

Committee on the Peaceful Uses of Outer Space

Legal Subcommittee

Unedited transcript

626th Meeting

Wednesday, 29 March 2000, 10 a.m.
Vienna

Chairman: Mr. KOPAL (Czech Republic)

The meeting was called to order at 10.15 a.m.

The CHAIRMAN: I declare open the 626th Meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

We will now continue our consideration of agenda item 4.

Status of the international treaties governing the uses of outer space (*cont.*) (agenda item 4)

The CHAIRMAN: I would remind delegations that, unless there are any objections, it is my intention to conclude discussion on this item at this morning's session. Are there any delegations wishing to speak under this item at the present time? No names are inscribed on the list of speakers. I see none.

The Subcommittee has thus concluded its substantive discussions on this item of the agenda.

We will now continue our consideration of agenda item 5.

Information on the activities of international organizations relating to space law (*cont.*) (agenda item 5)

The CHAIRMAN: I have one speaker inscribed on my list, the distinguished observer of the European Organization for the Exploration of

Meteorological Satellites (EUMETSAT), to whom I give the floor.

Mr. P. HULSROJ (EUMETSAT): First I would like to apologize for not having attended the session from the outset, but unfortunately I had conflicting engagements which I was unable to cancel.

I would also like to say that I am very pleased to participate in this meeting, particularly under your distinguished chairmanship; I congratulate you on your election, and I also congratulate Ms. Othman on her appointment as the new Director of the Office for Outer Space Affairs.

I would like to briefly outline EUMETSAT's role in space law to date. I must say in all modesty that until now, we have for the most part been passive users of the good work done by this Subcommittee. We are a relatively new organization, and as we began our work we found a world which seemed to be reasonably well in order. In day-to-day life we felt there was no great need to change everything, and we have tried to become good members of society by signing up to the Registration Convention. We are also in the process of acceding to the Liability Convention, although a decision is still outstanding from our Council in this latter respect.

Nevertheless, now that we have become more mature, we would like to participate in a more proactive fashion in space law life. In this respect,

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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.

there are two issues we would like to raise. One is the status of international organizations in space law and in space law treaties; the second is the question of the principle of the free use of space.

For example, the status of international organizations in space law: first, this is not merely a question of pride. It is a question of international organizations trying to become as involved as possible in making the rules that ultimately will also regulate the life of international organizations. This is certainly true for an organization like EUMETSAT, which is entirely devoted to space matters.

Looking at the evolution of it, we saw a very restrictive approach in the 1967 Outer Space Treaty, where Member States were requested to bring international organizations into line with the norms created, but where the international organizations themselves seemed to have a very small role to play. This progressed with the Registration and Liability Conventions, where international organizations can accede to them but still play a rather minor role.

Ultimately, what we believe is that it is in the interests of the international community to have international organizations, even if we are a dwindling group (with INMARSAT and INTELSAT becoming privatized). But some international organizations still remain, and we believe that it is important for the international community as such to have as fully involved. Professor Bin Cheng wrote at one point that one of the concerns of allowing international organizations to participate fully in international treaties was that Member States that had not signed the Conventions would get a kind of “free ticket” to the rights flowing from the Conventions. Although I am a great admirer of his work, I do not feel this is the correct perspective to take.

Many people believe that the governing rule of public international rule is that what is not prohibited is allowed. If we take this perspective, and accept that international organizations are subjects of international law, then the point of having international organizations acceding to Conventions is not that Member States might get a “free ticket”, but that Member States may then be tied to the obligations of the treaties. Therefore I think if anything it is an automatic commitment. For example, if we take organizations such as ITU, with over 180 Member States, then there are many practical advantages of having international organizations like that sign treaties, because then their activities are regulated according to the will of the international community.

The opportunity to address the meeting today represents a kind of signal from the international community that there is an interest in having intergovernmental organizations participate at an early stage. I welcome this opportunity and hope that it will progress even further.

