflected in the assigning and access to frequency bands and the geostationary satellite orbit.

Turning to the needs of the developing countries, I would like to make the following points.

The relevance of continuing to encourage a better interrelationship between COPUOS and the ITU. It is very relevant to do this. We are convinced that this is necessary so that the agreement which was reached will really be effective and on this subject, Colombia trusts that the implementation of the principle of equitable access will be reflected in the activities of the International Telecommunications Union and that the positions of the delegations will be consistent in both fora whose mandates we consider complement one another.

A second element that we consider useful is to continue the discussions, re-initiate, in fact, discussions on a topic which has been shelved for a long time, definition and delimitation of outer space, as was expressed at the time by the delegation. It is paradoxical that no progress has been made on this subject, whereas one has made progress on other very related aspects. It is paradoxical. We are certain that with a sphere of consensus which has characterized

COPUOS, will reach other achievements which are of similar importance.

Mr. Chairman, it is an obvious fact that we are witnessing a geometric growth in the applications of space technologies in fields where, just a few years ago, when we built the tools that we needed to regulate outer space, had not been planned and had been unknown, in fact, just a few years ago. Commercialization of space, the growing participation of the private sector and intergovernmental organizations, the constant changes of concepts such as the concept of a launching State, consequences of space debris and effects on the environment, all require from the international community that there be better legal support and legal security which the current instruments do not seem to satisfy if we consider the very low number of signatures and ratifications by States. One very typical or notorious example is reflected in the difficulties which there are because of the diversity of the parties involved and also because of legislation to be applied in current mechanisms for settling disputes.

Because of this reason, we think it is important to reflect on the need to make the legal framework of so-called space law fit square with the technical and scientific realities in accordance with major principles that have been agreed on, *mutatis mutandis*, as has been done for Sea Law. We should look into the possibility of a constitution for space which would give impulse and make vital an activity which is changing all the time. This is why we support the idea of an open-ended informal working group responsible for examining the appropriateness of having a general universal Convention on Space Law and we have co-sponsored this along with China and the Russian Federation. We think it would be most relevant if we could study this proposal before we were to deal with 10 before the end of this week it should be dealt with. In other words, before the end of this week. Thank you very much.

**The CHAIRMAN:** Thank you very much distinguished representative of Colombia for your statement including for the kind words that you addressed to the Chair. I now have on the list of speakers the distinguished representative of France, Monsieur Laffaiteur.

**Mr. M. LAFFAITEUR** (France) (*interpretation from French*): Thank you very much Chairman. It is with great pleasure that my delegation would like to congratulate you upon your election to the chairmanship of our Subcommittee. You may, of course, be rest assured of our willingness to contribute

to progress on issues on the agenda so that our work will indeed be a positive contribution for the technical development of space activity.

The Legal Space Committee has had a major role in the elaboration of space law and, of course, it must maintain this role and devote its work and the means made available to it to issues which correspond to real requirements and needs. We must note that since the adoption of a new structure for the agenda is taking place, important items indeed have been referred to such as the consideration of the Draft Convention of UNIDROIT, having to do with international guarantees on mobile equipment or the consideration of the launching State concept.

However, the agenda is still not perfectly in tune with the desire of my delegation to see our Subcommittee take on board issues for which the international community would like concrete answers. This concern was also shared by China. In spite of the results achieved last year having to do with the characteristics and use of a GSO, nevertheless, there are various points on which we do not believe that there is proper correspondence between our work and a State's real concerns as regards space activities. The duration of this session is only accessory to what I am just saying. Nevertheless, this is really one main concern of ours.

We particularly appreciate that the World Commission on the Ethical Principles of Scientific and Technology Knowledge of UNESCO is present with us this session and will be speaking under item 5 of the agenda. The consideration of ethical and moral aspects which are also so important in law is extremely significant and we attach great significance to them. They have been integrated in the decision-making mechanisms within CNES for a long time in our attempts to resolve the concerns expressed by the State Members of COPUOS. We are going to be speaking about this more under item 5.

Consideration of the UNIDROIT Draft Convention by the State Members of ESA shows that this subject is much more complex than we had imagined when we put this item on our agenda. So we have to demonstrate flexibility and imagination in order to respond to the expectations of UNIDROIT properly.

A joint presentation of ESA and CNES will be made on the concept of the launching State with regard to the agreements struck by France, CNES and ESA with respect to the use of Guyana Space Centre within the context of the working group on the consideration

of the concept of the launching State. This European contribution will show the relations between a State which has sovereignty and a territory on which launching facilities for its programmes and for ESA have been built. Thank you very much.

**The CHAIRMAN** (*interpretation from French*): Thank you very much France for your contribution and statement. (*Continued in English*) The next speaker on my list of speakers is the distinguished representative of India to whom I give the floor.

**Mr. R. ROY** (India): Thank you Mr. Chairman. Mr. Chairman, my delegation would like to congratulate you on the re-election of yourself as chairmanship. With your wide experience and knowledge, you had very ably guided the Subcommittee in the past and we are sure that the Subcommittee will achieve good progress under your continued leadership. My delegation, of course, will extend fullest cooperation in your endeavour.

My country is fully committed to promoting and expanding exploration and use of outer space for peaceful purposes in the common interest of mankind. The role of international cooperation is very crucial in order to develop the rule of law including all relevant norms for the peaceful use and exploration of outer space and for ensuring benefits for all countries, particularly the developing countries.

Mr. Chairman, the five United Nations treaties on the peaceful uses of outer space were evolved with strenuous effort over a long time and they have served the purpose well and they continue to be relevant. Of course, since then, great progress has been made in science and technology of space use and exploration. New developments have taken place in terms of commercial activities relating to space and an increased role of private entities in addition to activities of the governments. My delegation would consider any new suggestions or measures which can strengthen the existing laws and legal norms taking into account the new developments.

As regards the issue of definition and delimitation of outer space, we would like to reiterate our position in favour of the need to clearly define the outer space which is common to all States and the need to delineate it from air space which falls within the sovereignty of each territorial State. There is need to have clear legal understanding about space vehicles and medium of transit and to develop the legal principles governing responsibilities and liabilities for air space systems. These are, no doubt, delicate legal

issues and would require considerable effort on the part of the Subcommittee and, of course, the mutual understanding of the Member States.

We also feel that the geostationary orbit constitutes an integral part of outer space and is thus governed by the fundamental law of outer space and the Outer Space Treaty. As regards to the role of ITU and the United Nations COPUOS, we do not see any inherent conflict between these two organizations. A harmonious approach should be evolved. The ITU should continue with its authority and jurisdiction over the technical aspects of GSO whereas COPUOS should deal with policy issues concerning the status, treatment and sharing of the resources and similar aspects of GSO.

On the review and possible revision of the principles relating to the use of nuclear power sources in outer space, my delegation feels that these principles were finalized by consensus in the Subcommittee in 1992 and were subsequently adopted by the General Assembly at its forty-seventh session. During the discussion on this issue by the Legal Subcommittee in the past, there was a feeling that the time was not right to consider such a review. We support the view that enough time has not elapsed for reviewing the principles and any endeavour to revise the principles should be undertaken only if it is likely to lead to significant strengthening of the protection provided under the existing principles.

Mr. Chairman, we share the concern of the international community, particularly the developing countries, on the issue of space debris. We have to approach the issue of debris in a comprehensive manner so as to cover all aspects, taking into account several decades of man's activities in outer space.

Mr. Chairman, my delegation looks forward to meaningful participation in the deliberations of the Subcommittee with a spirit of understanding and cooperation. Thank you Mr. Chairman.

**The CHAIRMAN**: Thank you distinguished representative of India for your statement and also for the kind words that you addressed to the Chair. (*Continued in French*) I would like to apologize to the French delegation. I forgot to thank France for its kind words in address of the chairmanship. (*Continued in English*) The next speaker on my list is the distinguished representative of the Czech Republic, Mr. Štěpánek, to whom I give the floor.

**Mr. J. ŠTĚPÁNEK** (Czech Republic): Thank you Mr. Chairman for giving me the floor. Mr.

Chairman, on behalf of the delegation of the Czech Republic, I wish to congratulate you on your election as Chairman of this body for the second three-year term during the period of 2001-2003. Given your deep knowledge of space law and general international law and also due to your long-time experience in the field of space activities, we are confident in your ability to efficiently guide this session and, needless to say, wish you full success to all your efforts in the United Nations COPUOS.

Last year, the Legal Subcommittee developed for the first time the consideration of the items of its agenda in accordance with a new structure approved by the General Assembly. This restructuring proved to be helpful in increasing the productivity of the discussions at the Subcommittee. We hope that at this session the Subcommittee will continue in this right direction and will reach a visible progress in several points of its present agenda.

In particular, the delegation of the Czech Republic appreciate the conclusions reached last year in the review of the status of the five international space legal instruments. We expect that the discussions on a newly formulated item, namely "status and application of the five United Nations treaties on outer space" will also lead to increasing the number of the Parties to these treaties. Moreover, it might help to improve the application of these important legal instruments and to remove obstacles that hinder the accession of those nations which still hesitate for this or that reason to adhere to them. A similar expectation is address to space organizations which have not yet made their declarations of acceptance of the rights and obligations provided by these treaties.

The delegation of the Czech Republic also welcomes that a new practice has been introduced in the involvement of international organizations in the work of the Subcommittee. We are looking forward to their detailed information on the progress in the respective areas of their activities and to their substantive contribution to fulfilling the tasks of the Subcommittee.

As far as the point "matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit" is concerned, the Subcommittee reached a substantive progress by agreeing on a set of conclusions on the geostationary orbit. Its working group dealing with this point can now fully concentrate on the first part of its mandate and try to draft a similar set of conclusions, thus summarizing the discussion on the legal status of

aerospace objects which has developed in the group for several years.

