

Space Law Conference, 8-10 December 2020
**“Emerging Issues in Space Law and Policy – Perspectives for
African Nations”**

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**Multilateralism and Emerging Issues in
Space Law and Policy**
**- the Role of the Legal Subcommittee of
COPUOS**

Founding documents:

- UNGA Resolution 1348 of 13 December 1958 establishing an ad hoc Committee
- UNGA Resolution 1472 of 12 December 1959 – confirms the Committee as permanent organ

Treaties:

- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 27 January 1967
- Agreement on the Rescue of Astronauts, the Return of Astronauts and Return of Objects Launched into Outer Space, 22 April 1968.
- Convention on International Liability for Damage Caused by Space Objects, 29 March 1972,
- Convention on Registration of Objects Launched into Outer Space, 14 January 1975,
- Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 18 December 1979.

Non-binding documents

Declarations and principles:

- Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space
- Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting
- Principles Relating to Remote Sensing of the Earth from Outer Space
- Principles Relevant to the Use of Nuclear Power Sources in Outer Space
- Declaration on the 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.

Resolutions of the UN General Assembly:

- including on the application of the concept of the „launching State”, on the practices related to the registration of space objects and on national legislation.

Guidelines, etc.:

- on space debris mitigation and safety framework for nuclear power source applications in outer space.

Emerging issues [*inter alia*]:

- space traffic management
- small-satellite activities
- space debris
- exploration and exploitation of space resources

Hard law vs. soft law

Hard law

Advantage:

- legal obligation

Disadvantage:

- long negotiations

Soft law

Advantage:

- quicker response

Disadvantage:

- no legal effect

Example: Guidelines for the Long-term Sustainability of Outer Space Activities [adopted in June 2018]

- supervision
- coordination
- consultation of space activities
- ensuring rational and efficient use of radio frequency and fragments of orbit,
- enhancing practice of registering of space objects,
- exchange of accurate data on objects
- enhancing of practice
- introduction of debris monitoring
- performing conjunction assessment during pre-flight phase and during controlled flight
- sharing operational space weather data and forecasts etc. etc.

Multilateral vs. particular

Advantage:

- more universal application

Advantage:

- gathers like-minded

Disadvantage:

- consensus needed

Disadvantage:

- limited application

Role of the Legal Subcommittee

- Resolution Fiftieth anniversary of the first United Nations Conference on the Exploration and Peaceful Uses of Outer Space: space as a driver of sustainable development - recognizes the COPUOS, STS and LSC with UNOOSA being their Secretariat as unique platforms for international cooperation
- Ability to create comprehensive, reliable and enduring scheme of international standards, and which is more important – standards applicable to all.
- Ability to agree on principles, guidelines, best practices that are the soft law supplementing and interpreting treaties
- Ability to exchange views on the issues that are on the agenda, and creating thus the ground for common understanding that can result in additional regulation.

[Legal Subcommittee vs. International Law Commission]

- **LSC:** has the competence to fill the legal gaps related to the space activities
- **International Law Commission:** is responsible for the “promotion of the progressive development of international law and its codification”
- Although fields of competence may seem similar, the ILC hasn't stepped into the field of the space law recognizing the COPUOS's role in this task.
- The work of the two bodies may be mutually supportive in many areas of international law.

How to better use the Legal Subcommittee?

- More political strategic decisions instead of debates on the issues that have long record of exchange of views
- Suspension of issues that do not produce new legal elements, and are not ripe for decision
- More interaction with other bodies, including those outside the COPUOS system
- More use of questionnaires and other communication with states in intersessional period
- More attention to the views of business, academia and civil society