Turning to the second matter I mentioned, this is a real practical concern which goes to the very foundations of space law as we know it. These are the norms laid down, in the first instance, in the 1967 Outer Space Treaty about the free use of space. This is a wonderful concept, but one which ultimately will only work if talking about an infinite resource. However, as well all know and as you have discussed already, space is increasingly becoming a finite resource. Therefore we may not be able to take the liberal stances we have assumed in the past in terms of use.

I believe that it is inevitable that we start to look at priority use of space. In this distinguished forum as well as in many others, many questions have been raised on the role and place of developing countries in this process, and whether positions in the GSO should be reserved etc. This is one aspect of space being finite.

But there is another aspect and that is the one I want to address here, one which is close to the heart of EUMETSAT. That is that when frequencies and orbit positions in the GSO or in the low Earth orbit become scarce, then we must be careful not to lose the public service that certain intergovernmental bodies and many States themselves are providing. Therefore we believe there is no choice but to discuss how, in certain instances of resource conflict, to give priority to public service elements. I have said before that I find it strange that one can have equality between a satellite, devoted for example to bingo, having the same priorities as a satellite devoted to meteorology. I understand the genesis of this, which was that there was a large resource. As Professor Lyle has written, it has worked well until now, basically because it has been a technical discussion on how to best use the resource in hand.

As a result of the finite nature of space, we have no other choice but to start to prioritize. It thus becomes highly legal, and I believe this Subcommittee must address and discuss it. Developments are pointing us in this direction, and the result must be that certain public service functions – and I hope meteorology will be one of them – are given a priority status.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the

Chair and to the Director of the Office for Outer Space Affairs.

I have just been informed that there will be one remaining speaker under this item this afternoon. I will therefore suspend our consideration of this item until then, and we may then decide to conclude our discussion.

I have also been informed that because of an overlap of their intergovernmental meeting with this session of the Legal Subcommittee, the International Institute for the Unification of Private Law (UNIDROIT), which is scheduled to make a presentation to the Subcommittee under this item, will only be able to do so early next week. Therefore, as there appear to be no further delegations wishing to speak for the time being, I suggest we suspend discussion in this meeting. We will have one further speaker this afternoon, and we will ensure that the representative of UNIDROIT can make its presentation early next week.

Are there any objections to proceeding in this manner? I see none. We will therefore proceed accordingly.

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit, without prejudice to the role of the International Telecommunication Union (cont.) (agenda item 6)

The CHAIRMAN: We will now continue our consideration of this regular agenda item. I have one speaker on my list, the distinguished representative of the United States, to whom I give the floor.

Mr. J. CROOK (United States of America): I have some general views to express under this item, which will be focused on the question of the definition and delimitation of outer space.

We have carefully re-examined this issue in light of the various statements delivered at various sessions of the Legal Subcommittee and elsewhere. However, neither the United States nor any other nation has ever encountered any real world problems from the absence of any definition or delimitation of outer space. We have yet to hear any persuasive reason why arbitrarily setting a boundary line to separate airspace from outer space is either juridically or practically necessary, much less urgent.

Although we have heard statements in the past that have stressed the tidiness that such an arbitrary

line would give to the development of space law, in view of the different legal regimes that apply to airspace and outer space, tidiness is not sufficient reason to set an artificial and arbitrary line between the two spheres. The consequences of such a line we cannot predict and which is not based on scientific or technical fact.

In discussing this matter, delegations have sometimes cited the 1944 Chicago Convention on International Civil Aviation. The drafters of the Chicago Convention and its annexes, which obviously predate the 1967 Outer Space Treaty by many years, did not in their wisdom seek to define airspace, or set a line where airspace ended. Rather, they concentrated on establishing norms to govern civil aviation activities without attempting to define the total geographical sphere in which those norms would operate. They were wise to do so.