Mr. Chairman, the delegation of the Czech Republic would like to see a substantive progress in the item entitled "review of the concept of the launching State". The first year of the three-year work plan, which was adopted for consideration of this issue was reserved only for presentations of invited experts on the new launch systems and ventures which were followed by observations made in the Subcommittee and its Working Group, ably guided by Dr. Kai-Uwe Schrogl of Germany. His introduction to the debate on this topic may bring us to a deeper analysis of some specific questions arising in the light of new practices and of particularities in the launching of space objects. The results of the whole three-year plan thus depend, to a large extent, on the work of this year's session of the Subcommittee.

Mr. Chairman, the present agenda of the Legal Subcommittee also includes a new subject, namely "the Draft Convention of the International Institute for the Unification of Private Law, UNIDROIT on international interests in mobile equipment and the preliminary Draft Protocol thereto on matters specific to space property". This topic was ably introduced by the representative of UNIDROIT, Dr. Stanford, and the delegation of the Czech Republic was one of those delegations which supported the inclusion of this item in the Subcommittee's agenda. Needless to say that this matter is somewhat unusual in the work of this Subcommittee but the processes going on in the development of space activities must raise its interest in this matter. It will be the role of this body to assess a number of points of the Draft Convention and its space protocol, particularly the compatibility of this project with the United Nations space treaties and principles, in the light of further development of international space law.

Finally, Mr. Chairman, let me make a brief observation on the last item of our agenda, namely "proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-first session". At this stage of our deliberations, my delegation does not want to prejudice the results of a specific exchange of views on this item. However, we would like to recall the proposal which was submitted by the Czech Republic already in 1996 and which reads "review of existing norms of international law applicable to space debris". We reiterate that this topic remains to be an appropriate subject for the discussion of the Subcommittee at its next session. We are emphasizing the importance of such a juridical review, notwithstanding the fact that

the Scientific and Technical Subcommittee, having adopted its Technical Report on Space Debris, decided on a new work plan for further technical considerations of this issue. The proposal of the Czech Republic does not collide with the endeavours of the Scientific and Technical Subcommittee in the field of space debris. The problems of applicability of the existing norms of space law to space debris are of a legal nature and the consideration of these problems does not depend on the results of efforts of the Scientific and Technical Subcommittee which we welcome and honour. However, the Legal Subcommittee is fully competent to deal with legal problems arising from the development of space activities and the topic we have been proposing is fully within its mandate. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of the Czech Republic and also for the kind words that you used in relation to the Chair. The next speaker on my list is the distinguished representative of the Ukraine to whom I give the floor. Mr. Biyeglyi you have the floor.

**Mr. O. BIYEGLYI** (Ukraine) (*interpretation from Russian*): Thank you very much Mr. Chairman. I would like to take this opportunity on behalf of the Ukrainian delegation to express our satisfaction with the fact that you, Chairman, have been elected to this position in our forum and we certainly hope to see positive results from our fortieth session's work. This seems to be a concluding point of the efforts of the international community in establishing law and order in outer space and marks the beginning of a new stage for the development of international space law in the twenty-first century.

Distinguished delegates and colleagues, as you know, the Ukraine was one of the first States which joined international treaties on the exploration and use of outer space for peaceful ends and, however, it was only when our independence was declared that we could establish national outer space law.

As a result of the implementation of two national space programmes and, to a certain degree, to ensure them, in the Ukraine we have developed a system of national outer space law presently comprising more than 120 legislative acts on the various issues and aspects of outer space activities. Apart from this, pursuant to the Constitution of the Ukraine, the international agreements and treaties with regard to the exploration and use of outer space are a part of our national legislation and have been ratified by the supreme bodies of our land.

A cornerstone of our national outer space law is the law on outer space activities which was adopted by the Parliament in 1996 which implements the basic norms and principles for international outer space law. We have also 25 specific Ukrainian laws and presidential decrees, roughly 40 governmental decrees and tens of sectoral and normative acts that join this legislative corpus.

We, therefore, reconfirm our attachment to the basic principles of international law in reinforcing and developing cooperation in outer space activities with other countries in the international community as well as with international organizations working in this sphere.

The recommendations of UNISPACE-III have set the strategy for the study of outer space and have made plans for the practical implementation of outer space technologies for the progress of all mankind and these will indeed accelerate absolutely all space activities and including the legal underpinnings thereto and the implementation of these recommendations will, to a great extent, depend on the comprehensive international space law which will develop and to the extent that national space laws will be aligned with that. This is far from easy and complex and are ambivalent and we certainly wish us best success, as well as to you Sir, in overcoming the obstacles on our path.

We would like to assure you that the Ukrainian contribution set on the principles of UNISPACE-III certainly will be to bring to bear our efforts for the development of our national space law and I would like to assure you of our active participation in the work of our Legal Subcommittee as well as other legal institutions.

**The CHAIRMAN** (*Continued in Russian*): Thank you very much for the kind words that you have addressed to the Chair. The next speaker on my list is the distinguished representative of Argentina. Mr. Vergara has the floor.

**Mr. M. VERGARA** (Argentina) (*interpretation from Spanish*): Thank you very much Mr. Chairman. First of all, allow me to express to you how pleased the delegation of Argentina is to see you chairing once again over the work of our Subcommittee. My delegation reiterates its support to you for this new period. We would also like to greet the Director of the Office for Outer Space Affairs, Dr. Mazlan Othman.

Argentina associates itself with the statement read by the Permanent Representative of Peru on behalf of GRULAC.

Mr. Chairman, Argentina intends to continue to support the development of a legal framework which governs the use of outer space aiming at two basic objectives accompanying the progress in technological science and research and achieving full relevance and progressive development of international law in any space activities.

This legal framework will have to take into account a couple of basic principles of development of legal norms and principles which regulate the activities of outer space beyond the scientific and technical capacity some countries have to be able to have access to it. Then there is the exploration and utilization of outer space to benefit all States regardless of their degree of development ensuring in addition access of States in an equitable and non-discriminatory way to the know-how and technology and to training for its scientific and technical staff.

Then there is the following principle. The international cooperation as regards the legal and scientific aspects for the exploration of outer space for peaceful purposes guided by the principles of the United Nations Charter.

The fourth principle is the duty to support full responsibility and liability of States for any damage caused as a result of their space activities or to physical persons and legal entities under their jurisdiction.

And the fifth one is the commitment to adhere strictly to the letter and spirit of the treaty on the principles governing the activities of States in the exploration and use of outer space including the Moon and other celestial bodies as well as the purposes and principles of the Charter of the United Nations.

Mr. Chairman, witnessing the very rapid development of science and technology in space, we have the need to act in a preventive way in designing and formulating legal norms. In particular, my delegation considers that it is each day more important or more necessary to achieve actions which help us to agree on the compromise which is necessary for effectively dealing with the items submitted to this Subcommittee.

Our country has traditionally been very active as a participant in the work of the Subcommittee given its interest in the codification and the progressive development of the international space law. In this

way, Argentina attaches a lot of importance and value to the work of this Legal Affairs Subcommittee because it is the only specific legal forum in this area and it is the appropriate forum to formulate new international instruments which regulate the interests of the international community with regard to space activities.

There are many topics that we hope to tackle this time. Among these, we have the UNIDROIT Agreement, the Working Group responsible for examining the concept of a launching State and then there is the Working Group on the delimitation of outer space, examining the use of nuclear power sources in space and many others.

Lastly, I would like to share with you the hope of my delegation that this fortieth session will be a valuable support for the strengthening of space law and, in this sense, we consider that the questionnaire which was provided by the Secretariat relating to the implementation of UNISPACE-III and which was circulated on 15 March is very valuable and very appropriate.

My delegation would appreciate it very much if the contribution of this Subcommittee, through its legal work, will contribute to the real improvement in the quality of life of humans and ensure that benefits derived from the use of space science and technology would happen within a legal framework should guarantee the rights of all of the international community to such activities. Thank you very much.

**The CHAIRMAN:** Thank you distinguished representative of Argentina for your statement and also for the kind words that you used in relation to the Chair and to the Director of the Office. Thank you.

Now I give the floor to the distinguished representative of Indonesia. You have the floor.

**Mr. PURNOMO SIDHI (Indonesia):** Thank you Mr. Chairman. The Indonesian delegation is very pleased to welcome you again as the re-elected Chairman of the Legal Subcommittee for the next three-year term. Your rich experience in the field and your professional contributions will lead the Subcommittee to further successful sessions in the future. This current session being the first after re-electing you as Chairman places a special responsibility on you, supported by all delegations to diligently chart out our future course of action. The Indonesian delegation is confident that the same will be achieved under your guidance.



Mr. Chairman, allow me now to offer my delegation's observations and views on the matters contained in the agenda of our current session. Although this has been stated on many occasions in the past, we would like to reiterate Indonesia's basic position that outer space should be used and dedicated entirely for peaceful purposes and the benefit of all humankind.

It is a matter of fact that in past years the number of States ratifying treaties on outer space has been gradually increasing. In line with its aforementioned basic position and the spirit contained in the existing treaties on outer space, Indonesia is in the process of ratifying the respective treaties. The Rescue Agreement 1968, the Liability Convention 1972 and the Registration Convention 1975 have all been ratified. Indonesia has initiated the process of ratification of the Space Treaty 1967 which requires the approval of the Parliament. At the executive level, however, the process is almost complete. Concerning the need for a declaration to establish a Claims Commission to settle disputes concerning the implementation of the Liability Convention, my delegation would like to call upon the Secretariat to identify the pertinent existing international instruments. Such identification would facilitate States choosing the best approach to settle a dispute.

Mr. Chairman, as to the issue of the definition and delimitation of outer space, we urge the Subcommittee to seek an appropriate approach to this issue, taking into account the special needs of developing countries. We are of the view that a definition and delimitation of outer space is indispensable in order for Member States to have a legal basis to regulate their national territories as well as to resolve issues arising from collisions that could occur between aerospace objects and aircraft.

