

Sixty-second Session
of the Legal Subcommittee
of the Committee on the Peaceful Uses of Outer Space

Agenda item 10

General Exchange of Views on potential legal Models for Activities
in the Exploration, Exploitation and Utilization of Space Resources

Statement by Mr. Michael Friedl, Austria

20 March 2023

Madam Chair,

We witness an increased interest by space-faring nations in activities on celestial bodies in general and activities involving space resources in particular. In previous sessions of the Legal Subcommittee, we had rich discussions on a broad range of issues relating to the interpretation of applicable international space law on the issue of exploration, exploitation and utilization of space resources.

Austria once again welcomes the establishment of the Working Group on Legal Aspects of Space Resource Activities, as well as the workplan the Working Group has committed itself to during the 61st Session of the Legal Subcommittee. Under the able Co-Chairmanship of Ambassador Misztal from Poland and Prof. Freeland from Australia, we are convinced that the discussions in the Working Group will be guided towards increased legal certainty and predictability for all private and public actors intending to explore, exploit and utilize space resources.

We are looking forward to a substantive session of the Working Group and appreciate the intersessional work done so far. Australia, Austria, and the Netherlands together submitted relevant considerations for developing a set of initial recommended principles for the exploration, exploitation and utilisation of space resources, published on the webpage of the 62nd session of the Legal Sub-committee as conference room paper n° [A/AC.105/C.2/2023/CRP.6](#). This contribution also contains a study of existing legally binding as well as non-legally binding instruments relevant for this topic. We hope that this contribution proves useful for our discussions in the Working Group.

Let me reiterate some of our initial considerations.

The 1967 Outer Space Treaty provides the basic framework of international space law, including the principles:

- that the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and shall be the province of all mankind;
- That outer space shall be free for exploration and use by all States;
- and that outer space is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

While it is uncontended that the national appropriation of outer space, including the Moon and other celestial bodies, is prohibited under international law, it is still to be discussed if non-renewable space resources, such as minerals and water, can be subjected to an ownership regime.

While a smaller group of technologically advanced States and non-governmental entities will lead the way in the exploration, exploitation and utilization of space resources, Austria submits that the guiding principles of the Outer Space Treaty safeguard the effective right of access to space resource activities and its benefits for all States. While recognizing the efforts made by those leading the way and rewarding their investment, we submit that the prevention of monopolization to the detriment of other legitimate interests is key for the sustainable and peaceful management of scarce space resources. Any new governance framework the Working Group develops must therefore carefully ensure the legitimate interests of emerging space-faring nations as well as the comprehensive protection the Outer Space Treaty and customary international law afford to scientific investigation and exploration of outer space.

Madam Chair,

Austria is of the view that, in order to implement the principles enshrined in the UN space treaties and affirmed by UN General Assembly resolutions, a multilateral approach is necessary. Such a multilateral approach should facilitate to the greatest extent possible the exploration, exploitation and use of the natural resources of the Moon and other celestial bodies, while respecting international law.

Austria believes that the Legal Subcommittee of COPUOS, as the prime multilateral body with the mandate to promote the development of international space law, is the forum in which the potential legal models for activities in exploration, exploitation and utilization of space resources should be discussed and developed.

To avoid conflict arising from competing interests, the Legal Subcommittee should develop a multilateral mechanism or instrument within the framework of the United Nations that provides a forum for coordination, cooperation and the deconfliction of space resource activities. Such a multilateral approach would give legal certainty to states as well as commercial actors and investors in space resource activities.

Madam Chair,

Austria is a Party to the “Agreement Governing the Activities of States on the Moon and Other Celestial Bodies” – the “Moon Treaty” - and we would like to encourage States, which have not done so, to become Parties to the Moon Treaty. We remain convinced

that participation in the Moon Treaty offers substantial benefits and guarantees in addition to participation in the other four UN treaties on outer space.

Madam Chair,

To conclude, we are looking forward to an intensive and fruitful discussion on this topic in the Working Group.

Thank you!