The height at which aircraft can sustain flight has gradually risen over the years and can be expected to rise further with technological advances. Currently there are air vehicles that can sustain flight at about 30 kilometers; assisted by rocket power, air vehicles have been able to reach a speed of 100 kilometres for brief periods. At the same time, the perigee of some orbits of space vehicles has been as low as 90 kilometers. Indeed, the history of space activities shows that the minimum altitude at which orbital flight has been thought possible has steadily decreased as technology has advanced.

But this evolution of technology has not been a problem. The present differing legal regimes applicable in respect of airspace and outer space have operated well in their respective spheres. They complement one another, accommodate each other quite effectively, and do so for the benefit of all States and peoples. This smooth relationship has been possible largely because of, rather than in spite of, the absence from each body of governing law of an artificial, quasi-geographical delimitation of applicability.

An orbiting space object does not, and should not, become subject to a body of law separate from that applicable to outer space merely because it dips below a certain arbitrary line during its journey through space. Likewise, an aircraft does not, and should not, become subject to outer space law merely because it may travel above that arbitrary line. Were it otherwise, only confusion and friction would result. My delegation has yet to hear convincing answers to these and other difficulties that the notion of defining or delimiting outer space presents today.

Thus, an arbitrary and artificial definition or delimitation of outer space would, in my delegation's opinion, render international law less rather than more useful and effective. My delegation believes that it is obvious that there is no likelihood of attaining consensus on this issue today. As we have repeatedly stressed, it is only if and when substantial practical problems arise from the absence of such a definition or delimitation that the matter should be addressed.

It has also been suggested on occasion that a definition or delimitation of outer space is somehow necessary to safeguard the sovereignty of subjacent States. We are unpersuaded by this argument. Under current international law, space activities are conducted in a manner entirely compatible with State sovereignty. It is delimiting or defining outer space that would inevitably give rise to such questions, as States with widely differing technological capacities would strive to ensure that these new-found limitations were properly observed by other States.

The establishment of a positive legal norm is not an end in itself. A norm can be adopted only when it is needed to prevent or cure an identified problem. The United States delegation sees no practical problems that would be solved by a delimitation of space at this time. The lack of certainty as to where airspace ends and outer space begins has not impeded development of activities in either sphere, and we fear that the premature injection of unnecessary legal rigidity into this sphere would have precisely that unfortunate effect.

Turning to the issue of the GSO, my delegation believes that this orbit, some 36,000 kilometres above the Earth, is in outer space. Its use is governed by the 1967 Outer Space Treaty which provides, in Article 1, that "Outer space ... shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law ..." Article II further states that outer space is not subject to national appropriation by claim of sovereignty or by any other means. The use, or even repeated use, of an orbital position in the GSO does not mean that a State has appropriated that position or has any claim of sovereignty over it.

Thus we cannot agree with those that argue that the GSO is or can be subjected to the sovereignty of States, or that States may have preferential rights to the use of such orbits. Nevertheless we understand that certain States have taken a particular interest in this matter. We believe that the interests of those and all other States in the use of the GSO and radio frequency bands can be and are being taken into account pursuant to the ITU Convention and the Radio Regulations, and the opportunities under those

authorities for international cooperation among countries and groups of countries.

We note that the ITU is the international body that is charged by the international community with the responsibility for maximizing the orderly and efficient utilization of the GSO for telecommunications purposes, and with ensuring equality in that regard. The question of ensuring equitable access to the orbit is a matter that the ITU has been squarely, vigorously and satisfactorily addressing for a number of years.

The United States remains committed to equitable access by all States to the GSO. We are also a strong support of the need to satisfy the real requirements of developing countries for GSO use, as well as in outer space telecommunications generally. Our record over the last 25 years in making the benefits of space communications available to all countries speaks for itself. What is required is the proper management of the GSO, which can best be done through the ITU rather than through long-term inflexible planning.

I thank the Subcommittee for this opportunity to express our general views on this important agenda item.

The CHAIRMAN: Thank you for your statement. My list of speakers on this item seems to be exhausted, but does any other delegation wish to take the floor? I give the floor to the distinguished representative of France.