Regarding the issue of geostationary orbit, GSO, my delegation is pleased to note that constructive discussions have been taking place concerning the question of the utilization of GSO. It is our firm view that, in light of the special characteristics of the orbit, its utilization should be based upon the principle of rational and equitable utilization for all countries, taking into account the special needs of developing countries and the geographical situation of particular countries. It is in this overriding context that Indonesia views the United Nations COPUOS as the most competent body to elaborate the legal aspects, while recognizing the ITU as the appropriate body to deal with the technical aspects of GSO. It is our earnest hope that Member States of the United Nations COPUOS will continue to engage in genuine

negotiations towards reaching a mutually acceptable solution based on the agreements reached during the deliberations of the Subcommittee at its thirty-ninth session in 2000.

Mr. Chairman, with regard to the new item in our current session, my delegation fully supports and will actively participate in consideration of the Draft Convention of the International Institute for the Unification of Private Law, UNIDROIT, on international interests in mobile equipment and the preliminary Draft Protocol thereto on matters specific to space property. In this connection, my delegation would like to thank the UNIDROIT and the Secretariat for their efforts in preparing the material to be used as the basis for deliberations on the item. My delegation hopes that the Protocol on Matters Specific to Space Property should have the spirit of increasing and promoting space industry and commercialization in developing countries.

As to the issue of review of the concept of the launching State, my delegation would like to emphasize that the concept should not be detrimental to the interests of States which have ratified the Liability Convention 1972 and the Registration Convention 1975. Such a concept should clearly define the meaning of launching State which in turn should facilitate an increase in launch activities and maximize their benefits for all States.

Mr. Chairman, in conclusion, my delegation wishes to assure its fullest cooperation in the course of our deliberations with the hope that this session of the Legal Subcommittee will reach a successful conclusion.

The Indonesian delegation will make detailed statements on the agenda items during the allotted time. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Indonesia for your statement and also for the kind words that you used towards the Chair. I only would like to make a small remark. I did not fully understand what you meant by the sentence on the establishment of a Claims Commission and the request addressed to the Secretariat to identify the pertinent existing international instrument for this purpose. I believe that this has been a certain misunderstanding. There has been a suggestion to encourage the Parties to the Liability Convention to make an optional declaration on the adoption of the binding forth of an eventual decision of a Claims Commission, if such a Claims Commission is really called to decide disputes. Therefore, no Claims Commission exists so far. Such

a Claims Commission would be established only in case that the Parties so decide when they have exhausted the diplomatic means of settlement of disputes and if they decide to use an additional method, the Claims Commission. This has been the substance of the proposal to make such optional declaration on compulsory power of the Claims Commission but such a Claims Commission does not exist yet. It should be established in case of a real dispute between two or more States.

**Mr. PURNOMO SIDHI** (Indonesia): We will make a clarification after this one.

**The CHAIRMAN:** Very well. Thank you very much. Once again, thank you for your statement and I now give the floor to the distinguished representative of Nigeria, Mr. Brisibe.

**Mr. T. BRISIBE** (Nigeria): Thank you very much Mr. Chairman. My delegation is pleased to see you presiding over this session and congratulates you on your re-election as Chair of this Subcommittee.

My delegation acknowledges that space law constitutes a vital factor towards fostering international cooperation regarding the exploration and peaceful use of outer space. In this regard, the five treaties and additional principles developed by the United Nations, through this Committee, have established the only means by which Nation States may be provided with a legal basis for their activities as well as the activities of entities subject to their supervision and control in outer space. It is for this reason that steps are being taken by the Federal Republic of Nigeria to subject those treaties that have neither been signed nor ratified to a due process of analysis by the legislature under the current democratic administration.

Mr. Chairman, my delegation believes, however, that certain elements of the treaties require further clarification in several respects including, but not limited to, firstly, specific terms and expressions. Secondly, the absence of a universally accepted dispute and claims settlement process. And thirdly, a determination of the reasons behind the low level of ratification and the even lower level of implementation by Nation States.

In the light of the above, there is a need to conduct a comprehensive review of the said treaties in order to enable their adaptation to new phenomena, especially the evolution of technology as well as contemporary practices and issues.

Finally, Mr. Chairman, my delegation remains willing to provide you with the necessary support and cooperation to ensure that this session is successful. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Nigeria and also for your congratulations that you addressed to the Chair. The next speaker on my list is the distinguished Ambassador of Chile, Dr. Raimundo González, Chairman of the Committee on the Peaceful Uses of Outer Space. You have the floor Sir.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you very much Mr. Chairman. The Chilean delegation would like to begin by congratulating you on your appointment as Chairman of the work of the Subcommittee and we are sure that under your leadership this work will be fruitful.

In addition, we would like to express our thanks for the work carried out since the last meeting of the Subcommittee and we are thanking specifically the authorities of the Office for Outer Space Affairs and, at the same time, we would like to offer them all of our support to arrive at a happy conclusion of the work before us. We specifically address our thanks to Madam Othman, Mr. Lála, Mr. Serge Camacho, Expert on Space Affairs, her assistant, Madam Takemi Chiku and we are very pleased to see my friend, Senior Legal Adviser now, Mr. Andre Terekhov has re-appeared on the scene and all of the others, I am afraid that I do not remember all of the names of everyone else but please do not be worried, Mr. Chairman, I am not going to use up my whole time talking about the thanks that I wanted to express but it is more than deserved and I will stop here on that.

Chile supports and subscribes to the statement which was made on behalf of GRULAC by the Ambassador of Peru, Mr. Paulinich. We would like, however, to emphasize a number of aspects which our delegation considers to be of special importance.

Chile would like to reiterate its commitment to support and endorse the work done at the level of the Legal Affairs Subcommittee which is one of the essential pillars for the consolidation of the legal space regime. In fact, I would say that it is the essential pillar, not just one of the essential pillars, but the essential pillar. Our country has signed and ratified the five legal instruments which regulate or govern activities in outer space. This is a fact that makes it possible for us to encourage all of the other States to re-double their efforts, to achieve as soon as possible the achievement, in a reasonable timeframe, the

universal acceptance of this package of treaties and ratification of these.

We think that a second priority which is just as important as the first priority is that we should aim our work and concentrate on the quest aimed at perfecting and supplementing space law according to the new circumstances which arise. And along these lines, we would like to share support what was said a few moments ago in a very conceptual way by the delegation of Argentina, we support that. We are certain that the five treaties are interlinked. Therefore, looking at one of them would affect all of them and, therefore, this type of work should be done using a comprehensive approach since they are all interlinked. Chile supports any initiative aimed at achieving this end.

Mr. Chairman, based on what we said, we consider that the regional space conferences are an important forum to discuss and debate ideas and arrive at agreement on matters of common interest in the space area. For this reason, it is essential to convene a fourth Space Conference of the Americas, as is stated in paragraph 26 of resolution 55/122 of the United Nations General Assembly. It is also essential to achieve an examination of the Plan of Action which was agreed by consensus in Uruguay at Punta del Este very recently.

Mr. Chairman, turning now to the topic of the geostationary orbit, GSO, our delegation would like to express the fact that we are very pleased by the progress made at the last session of this Subcommittee relating to and understanding that when it is necessary to coordinate among countries with a view to utilization of the GSO, that it will have to be taken into account that access to this resource must be done in an equitable way and in accordance with the ITU radiocommunications regulations.

This is a principle which has been clearly established in any case in the Charter of the United Nations and also in the treaties which are the five treaties we mentioned earlier and we think that it is extremely important to remember this.

We believe that the consensus achieved in this area is a very important step towards reaching the objective which is to ensure that all States will have free access to this natural resource, which is a limited natural resource.

Chile would like to express, Mr. Chairman, its deep concern by the planned re-entry or de-orbiting of the remains of the Mir Space Station in the waters of

the Pacific Ocean. The South Pacific has turned into, over the course of the last few years, a space debris dumping place which not only causes risks for the preservation of the marine environment and its natural resources but also it is serious danger for human safety and economic activities of coastal States. And on this subject, we adhere fully to what was stated in the preambular paragraph of the Rio Declaration in which I quote now on the environment and development.

“In accordance with the United Nations Charter and the general principles of international law, States have the sovereign right to develop their own resources according to their own environmental and development policies and the responsibility to see to it that the activities carried out outside their jurisdiction or under their control do not cause environmental damage to other States or to zones which are outside the limits of national jurisdiction.”

Our delegation considers that the management of certain space activities which, at some phase of their existence, affect third parties, cannot continue to be submitted only to unilateral decisions. These decisions which are carried out without prior consultation with countries in the area involves a level of discretion which is not attenuated by the apparent lack of immediate danger or clear or obvious danger or damage that the fact that the activity might generate. In this context, we should not forget, as has happened in other activities, which are extremely hazardous activities, that sometimes there is indirect or delayed damage which affect seriously the balance of ecosystems and human health. The case of cancer, for example, in some parts of the planet after certain specific catastrophes of a similar nature is a fact that should encourage us to be extremely concerned.

Mr. Chairman, faced with the re-entry of the debris from the Mir Space Station, Chile had to resort to preventive measures which have led and generated a series of financial costs which are still difficult to assess, both costs for the State and for individuals. Just by way of example, I can mention the fact that flights had to be suspended, the commercial flights between Santiago and Papeete and between Punta Arenas and Auckland. This measure which affected flights 833 and 834 of the national airlines because we had to take these steps because the routes of these flights, the flight paths crossed at some point at the estimated area of impact. Such costs should be legally recoverable.

For all of these reasons, Chile would like to express its commitment to perfect the legal regime which regulates the peaceful uses of outer space, the objective being to implement a more complete and

effective preventive legal basis which regulates, in an appropriate way, international liability for damage which is direct, indirect and delayed damage as a result of the re-entry of space objects.

In the context of what we have said, we consider that it is absolutely essential to have the topic on space debris on the agenda of the Legal Subcommittee based on technical input which is provided by the Scientific and Technical Subcommittee.

