

Sixty-third Session

of the Legal Subcommittee

of the Committee on the Peaceful Uses of Outer Space

Agenda item 9

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

18 April 2024

Mister 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 work of the Working Group on Legal Aspects of Space Resource Activities. Under the able Co-Chairmanship of Ambassador Misztal from Poland and Professor 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.

Austria is convinced 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. This 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 primary 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.

We appreciate the input gathered both during the preparatory expert meeting in Luxembourg as well as the International Conference that was organised on the first day of the 63rd session of the Legal Subcommittee. We hope that, in the spirit of multilateral cooperation, these inputs will lead the work in the Working Group onto a productive path, to agree on recommendations on a more comprehensive set of norms and rules, including, but not limited to, legally binding instruments, to ensure 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.

Mister Chair,

Austria is a Party to the “Agreement Governing the Activities of States on the Moon and Other Celestial Bodies” – the “Moon Agreement” - and we would like to encourage States,

which have not yet done so, to become Parties to the Moon Agreement. We remain convinced that participation in the Moon Agreement offers substantial benefits and guarantees in addition to participation in the other four UN treaties on outer space.

The world has changed significantly since the text of the Moon Agreement was adopted in this Committee by consensus in 1979. What has not changed, however, is the aspiration of the international community to use outer space, including the Moon and its resources, for the benefit of all humankind. The Moon Agreement, while in large part reflective of the Outer Space Treaty, has added value in setting out practical considerations for the exploration and use of the Moon and other celestial bodies. The Moon Agreement has not yet brought about the universally agreed-upon solution to the governance of the exploration, exploitation and utilization of lunar resources, which it was hoped to achieve.

While Austria continues to support the establishment of an international regime under the terms of Article 11 of the Moon Agreement, it will not withdraw from the current international discussion happening on this issue with States not yet convinced of the Moon Agreement's usefulness. We strive to engage with all Members of the Committee in good faith to endeavour to create this international regime.

Last year, Australia, Austria, and the Netherlands together submitted a CRP to this Subcommittee, containing a study of existing legally binding as well as non-legally binding instruments relevant for the issue of space resource governance. This contribution highlighted that, while States have different legal obligations, the goals they attempt to enshrine in international instruments, legally binding or not, are substantially similar.

Austria also wishes to highlight that both Article I of the Outer Space Treaty as well as Article 6 of the Moon Agreement specifically safeguard the scientific investigation of outer space as a priority right of all States Parties. The Moon Agreement expressly clarifies that States are permitted to collect samples for the purpose of scientific investigation of outer space, including the Moon and other celestial bodies, and establishes that States Parties to the Moon Agreement may use minerals and other lunar resources on site in support of such scientific missions.

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, the Moon Agreement and customary international law afford to scientific investigation and exploration of outer space.

Mister Chair,

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