Mr. M. LAFFAITEUR (France) (*interpretation from French*): My statement will be brief. The difficulties that we have encountered in starting discussion on the second part of this item are quite clear. For many years now we have seen a spectacle which is undignified for our Subcommittee. We have attempted to hold discussions with the delegation of Colombia to try and seek a solution. The statements made within the framework of the general exchange of views have shown that there is a light at the end of the tunnel, and that this might become a reality.

At this stage it might not be a good idea to try and precipitate matters, for various reasons. As yet we have not been able to nominate a chairman for the working group; consultations are under way and I think it might be useful if these consultations reach a successful conclusion. My delegation made a proposal, which has been circulated to various groups, and certain countries are in the process of consulting their capitals. This process should also be concluded.

For these two reasons, I would suggest that we postpone our examination of this part of the agenda item, and that we continue to the next item on our agenda.

The CHAIRMAN (*interpretation from French*): Thank you for your statement. These are important issues which must be given specific consideration. I have another delegation wishing to take the floor, and I now give the floor to the delegation of the Russian Federation.

Mr. D. GONCHAR (Russian Federation) (*interpretation from Russian*): My delegation would like to say a few words on the matter of the rational and equitable use of the geostationary orbit.

We would like again to confirm the views of the Russian Federation, in that the GSO is an intrinsic part of outer space and is subject to the same legal regime, i.e. that all States without exception have free access to it. The GSO is also open for scientific research and use without any discrimination, and on the basis of equality for all States without exception. This is indeed included in Article 1 of the 1967 Outer Space Treaty.

The scientific and technical foundation for this hypothesis is and has been, we feel, successfully embodied in the working document submitted by the delegation of the Czech Republic which we discussed at the last session of the Scientific and Technical Subcommittee. Moreover, my delegation is in favour of keeping this item on our agenda, based on the mandate of COPUOS, to discuss and decide upon a policy for the legal aspects and problems involved in the use of the GSO.

My delegation believes that this particular issue, which is of ever-increasing significance for the whole of mankind, should be examined in a universal body of the United Nations which has the relevant competence and which has the possibility, in the course of its work, to satisfy the requirements and needs of all States, on the basis of consensus. In no way are we trying to diminish the significance of the work which is being carried out by the ITU on the settlement of frequency allocations and orbits with regard to the operation of telecommunication satellites in the GSO. However, we would point out that the above-mentioned activities are of a purely technical nature; secondly, the ITU deals with and has competence to address only one of the many fields involving the use of the GSO.

In addition, at a time when there are dynamic and sometimes unforeseeable developments in technology and the ever-increasing commercializa-

tion of space activities, my delegation believes it would be unwise to omit this topic from the activities of both the Scientific and Technical Subcommittee and the Legal Subcommittee, and of COPUOS itself. The task facing the United Nations bodies here should take into account the interests of the various States with different levels of technological development. If this control and monitoring of COPUOS was omitted, this could lead to the monopolization or "privatization" of orbital positions, and of part of the frequency spectrum.

In conclusion, we have a proposal to try and organize further the work of this Subcommittee on this item. We would suggest that, starting from the fortieth session of the Subcommittee, the discussion of this problem of the delimitation of outer space and aerospace and the equitable use of the GSO be separated into two subsections of agenda item 6.

The CHAIRMAN (*interpretation from Russian*): Thank you for your statement. (*continues in English*) The next speaker on my list is the distinguished representative of Colombia, to whom I give the floor.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): My delegation did not wish to take the floor under this item this morning, as we felt it would be a courtesy to the delegation of France, which had prepared a document which had been distributed to the various Members of COPUOS. However, the delegation of France has not yet presented this document officially and this is why my delegation feels that this is not the right time to address the content of this document.