I would like to make a few comments which I do not have in my written text but which I think really should be expressed so that they appear in the summary records of the Plenary. I followed carefully what was said by Professor Yuri Kolosov who is the author of the Space Treaty and who is heading the Russian delegation on this. A number of things I thought were very good, made by very happy, one, to see him in that post first of all. Secondly, the fact that he said that "in a few days there is the holding in Moscow of a symposium or seminar which will be focusing, among other things, on the militarization of outer space". Now within that context, obviously we imagine that the experts which are going to Moscow are going to be looking at the most effective way to ensure that the uses of outer space are peaceful and to ensure that it is possible to avoid that a situation, which has just occurred with the Mir Space Station, would occur. Naturally, that country would not have liked it if Mir had fallen on that country. Therefore, we would like to ensure that others have full respect in an egalitarian way in situations which are potentially catastrophic.

Lastly, I would like to state unequivocally and in this general discussion, general context, that my delegation supports, in a very enthusiastic way, the holding of a working group which would focus on the Russian proposal on the drawing up of a convention just like the Sea Law Convention which would deal within a comprehensive way with the space treaties, something that was already said many, many years ago by the Latin American countries when we concluded with the principles. Thank you very much.

**The CHAIRMAN:** Thank you distinguished representative of Chile, Ambassador González for your statement and also for your appreciation of the work of the Secretariat headed by the Director, Ms. Mazlan Othman, and also for your kind words addressed to the Chair.

I now give the floor to the distinguished representative of the United States, Mr. Mathias.

**Mr. S. MATHIAS** (United States of America): Mr. Chairman, let me first congratulate on your election as Chairman. While I am new to the Committee, other members of the United States delegation have had the pleasure of working with you for several years and we are confident that under your leadership the Subcommittee will continue to produce useful results and lay the foundation for further substantive work.

We are now meeting in our fortieth session, marking a significant milestone for the Subcommittee and the promotion of international cooperation in the peaceful uses of outer space. Since its first session in May 1962, the Legal Subcommittee has formulated and adopted five major outer space treaties and several sets of international principles, producing a new branch of international law at a pace second to none. These treaties and principles provide the foundation for the orderly use of outer space for the benefit of all countries. Under this legal regime, space exploration by nations, international organizations and now private entities has flourished. As a result, space technology and services contribute immeasurably to economic growth and improvements in the quality of life around the world.

The process by which these groundbreaking legal instruments were adopted is an important example of productive multilateral diplomacy. Usually Member States present draft proposals for future instruments of international space law at the annual meetings of the Legal Subcommittee. These draft proposals are then negotiated, debated, discussed and, where scientific and technical issues need to be examined, referred to the Scientific and Technical Subcommittee for investigation. The process takes place over a number of successive years with negotiations held not only at the Legal Subcommittee itself but also between sessions on a bilateral and multilateral basis. This intense result-orientated process has resolved disagreements and led to compromises by all sides on an issue and produced the consensus decision required by the Committee and its subsidiary bodies.

Throughout its history, the Committee has been characterized by the process of consensus and the desire and interest of Member States to develop space law which promotes, not hinders, space exploration. This has led to achievements that are significant for any United Nations organization responsible for negotiating international law instruments.

Mr. Chairman, this record of success is also attributable to the fact that the Committee has been able to avoid being drawn into protracted debate on extraneous political issues. In this regard, we would like to remind delegates that from its inception, COPUOS was mandated to deal exclusively with international cooperation in the peaceful uses of outer space. The first Committee of the United Nations General Assembly, the United Nations Disarmament Commission and the Conference on Disarmament would be the more appropriate multilateral fora to discuss arms control matters related to outer space.

Mr. Chairman, allow me to call to the attention of the delegates two other important milestones in the work of the Subcommittee. This year marks the fifteenth anniversary of the adoption of the Principles Relating to Remote Sensing of the Earth from Space and the fifth anniversary of the adoption of 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. The Remote Sensing Principles established fundamental concepts that have helped expand civil and commercial use of remote sensing data to improve natural resources management, land use and the protection of the environment. First, remote sensing satellite operators are free to collect data at anytime of any part of the Earth. Second, such data is to be made available on a public non-discriminatory basis and on reasonable cost terms.

The Principles on Space Benefits elaborated on the basic concept of Article I of the 1967 Outer Space Treaty, that is, the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development. The Principles made a lasting contribution to international space cooperation by establishing two basic considerations. First, States are free to determine all aspects of their international cooperation whether it is bilateral or multilateral or whether it is commercial or non-commercial. And, second, States should choose the most effective and appropriate mode of cooperation in order to allocate resources efficiently.

Mr. Chairman, my delegation has noted the positive developments in revitalizing the agendas and methods of work of COPUOS and its Subcommittees. One only has to turn to the last session of the Legal Subcommittee to see the positive results that have emerged from our efforts. Under your able leadership, the Subcommittee decided to end its working group on the geostationary orbit after reaching agreement on

some aspects of the GSO, particularly in regards to facilitating equitable access to the orbit and associated frequencies. This is a major accomplishment for the Subcommittee in that it brought to closure, on the basis of consensus, debate that had taken place for two and a half decades. The recommendations contained in the Subcommittee's report are an important expression of the views of Member States concerning this limited natural resource. At the same time, however, we believe that the basic instruments of the International Telecommunications Union, its Constitution, Convention and Radio Regulations, and the implementation of these treaties by ITU Member States, are sufficient to assure equitable access to the radio frequency spectrum and orbit resource.

It is a fact that the world is far from general acceptance of the four core space law instruments, the Outer Space Treaty, the Rescue and Return Agreement and the Liability and Registration Conventions. Several key States have not accepted key treaties including some members of COPUOS. This Committee should make a clear call for States to consider seriously adhering to the four core space law instruments discussed above.

A second point concerns the need for States that have accepted the core instruments to look at what they are doing to implement them. There is little point in States adhering to the treaties if they cannot implement their obligations through effective national action, such as legislation and appropriate licensing regimes, when required.

This year marks the second phase of a three-year process to examine the concept of the launching State as contained in the Liability Convention and the Registration Convention as applied by States and international organizations. We look forward to the discussion that will be taking place later in the session on that subject.

Turning to the subject of orbital debris, my delegation would like to share its thoughts on this important matter. The United States is pleased with the progress that has been made in the Scientific and Technical Subcommittee. From the United States perspective, our goal is to achieve widespread international adoption and implementation of voluntary debris mitigation guidelines as expeditiously as possible. We believe there are effective steps we can take now both nationally and in COPUOS that will move us towards this goal.

With the belief that we share common objectives, we worked closely with delegations in the

Scientific and Technical Subcommittee to arrive at a consensus on how to proceed. The Interagency Space Debris Coordinating Committee, IADC, took an action at its seventeenth meeting in October 1999 to develop consensus guidelines for debris mitigation. This effort has involved taking the best of current mitigation practices and harmonizing them into a single consensus document. We are pleased to report that our IADC members have informed us that the IADC working group on mitigation has made tremendous progress on this action item and managed to assemble the initial draft of the guidelines at its recent meeting in March of this year. We believe that if all of the IADC members continue to treat this as a priority issue, the group can realistically reach consensus at its 2002 meeting.

The IADC is, in our view, the most appropriate forum to undertake this technical work. However, the IADC represents only a portion of the space-faring community. To achieve a goal of widespread adoption of debris mitigation practices, we have proposed that the Scientific and Technical Subcommittee review the outcome of the IADC deliberations.

Specifically, assuming the IADC reaches consensus on debris mitigation guidelines in 2002, we intend to propose that the Scientific and Technical Subcommittee review those guidelines when it addresses debris at its fortieth session in February 2003, with the goal of endorsing the use of these guidelines by all nations. Since we assume nations would need time to consider the proposed practices, such endorsement could perhaps be achieved in 2004.

Some of our colleagues have indicated a desire to move this topic to the Legal Subcommittee, either to address particular legal questions or to move towards principles concerning orbital debris. The United States does not favour such a step at this time. If we can all agree on practices, an endorsement by the Committee on Peaceful Uses of Outer Space stating the desirability of following such practices may achieve our goal. Alternatively, a United Nations resolution devoted to this topic may achieve our goal. Again, we are open to future consideration of these approaches and others, subject to completion of the near-term next steps in the Scientific and Technical Subcommittee.

We are pleased that the Legal Subcommittee will be considering a new convention and protocol for the registration of security interests in high value mobile equipment, including aircraft, rail and space property, under development at the International Institute for the Unification of Private Law, UNIDROIT. This is an important international

agreement that deserves whatever support the Subcommittee can provide. As this session proceeds, we would be interested in discussing with other delegations the possibility of the Subcommittee examining this protocol as another single issue item or under a multi-year work plan.

Mr. Chairman, we note that the Scientific and Technical Subcommittee will consider international cooperation in limiting space advertising that could interfere with astronomy. The issue of obtrusive space advertising, defined as advertising that can be seen from the Earth with the unaided human eye, was discussed in the report of UNISPACE-III and just this past year, the United States Congress indicated its support for an international agreement on prohibiting obtrusive space advertising. Congress has also directed the Federal Aviation Administration of the United States not to licence any United States commercial launch that would carry as its payload obtrusive space advertising. We would ask that delegations consider the possibility of adding this as a single issue item to our agenda for next year. The purpose of this item would be to have a one-year discussion to define the legal aspects of the problem, in light of the work that will be done by the Scientific and Technical Subcommittee at its next session and relevant international scientific organizations, as well as whether the topic deserves further attention in the Subcommittee. In addition, relevant international organizations would be invited to submit reports to the Legal Subcommittee or make special presentations on this topic.

Mr. Chairman, we note that the proposal of some delegations on the convening of an ad hoc informal open-ended working group to consider the appropriateness and desirability of developing a universal comprehensive Convention on International Space Law. We note that the convening of an ad hoc group at this session was not agreed in the agenda for this session and that the formation of such a group is not contemplated by this Subcommittee's practices or procedures.

Moreover, Mr. Chairman, we remain unconvinced that it is wise for this Subcommittee to take up this proposal in its current form or otherwise, in view of the General Assembly's direction that we seek to promote adherence with the existing treaties establishing the legal regime for outer space.

Finally, we are pleased to report on two significant developments with regard to the International Space Station. First, the Intergovernmental Agreement for the International

Space Station has now entered into force in accordance with Article 25 of that Agreement. The entry into force occurred on 28 March 2001 with the deposit of the instrument of ratification by the Russian Federation. Canada, Japan and the United States had completed this step earlier. The ratification process is underway in Europe.

Second, as called for by the Intergovernmental Agreement for the International Space Station, the ISS Partners have agreed to a Crew Code of Conduct for the Space Station crew. In accordance with the agreed procedures of the partnership, the cooperating space agencies negotiated the text of the Crew Code of Conduct and each Partner completed its internal procedures to accept the text. The Partners confirmed their acceptance of the text at the space agency level at a Multilateral Coordination Board meeting in September 2000 and each government provided its acceptance via separate correspondence prior to the launch of the first ISS Expedition crew on 31 October 2000. A summary of the process and key components of the Code of Conduct were presented at an intergovernmental meeting among the International Space Station Partners in Berlin in December 2000. As contemplated by the Agreement, the Crew Code of Conduct covers such topics as the chain of command on-orbit, the relationship between ground and on-orbit management, standards for work and activities in space and authority of the Commander.

Mr. Chairman, thank you for your consideration. It is a pleasure for me to be here and to work with the Members of the Subcommittee.

**The CHAIRMAN:** Thank you very much distinguished representative of the United States of America for your substantive statement that you have just made and also for your kind words addressed to the Chair. The next speaker on my list of speakers is the distinguished representative of Australia to whom I give the floor.

**Ms. S. COLES (Australia):** Thank you Mr. Chairman. Since this is the first time that my delegation is taking the floor, allow me to congratulate you on your re-election to the Chair and my delegation also expresses its greetings to the Director of the Office for Outer Space Affairs, Dr. Othman, and also her staff.

Mr. Chairman, the Australian delegation is pleased to present a brief general statement to this fortieth session of the Legal Subcommittee.

Since the last meeting of the Subcommittee, and as foreshadowed in our Space Activities Act 1998, the Australian Government has moved quickly to finalize domestic, legal and administrative arrangements for the regulation of all space activities to be carried out from Australian territory or by Australian nationals overseas.

Australia expects to finalize its space licensing regime by the end of May this year. Applications to operate commercial spaceports from Australian territory will be considered by the Space Licensing and Safety Office from that date onwards.

Thus, Mr. Chairman, the Australian Government is facilitating the development of a competitive environment for the establishment of a commercial space industry in Australia.

In this context, Australia remains concerned with some uncertainties in the international legal framework for outer space. Our concerns focus on the migration of the international space industry from one founded on public sector enterprise to that now emerging as a fully commercial sector, often international and often involving a composite mix of enterprises from different States participating in individual space launch activities.

In particular, Australia has ongoing concerns about some uncertainty in the concept of a launching State, some continued ambiguity on liability issues and inconsistencies between the Outer Space, the Liability and the Registration Treaties.

The Australian delegation is, therefore, pleased that some of these matters are before the Legal Subcommittee and we look forward to participating in discussions on these agenda items.

Australia also supports a role for COPUOS in the development of the UNIDROIT Protocol on Matters Specific to Space Property and again we look forward to those discussions.

In addition, Australia supports the work of the Legal Subcommittee on the review of the status and application of the five international instruments governing outer space and we believe that this review role should be ongoing.

Moreover, Mr. Chairman, Australia hopes that this work does not focus on what has sometimes been referred to as the four core instruments. We believe that any move for review should present a *prima facie* case for the fifth instrument, the so-called Moon

Treaty, to also be reviewed and we shall have more to say on this under agenda item 4.

We note with interests the comments of the distinguished delegate of the Czech Republic and others regarding this issue of regulation of space debris where they may perhaps be some scope for the Legal Subcommittee to examine existing principles and legal norms and possibly to identify gaps which may need to be addressed. We do also welcome progress on this issue in other fora referred to by preceding delegations.

Mr. Chairman, before concluding may I refer to another matter. While the Australian delegation does understand some of the concerns expressed by some delegations, the Australian delegation nevertheless notes that the recent Mir re-entry into the South Pacific was managed successfully. The Australian delegation congratulates the Russian Government on this significant achievement and on their free provision of information to other countries in the lead-up to the de-orbiting of Mir.

Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Australia for your statement and also for the kind words that you addressed to the Chair. The next speaker on my list is the distinguished representative of Morocco to whom I give the floor.

**Mr. M. RIFFI** (Morocco) (*interpretation from French*): Thank you Mr. Chairman. Since the Moroccan delegation is speaking for the very first time, I would like to start off by congratulating you for the trust that has been renewed in you by the Legal Subcommittee. This trust is far from being fortuitous and certainly we are very satisfied to see you as Chairman of our group once again.

Morocco is convinced of the important role played in the use of space techniques and promoting and development worldwide and we attach particular interest to space activities and their spin-off for mankind as a whole and encourage all of the efforts made to reinforce international cooperation and its scientific, technical and legal aspects.

In its various spheres of activity, Morocco has always pleaded for peaceful and non-discriminatory use of outer space and we consider that the up-dating of existing regulations as well as their harmonization and unification will indubitably promote international cooperation in space activities and ensure all nations equitable access to outer space and exploitation of the spin-off of research and space technology.

At present, space technology is a powerful instrument of economic and strategic development and the use of this must be regulated so that the developing countries in particular should be able in future to have access to its potential, to be able to explore and exploit space in their turn because these applications are going to continually develop and diversify in the request for frequency and orbiting will continue to grow and outer space is seriously threatened with saturation.

Space treaties have been designed and drafted at a time when only States were conducting space activities, whereas at present, private operators and international organizations are playing an increasingly great role in space activities in all its fields and the growing use of space technologies of the globalization of the economy are all represent factors which make space activities increasingly tributary of international trade law and it is important to have the proper instruments and mechanisms for this context.

This makes it imperative to have more and more States join the instruments regulating the peaceful use of outer space and also makes imperative adaptation and clarification of certain elements of these instruments and extension of existing regulations in order to ensure consistency with present technological data and to anticipate future developments as well.

When we spoke at previous sessions of our Subcommittee, we placed emphasis on the need to possibly revise the five legal instruments relevantly in order to clear off the obstacles which stand in the way of the ratification and the subsequent application. We remain persuaded that results of this approach could promote the advancement of our work on various points of the agenda, especially 8 and 9, on the consideration of the UNIDROIT Draft on international interests on mobile equipment and issues having to do with the Draft Protocol on space property and consideration of the launching State concept.

We are happy to note the agreement achieved at the thirty-ninth session of the Legal Subcommittee on the separation of the item of the agenda having to do with the definition and delimitation of outer space. This was the use of GSO into two sub-items. This can only be beneficial for the advancement of our work on the GSO. We, however, consider that the Legal Subcommittee should continue to examine all of the aspects relevant under this agenda item in order to ensure and guarantee rational use and equitable use of the GSO by all States.



Various other items of the agenda also draw our interest, especially the examination and the possible revision of principles relating to the use of nuclear power sources.

As concerns item 7, because of its importance, it is indispensable for the Legal Subcommittee to dwell on this matter and to evaluate the relevance of the revision of the principles regulation the use of nuclear power sources in order to get as much information as possible in these matters.

As for the launching State concept, it is necessary to engage in constructive debate in this form on it in order to clarify this and adapt it with due account of the experience acquired and application of the relevant treaties, that of Liability and Registration. It is also necessary to see what national space legislation has to bring to bear in this regard and the real cases that States have had to cope with in identifying possible lacunae.

We believe that, indeed, it is necessary to note our appreciation of the work accomplished by the Legal Subcommittee since it has been established. However, given the significance of the challenges facing us, it is necessary for us to continue dwelling on of every so many complex issues in order to properly develop the peaceful uses of outer space. Thank you.

**The CHAIRMAN** (*interpretation from French*): Thank you very much distinguished representative of Morocco for your statement. I would also like to thank you for the kind words that you have addressed to me as Chairman.

(*Continued in English*): The next speaker on my list for this morning is the distinguished Ambassador of Ecuador to whom I give the floor.

**Mr. P. PALACIOS** (Ecuador) (*interpretation from Spanish*): Thank you very much. Mr. Chairman, since this is the first time my delegation is speaking in the Subcommittee, let me just thank you on your re-election as the Chairman for the 2001-2003 period as Chairman of our Legal Subcommittee. We are convinced that with your knowledge and your background, you will support the Committee. Your great knowledge will guarantee that our deliberations will be successful I would add.

The delegation of Ecuador supports and endorses the statement which was made on behalf of GRULAC by the Ambassador of Peru and we also echo what was said by Colombia relating to legal

issues in space, a matter that my delegation has had a very similar view.

The delegation of Ecuador will be participating in an active way in the open-ended group to study the possible adoption of a single convention on space law and space matters because we consider that this is something that is needed by the international community.

Ecuador will be very active in all of the discussions and activities of COPUOS, especially in accordance with 25/122 that resolution which guides a lot of the aspects of our work.

Lastly, Mr. Chairman, I would like to commend specifically the staff of the Secretariat of COPUOS for the excellent work which has gone into the preparation of this session and I would also like to thank them for the ongoing support that they extend to COPUOS in all activities which are associated with legal competence and in the scientific areas as well. Thank you very much.

**The CHAIRMAN** (*interpretation from French? Chairman begins in French*): Thank you very much Excellency for your statement and I would also like to thank you for what you have said about the Chair.

The list of speakers is now exhausted as far as the delegations of States Members of the Committee are concerned but I still have here the application of the Republic of Korea which is an Observer at this session of the Subcommittee and I give the floor to the distinguished representative of the Republic of Korea, Minister Chung to make his statement.

**Mr. CHUNG HAE-MOON** (Republic of Korea): Thank you very much Mr. Chairman. Since this is the first time that my delegation takes the floor, my delegation would like to congratulate you on reassuming the chairmanship of this important Subcommittee. It is my firm belief that your commitment and able leadership, combined with your wide experience and rich expertise, will guide our discussion to the most productive outcome.

To this end, I assure you, Mr. Chairman, of my delegation's full support and cooperation. In addition, I would like to express our sincere appreciation to the staff of the Office for Outer Space Affairs for their hard work in preparing for this session as well as for the outstanding accomplishments of which we were informed yesterday by Director Othman.

Mr. Chairman, the Republic of Korea strongly supports the essential role this Subcommittee has been playing in reinforcing the current legal regime for outer space activities. The active discussions in this Subcommittee have made a significant contribution to laying the basis of space laws, resulting in the adoption of five international treaties and also five sets of principles governing international space activities.

I am confident that the spirit of cooperation and compromise that has been demonstrated in this Subcommittee will allow us to help overcome any difficulties we might encounter in our constant pursuit of an improved legal regime for the peaceful and equitable use of outer space under rapidly changing circumstances.

Mr. Chairman, at this time, my delegation would like to touch briefly on three agenda items 6, 7 and 8. First, regarding agenda item 6, there is no denying that the utilization of the geostationary orbit, which is a limited natural resource, warrants special consideration for those countries that are yet to be equipped to launch or operate space objects. As has been noted by many other delegations on various occasions, the legal regime for the GSO, thus should contain substantive ways and means to implement the principle of the equitable access and use for all States in a reasonable manner. In this context, my delegation believes that the practice of paper satellites in the GSO hinders the equitable and efficient use of the GSO.

Now, with respect to agenda item 7, we share the same concern that other delegates expressed about the potential risks posed by using nuclear power sources to fuel space objects. While recognizing nuclear power sources are particularly suited or even essential for deep space missions, we consider it very important to elaborate concrete sets of safety standards for design and operation of nuclear power sources in deep space missions which are applicable to all States. In this regard, we expect that the ongoing discussions in the Scientific and Technical Subcommittee concerning the use of nuclear power sources in outer space will bear fruitful results, thereby providing us with a valuable basis for further discussion on this matter.

As for item 8, we note that the preliminary Draft Protocol on matters specific to space property purports to ease the financing of space projects by setting up a secure legal regime for international interests in space property. While appreciating the usefulness of such a regime in the development of the space industry and space projects, we believe that in

order for the Protocol to be accepted by as many countries as possible, it should be structured in a manner to strike a careful balance between the conflicting interests of creditors and debtors. Given that the drafting of the Protocol is still at the very initial stage, it is also important to take appropriate steps to ensure that the Protocol conforms to existing space law, taking into account potential problems that have already been identified.

Mr. Chairman, taking this opportunity, my delegation would like to express our sincere gratitude to the Member States for supporting our country's bid to become a full member of COPUOS. As all the delegates are well aware, the informal consultations held on the occasion of the thirty-eight session of the Scientific and Technical Subcommittee reached the consensus on the recommendations for admission of six countries, including my country, as a full member.

As you may recall, Korea has consistently expressed its readiness and firm desire to become a full member of COPUOS. I have no doubt that the ongoing and significant space activities of my country, together with its meaningful participation in international cooperation in space affairs, will lead the way for my country to become a contributing actor in the various aspects of COPUOS once it gains a full membership.

Mr. Chairman, in concluding, I would like to reiterate my Government's full commitment to the international community's collective efforts to achieve a strengthened legal regime on outer space activities that will benefit all mankind. Thank you very much.

**The CHAIRMAN:** Thank you Excellency for your statement on behalf of the Republic of Korea and also for your kind words that you used in relation to the Chair.

Ladies and gentlemen, this has been the last statement on agenda item, general exchange of views. Are there any other delegations that would like to speak on this particular item? I see none. So I believe with your consent we could close the discussion on this agenda item and start discussing agenda item 4, status and application of the five United Nations treaties on outer space.

Unfortunately, I do not have any application for this particular item. Is there any delegation that would like to speak on this item today? I recognize the distinguished representative of Mexico.

**Status and application of the five United Nations treaties on outer space**

**Ms. S. FLORES LIERA** (Mexico) (*interpretation from Spanish*): Thank you very much Mr. Chairman. Since this is the first time I am speaking at this session, we would like to express the fact that we are very pleased to see you chairing the Subcommittee once again and we would like to reiterate that we will support you in the way in which you conduct our work.

I would like to refer to item 4. Item 4 is the status and application of the five United Nations treaties on outer space. Mexico is a party to all of these instruments and we are convinced of how important it is for them to be universal and effectively implemented.

We are also convinced of the usefulness of analyzing, at this Subcommittee, ways of increasing participation of States in the space legal regime. We were very pleased to hear yesterday from Brazil that their national authorities are considering adhering to the Convention on the Registration of Objects Sent Into Outer Space. We hope that as a result of this analysis, Brazil will, in the near future, be able to join the Group of States Parties to that Convention I just mentioned.

We also welcome the recent announcement by Peru about the Convention on International Liability for Damage Caused by Space Objects. We urge all States who have not done so yet to also carry out consultations in order to become Parties to those instruments that they are not yet parties to.

Mr. Chairman, one of the ways of facilitating participation of States to the five United Nations treaties is to try to pinpoint the reasons why some of the treaties have not managed to achieve a significant number of signatures or ratifications and to consider measures which might contribute to solving possible concerns that States have.

Yesterday, some delegations referred to a few of the possible reasons. In addition to the comments made, my delegation considers that the lack of ratifications for certain treaties could be associated with the level of activity that States are actually carrying out in outer space. We note and we welcome the fact that the overwhelming majority of States carrying out space activities in a regular routine fashion are parties to four of the five treaties which, without a doubt, is one of the elements that actually strengthens our legal regime.

However, the number of ratifications is lower when we are talking about States that do not carry out activities in space or do such activities sporadically, in a non-routine fashion. This might mean that some States do not see as a priority joining instruments which lie outside their immediate sphere of activities. We think it is important to reverse this perception and point out how important the five treaties and their provisions are for mankind or humankind as a whole, quite independently of a specific activity that a specific State might be carrying out in space. What is certain is that the exploitation of outer space should be carried out for the benefit and in the interest of all States and this is something which is incumbent upon humankind.

We would also like to point out that faced with increases of space activities, we also see an increase and the possibility that a State might be involved in space issues, either as a State that suffers damage or as a State on whose territory there are space objects or simply as a State which is carrying out a salvage operation and there are numerous possibilities. So the international space regime faced with such a situation becomes something that is not a luxury, it is a necessity.

Without a doubt, many of the norms that regulate activities have achieved binding nature independent of their contractual situation. The use of space to benefit mankind and for peaceful purposes, the inappropriateness of space and the celestial bodies and that particular reference there are among those norms as well as resorting to the special Commission in terms of notification of the Secretary-General as well as the registration, these are contractual in nature, one should remember. In order to facilitate the uniform implementation of these provisions, it is essential, it is necessary for all States to join these treaties to become States Parties, in other words.

We think that the Legal Subcommittee is the ideal forum to be able to continue to study ways to promote participation by States in the five treaties. The holding of regional information seminars, sponsored by the United Nations, and space conferences are an effective way of generating awareness of how useful these five instruments are.

As far as other obstacles that stand in the way of ratification of the five treaties, we consider that it is essential for the Commission to be able to pinpoint those obstacles in a very clear way so that we can look at concrete ways to deal with such objectives.

We hope that this dialogue will be open and frank and Mexico will continue to support any measure

that might contribute towards achieving the universality of the five United Nations treaties on space. Thank you very much.

**The CHAIRMAN:** Thank you distinguished representative of Mexico for your statement and also for the kind words addressed to the Chair.

Distinguished delegates, Mexico was the only delegation which applied for the floor but I now recognize the distinguished Ambassador of Austria, Dr. Winkler, who participated for many years in the past in the work of the Legal Subcommittee and his contribution was great in achieving some important instruments of space law within this Subcommittee and I gladly give him the floor now.

**Mr. H. WINKLER (Austria):** Thank you very much Mr. Chairman. As a matter of fact, I wanted to congratulate you and I wanted to express my personal satisfaction and the satisfaction of my delegation in seeing you, not only again, but seeing you in the Chair of our Legal Subcommittee.

Mr. Chairman, I am taking the floor because I was inspired by some of the interventions earlier on to make a few observations on the item that we are now considering. The ratification of, what has been called, the core instruments of space law, plus the fifth instrument as the distinguished representative of Australia has rightly pointed out, is, of course, very important. We have to bear in mind that the intensification of further ratification of these instruments which have the greatest importance and, of course, we encourage this, although one has to recognize that already a very large number of States have become Parties to the relevant instruments and I think it is safe to say that this represents now the general recognized state of international law on space.

Two remarks. Number one. Referring to Australia's point on the Moon Treaty, I think, is an interesting idea to examine the question whether it would be indeed warranted to look into the possibility of making it more attractive to States, Austria being one of the countries that has ratified the treaty, among the very few treaties. I think, before coming to any definite conclusions, we should analyze why it is that States are so reluctant to ratify this treaty, whether it is indeed adding anything to the existing space law, if not already what has been laid down in the 1967 Treaty and in some of the other treaties, really warrants additional ratification of this treaty or what would need to be done in order to attract it.

The second point I wanted to make, Mr. Chairman, if you permit me, is to refer to something also that you said in response to the intervention of the distinguished representative of Indonesia. We believe that one should bear in mind that things can be done to strengthen some of the existing instruments without amending them, without trying to change anything and, in particular, I refer to the Liability Convention which I would recall we tried last year to open an avenue to further strengthening this Convention and I believe that it is the time to recall this initiative, namely to voluntarily, unilaterally recognize the binding force of the decisions of the Claims Committee. We would not have to change anything in the Liability Convention. We would not have to do anything about it but it would certainly strengthen the Convention, the applicability of the Convention and it would give, I think, a very clear indication that indeed States would find it useful to make use of this possibility, which is not a binding one in the Convention but which could be made binding by unilateral declaration and I would like to encourage States to consider this possibility. It could be considered even by those States which are not involved in space activities but those States could be potential victims of accidents caused by space objects and especially, of course, by those States which have large territories and we believe that this would be particularly attractive to those States and it should be given consideration. It would strengthen international space law even further without much effort. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished Ambassador of Austria not only for your statement but also for the kind words that you expressed in the beginning of this statement. The next speaker on my list is the distinguished representative of Greece. You have the floor Sir.

**Mr. V. CASSAPOGLOU (Greece)** (*interpretation from French*): Mr. Chairman, thank you very much. I wanted to express my congratulations. In fact, I wanted to do this at the beginning of the session and I want to repeat my wishes to you for success in your endeavours.

I asked for the floor here on item 4 of the agenda because I have to confess that I am slightly confused because we actually attempted two years ago, in some fashion at least, we attempted to reinvigorate or give new meaning to the concerns expressed by some States, concerns about the applicability of the five United Nations treaties governing outer space.

You will recall, of course, that we set up a small working party on this but we did not actually

follow this up. Each year as an agenda item such items which, I think, are very important but do this without it being possible to discuss in substance in great detail the sociological aspects, if I could call them that, the sociological aspects of international space law. The behaviour of States. Why are they not signing? Why are they not ratifying after they have signed? Why, in fact, are they not acceding to the treaties?

Then there is, of course, the concern that some States have, not only about the applicability in the formal sense of the term but the actual genuine respect for international principles as they relate to outer space law, especially at a time when private enterprises, private companies tend in practice to actually replace or take on the role of the State even in so-called space States. So we really have a very big problem that we have to tackle because if you have the State responsibility, I am not talking about State liability, I am talking about broad State responsibility of a State for those activities, be they individuals, entities or whatever, private companies who are no longer under the control of the State. In other words, if you have a de-linking between the control function and the activities, you might have a very serious problem, in my view, until such time as you have a different organization for human activities. We do not have one, so the State really has to be responsible ultimately for all activities carried out by individuals.

And in view of this, and based on this, we also have the question of the integrity of the current regime. We have a compartmentalization of the regulations but that was the case in the past. I will certainly have an opportunity to touch on these things and give you a little more of my thinking on this when we take up item 10 of our agenda. But let me at least say, at this stage, I do have these concerns about the integrity of the regulations in respect of space law. A lot has been said about the need to make amendments to, or better yet, as the speaker to supplement existing regulations especially arising out of the fact that we have had this tremendous technological progress and boom and the fact that we have these circumstances now where we have non-State entities, all very much involved in space matters.

So in view of all this, at least I would say that one should really reactivate this working group on the review, revision, re-examination, examination, I do not know quite what the term is. Perhaps we should come up with an appropriate term which would not lead to any problems in, I am thinking of the countries who have been opposed to any effort at changing the current status of the five space treaties. So some appropriate

term will have to be found so that these States could be brought on board as well.

I would like to reserve the right to come back to this subject when we touch on item 10 of the agenda. Thank you very much.

**The CHAIRMAN:** (*interpretation from French*): I thank the distinguished representative of Greece for his statement. (*Continued in English*) This brings me to the end of the list of speakers on agenda item 4, status and application of the five United Nations treaties on outer space, at least this morning. We will certainly continue in this discussion on agenda item 4 this afternoon, so the delegations are kindly requested if they wish to speak on this particular item that they do it this afternoon.

Because there is still some time left, I am now about to open the discussion on agenda item 5, information on the activities of international organizations relating to space law and I have two speakers on this item on my list of speakers but perhaps before giving the floor to them, I would like to say a few words.

As yesterday mentioned during its consideration of this item last year, the Subcommittee received various written and oral reports from international organizations invited by the Secretariat on their activities relating to space law. The Subcommittee agreed that the Secretariat should again invite such reports from international organizations for the current session. In this regard, I would draw the attention of delegations to a note by the Secretariat entitled "Information on the activities of international organizations relating to space law", document A/AC.105/C.2/L.223 which contains a report received from the European Centre for Space Law, the European Space Agency, the International Institute of Space Law and the International Law Association. In addition to these international organizations, I am informed that a number of other organizations will present reports to the Subcommittee during the course of its next few meetings.

However, in keeping with the procedure of the Subcommittee, before inviting the first organization to deliver its report, I shall open the floor to those delegations wishing to make a preliminary statement under this item.

Is there any delegation wishing to speak on this item in a preliminary way? The distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you Mr. Chairman. I just wanted to state that there is a very important meeting, that is the Second Meeting of Radiocommunications which met in Istanbul last year and during that meeting, there was a revision of the frequencies for direct radio satellite broadcasting. This was a major event because that did a fair amount to change the attitude of the ITU with regard to so-called paper satellites. So this constitutes progress.

I believe that the Final Acts of this Conference have already been distributed and for legal experts as well as for engineers, this is certainly a significant contribution to the development of outer space law because of the nature of the decisions taking by this Conference. Thank you.

**The CHAIRMAN:** (*interpretation from French*): Thank you distinguished representative of Greece for your statement on this matter. (*Continued in English*) Is there any other delegation wishing to make a statement or intervention on this particular item now at this stage? Now, I really do not see anybody but I have still on my list of speakers the representatives of two international organizations which enjoy the status of Observers in the Legal Subcommittee. The first one is the distinguished Observer for EUMETSAT, Mr. Hulsroj, to whom I give the floor.

**Mr. P. HULSROJ** (European Organisation for the Exploitation of Meteorological Satellites – EUMETSAT): Thank you Mr. Chairman, let me also first congratulate you on your election and on behalf of a meteorological organization, I can perhaps note that your election is accompanied by good weather and I know that you are too modest to take credit for this. Nevertheless, I noted also last year, the weather was good so I do not, I think there might a connection here.

So on a more serious note, when intergovernmental organizations are invited to speak on space law, first one should pause to think why. Is there a special situation for intergovernmental organizations in relation to space law? And I think there are two possible answers to the question.

The first that intergovernmental organizations might have special needs in relation to space law and the second that intergovernmental organizations perhaps might contribute to the development and maintenance of space law in a special fashion.

But before I address these two points from the perspective of EUMETSAT, let me perhaps first

address the question of whether we really need to break our heads about intergovernmental organizations in space law because are we perhaps a dying breed? We have seen a number of intergovernmental organizations bite the dust as intergovernmental organizations over the last few years. Intelsat is closed. Inmarsat has taken the step into the cold water of commercial affairs and Eutelsat is also in this process. So perhaps we should ignore intergovernmental organizations and say they were a trend and phenomenon when space use was new but in the longer term they will play no role.

You will not be surprised to hear that I do not fully subscribe to this theory. I think that intergovernmental organizations might well continue to have a role also in space because I think when you analyze why some international organizations have disappeared as intergovernmental organizations, then it is because of a very positive development mainly that markets have developed in relation to this sort of space use. So it is not a coincidence presumably that the three intergovernmental organizations that I mentioned were all or are all related to telecommunications. So here there is clearly a fiercely contested market and there is probably no justification for having the special status of an intergovernmental organization.

But there are other areas of space use where markets might not develop so easily and I am again no sitting next to the representative of the European Space Agency and if you look at space science, for instance, then it is probably a stretch of imagination to imagine that a market which can support the very expensive activities of space research will develop in the short or medium-term.

And the same when I turn to my own field of activity, space-based observation-related meteorology, it is probably unlikely that in the short or the mid-term we are going to see markets developed which will make intergovernmental organizations unnecessary. In fact, I think you can argue that with the increased use of space, there might be new applications which might call for an increased involvement of intergovernmental organizations. I do not think I am suggesting that there will be an explosion of new intergovernmental organizations. I think we will see some organizations perhaps die, we will see some new come up but we will perhaps also see that existing organizations will be entrusted with new tasks associated with new uses of space and this might either be a replacement of the existing tasks or in addition to tasks already entrusted to these organizations.

And I am pleased to report that last year gave at least one example of the additive process and this

was in connection with Eumetsat. On 19 November 2000, an amended Convention of Eumetsat entered into force after a short birth period of nine years. This amended Convention changes certain voting, budget and programme rules but notably also adds monitoring of the climate and climate change to the mandate of Eumetsat, a mandate which until then had been limited to meteorology. So things are also expanding in relation to intergovernmental organizations.

Turning then to the possible special needs of intergovernmental organizations in relation to space law. Then there are, I think, indeed, special needs arising from the performance of public service functions. Public service functions are, however, not the exclusive domain of intergovernmental organizations and we have representatives here of the large space powers which indeed have provided public service functions in relation to space over a long period and continue doing so.

This is true in meteorology where NOAA of the United States for more than 30 years have provided space-based observations to the world but it is also true in many other areas. So I am not claiming to speak for anybody else but Eumetsat. But the submission, I think, we make is that for essential public service functions in space, there is a need for special priority when space is becoming an increasingly finite resource. So we are suggesting that when there is an increasingly intense competition for orbit slots and radio frequencies, then the international space community should give priority to essential community needs, if otherwise such public service functions cannot practically be performed.

I understand that this is an ambitious undertaking because it will modify basic tenets such as 'free use of space' and 'first come, first served', and yet it appears indispensable and it is high time, when we see how congested, for instance, the geostationary orbit is becoming and when we consider how long fundamental change takes.

I now turn to the possible special role intergovernmental organizations play, and can play, in the maintenance and development of space law. The unique feature of intergovernmental organizations in this respect is that they can digest and consolidate the *opinio juris* of its Member States within a given field. Intergovernmental organizations can act as effective carriers of the life-blood of law creation in space law, that is the will of the subjects of the system.

So you might remember that last year I mentioned that there is a certain beauty in allowing

intergovernmental organizations a full role in space law because you can effectively use them to sign up the membership of these intergovernmental organizations to the developments of space law without having to necessarily get the ratification of each individual Member State. Last year I gave the example of the ITU with more than 180 Member States. If there is a treaty relevant for the activities of the ITU, then, of course, there are immense benefits if the accession of the ITU itself alone can also bind the 180 Member States for this field of activity.

But also in customary law and general principles of law, there might a role for intergovernmental organizations in the same fashion to act as a conduit for the *opinio juris* and the practice of its Member States, sometimes a practice which is performed through the intergovernmental organization itself.

So having made these remarks about the possibilities of contributing to the maintenance and development of space law of intergovernmental organizations, I must say that the space law activities of Eumetsat over the past year have basically been of the nature of maintaining the existing norms of space law. The existing norms allow Eumetsat to pursue its activity in space as planned and, with the exception of our nagging worry about the lack of priority for public service functions, we can be said to be happy campers in the vast preserve of space. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Eumetsat for your statement and also for your kind words that you addressed to me. However, I have to recognize that the position of the Chairman of this body is rather weak. His powers are limited and he cannot make any arrangements with God which is an outside authority to bring us good weather but I enjoy with all other delegations this improvement that has occurred recently by coincidence. Thank you.

The next speaker on my list of speakers for this morning is the representative of the International Space University to whom I give the floor.

**Mr. P. ACHILLEAS** (International Space University- ISU): Thank you Mr. Chairman. First of all, I would like to congratulate you for your re-election. I would also like to add that I am very honoured to participate to this COPUOS Legal Subcommittee session for the first time as representative of the International Space University, the ISU. The Legal Subcommittee, famous for being

the initiator of what is known today as space law has influenced in a positive manner, generations of students including myself. Therefore, I thank you for the opportunity given to me to make this general statement on behalf of my institution.

As many of you already know, the International Space University is an international interdisciplinary and intercultural, graduate-level space education institution. ISU Central Campus is located in Strasbourg and works closely with a network of affiliates in 14 different countries across the five continents. ISU mainly offers two programmes. A one-year Master of Space Studies and a two-months Summer Session Program. Since its creation, the International Space University always look forward to contribute to the work of COPUOS and its Legal Subcommittee and to participate in establishing the list of priorities for the coming years.

Mr. Chairman, COPUOS and its Committees epitomize the practice of international cooperation, accompanied by an interdisciplinary approach and intercultural sensitivity. These aspects are also essential to the approach of the International Space University in providing space education. The ISU specifically aims at bringing its student to work effectively with colleagues and specialists from other countries and other disciplines by overcoming the cultural and knowledge barriers among people of different nationalities and education. We have found that with such an approach, the enthusiasm and commitment generated in our alumni makes them stand out as leaders and ambassadors for space activity and international cooperation.

I am sure that the ISU alumni who are spread around the world in many space-oriented institutions will continue to be active in supporting COPUOS activities. Several members of the ISU family are already contributing to the work of this Subcommittee and I am pleased to note that some of them are here in this room.

The International Space University has a significant potential to contribute to the success of the actions recommended by COPUOS, such as those contained in UNISPACE-III resolutions. For instance, at UNISPACE-III, the Space Generation Forum was led by ISU alumni.

As it is the case for the Legal Subcommittee, ISU is interested to ensure that all countries, irrespective of their degree of economic and scientific development are involved in space exploration and use. The geographical distribution of our students shows

that ISU is really attaching importance to developing countries. To this end, ISU allocates scholarships to nationals of countries which are not yet involved in space activity. Furthermore, ISU organizes several workshops and colloquiums on issues of interest for developing countries. An important step in confirming ISU's interest in developing countries was the organization of the Summer Session Program in Chile in the Year 2000 with special emphasis put on the use of space as a response to the El Niño, El-Niña phenomena and on the creation of a Chilean Space Agency.

In its teaching programmes at the graduate level, ISU is addressing, in an interdisciplinary and an intercultural manner as case studies, some of the issues facing the Legal Subcommittee. This year, ISU started a new workshop concerning simulation of COPUOS Legal Subcommittee negotiations where each student represents its own country and arguments in favour of his or her country's position and interest. From this point of view, ISU can be considered as a laboratory for the Legal Subcommittee work.

Some new items have been introduced in order to follow or anticipate the Legal Subcommittee agenda such as the relations between public law and private law in outer space exploitation or the legal aspects of space debris. ISU is interested to organize an international workshop on space ethics in cooperation with your Subcommittee and with the support of the interested countries and organizations. This workshop would be a follow-up to the discussions of UNISPACE-III.

The International Space University looks forward to serving the objectives of COPUOS and to contribute to the success of its activities, taking advantage of its responsibilities in the space world, particularly in the field of education. Thanks to education, ISU is giving substance to two basic principles established by COPUOS and proclaimed by the Outer Space Treaty: the use of outer space for the benefit and in the interest of all countries and the peaceful use of outer space.

Mr. Chairman, ISU is convinced that space sciences, including space law, are fundamental assets for improving life on Earth and also for enhancing our knowledge of the Universe and our ability to explore and exploit it for the benefit of mankind. In this spirit, let me assure you that the International Space University will do its best to contribute to the success of the work of COPUOS and of its Legal Subcommittee. Thank you Mr. Chairman.



**The CHAIRMAN:** Thank you Professor Achilleas for your statement on behalf of the International Space University. I also thank you for the kind words that you addressed to the Chair.

I still recognize the distinguished representative of the European Space Agency, Dr. Gabriel Lafferranderie.

**Mr. G. LAFFERRANDERIE** (European Space Agency – ESA) (*interpretation from French*): Thank you Mr. Chairman. It goes without saying that it is indeed a matter of considerable pleasure for me to be back in this room to meet old friends again, particularly Ambassador Winkler, among others. It is also pleasant to meet new friends and thereby expand the circle of friendship which is so essential for everyone in our world if we want a life on our planet to become better than it is today.

I am not going to be presenting the two activity reports that you have in A/AC.105/C.2/L.223. I would just like to refer to some of the points which are of particular interest, not just for present COPUOS activities, Legal Subcommittee's activities, but also for its orientation for the future. I believe that this is something indeed which should be addressed in the Outer Space Legal Group.

I would like to share some of the analysis run by my neighbour, the role of international organizations since we are concluding various international agreements, since I have been the Legal Adviser in ESA, I think that I was involved in the work on 250 bi- or multilateral agreements which were a very practical, concrete source of space law because they involved international cooperation which is of primary importance.

The role of international organizations is also important because we also contribute to our Member States which we encourage to harmonize their efforts to prepare documents. This is behind the scenes work but it is certainly indispensable work which is performed by these international organizations.

Now two points in particular which are of interest for us in the European Space Agency and in the European Centre for Space Law, the training and education and the promotion of international space law. The promotion of space law, of knowledge of space law and promotion of ideas forthcoming in this sector. For this purpose, we stage symposia, various activities. I believe that all this work, this research which takes place in a neutral fashion, as it were, outside any political consideration, but for purely progressive legal

considerations and I am possibly a bit too proud when I say this but I do believe that this work of ours outside of ESA is of particular importance.

I have already mentioned the fact that the Council of the European Space Agency last July adopted a resolution in which this Council accepts and recognizes the decisions of the then Commission, the Arbitration Commission, recognizes binding law, subject to reciprocity when there is acceptance of reciprocal binding value. There are various agencies which have adopted this reciprocity clause but for international organizations this is something which is very new. I wanted to emphasize this and say that here the ESA has certainly set an example to other States and organizations for a way in which we can make up for the shortcomings in the Liability Convention and this is something which is relatively easy to accomplish as well.

The last point that I would like to refer to is the Convention on Registration. We are very sensitive to some of the practical criticisms levied at this Convention. Very often we are lagging behind in notification of launch dates. We also do not go as far as we could and should in moral terms. We supply information pursuant to the Registration Convention but I think that we could go further on a voluntary basis.

I personally will seek to have ESA improve its practice, implementing the Registration Convention by furnishing all of their information on a voluntary basis and without endangering any principles whatsoever.

Another last point I wanted to mention. This has been referred to often here. That is environmental protection and the space debris issue. Environmental protection does not only involve mitigation of space debris, it is also to work for the prevention of obstacles to astronomical observation. It is very important for all the States represented here.

Also space debris, last December, the Council of ESA has adopted a very important instrument in this regard, emphasizing that, here again, ESA had to set an example and do its utmost so that political and legal considerations should not be lost sight of. This does not mean that the Treaty should be developed but we should indeed see what existing practices and procedures could be harmonized, consolidated so that there would be sounder legal basis. This possibly could be simulated to customs and practice but these are not yet and could possibly usefully become that. So I would like to thank you certainly Chairman for

having been so kind as to give me the floor to express these views. Thank you.

**The CHAIRMAN:** (*interpretation from French*): Thank you very much distinguished representative of the European Space Agency for your contribution towards the debate on this matter. I would also like to take this opportunity to thank you for your work as the Head of the European Centre for Space Activity, for your support of the efforts of this Committee and for your participation in our activities, in particular when you have organized, along with the International Institute for Space Law, the Symposium which was held yesterday with such success.

(*Continued in English*) Our time is unfortunately up and I have to adjourn this meeting of the Subcommittee but before doing so, I would like to inform you of our schedule of work for this afternoon. This afternoon, of course, we shall continue our consideration of agenda item 4, status and application of the five United Nations treaties on outer space and I would like to make an appeal to the remaining international organizations present at this session of the Subcommittee to make their contributions to our discussions if they wish so.

Then we will proceed with discussion on agenda item 5, information on the activities of international organizations relating to space law and time permitting, I intend also to open the discussion on item 6, definition and delimitation of outer space and the character of the geostationary orbit.

Are there any questions or comments on this proposed schedule for this afternoon's meeting. I see none. So this meeting is adjourned. Thank you.

*The meeting closed at 1.04 p.m.*