We nevertheless recognize that as a number of aspects have already been mentioned by previous speakers, that are a cause for concern as far as the development of the study of this matter is concerned in this Subcommittee. First, one of the elements which should help us in making some progress on this question would be the examination of the document prepared by France. This should help us to overcome many of the difficulties mentioned by various delegations. My delegation is fairly optimistic and believes that once this document has been officially presented by France, a number of concerns could be overcome.

Second, I would like to refer to a number of points raised by previous speakers in order to try and clarify certain issues to help us achieve some progress in studying this matter. The Subcommittee has been studying this question for several sessions and Colombia has been fairly active in this regard. My delegation has put forward our point of view and our

position on the subject of the GSO. For some reason which we are not sure about – perhaps we have not expressed ourselves clearly enough – we get the impression that our position has not always been correctly understood.

Colombia presented a paper to the Subcommittee in 1996 and there was another document presented in 1993, so for seven years our position has been made quite clear, in writing, as concerns the GSO. We have seen some developments in these documents compared to our original position, and that is why I would like to mention a few points here to try and look at it from a different perspective.

My delegation has mentioned that this question originated in the application of Articles 1 and 2 of the 1967 Outer Space Treaty; that was the very origin of the matter and we fully agree with this position. Articles 1 and 2 of the Treaty are fully in force and we do not question that in any way. However, we believe that it cannot just be left at that. There are other legal instruments which also related to this question, including the mandate transmitted to COPUOS by the United Nations, asking it to address this issue, as well as the relevant ITU treaties – the Torremolinos Treaty of 1973 right through to the Minneapolis agreement.

Mention has been made of the equitable use of the geostationary orbit and that is another element that must be taken into account because it is also referred to in legal instruments and all States here represented have accepted that. We therefore feel it is important to take this element into account. The mandate of the United Nations General Assembly makes it quite clear that any such examination must take into account the role played by the ITU, and this is quite correct.

As far as we are concerned, account must be taken of ITU treaties and agreements and bear them in mind when carrying out the mandate entrusted to us by the United Nations. In order to do this, my delegation asked for a joint study to be undertaken between the COPUOS secretariat and the ITU, and in particular to examine the document we have submitted. This study was carried out; it was updated and was distributed on 6 January 2000, and so it is a relatively recent document. It also includes the conclusions that we have reached, which show that there is no incompatibility between the positions expressed by my delegation in document [A/AC.105/C.2/L.200 and Corr.1] and the principles of the ITU. We have taken as our basis the fact that this document relates to unplanned frequency allocations in the GSO. This document is also compatible with the planned allocations of the ITU documents.

Suggestions have been made that we should postpone examination of this matter to some other time. This document shows that we have tried to carry out our mandate and harmonize the standards that prevail in COPUOS with those of ITU, which should allay certain fears. There is the application of the 1967 Outer Space Treaty, which has been reaffirmed, and harmonization with the ITU standards, which we also accept totally. We hoped that this joint study would indicate as much, and indeed it did: it showed that the standards of COPUOS and ITU are compatible.

As concerns the document submitted by the Czech Republic, to which some reference has been made, during the general debate my delegation pointed out that in principle it has no objection to this document. We may possibly have some proposals to make in order to clarify certain elements, but we could in all probability go along with it. We have transmitted, unofficially, to the Czech delegation a certain number of suggestions after we had studied their document. This document could indeed be approved at the right time if we manage to reach a consensus agreement.

Finally, my delegation would repeat that we would like our document (A/AC.105/C.2/L.200/Corr.1) to be taken into account; we have no other working documents to submit. But to confirm what has already been mentioned by the delegation of France, we have indeed had consultations and we are prepared to come up with an agreement. Once the document prepared by the French delegation has been presented to us officially, we will make clear our position on it and we hope that some progress will be achieved.

As concerns the proposal made to separate the two elements of this agenda item, i.e. the definition and delimitation of outer space on the one hand, and the GSO, on the other, my delegation does not believe that the right time has come for us to be able to agree to this. We believe that a decision needs to be taken on the question of the GSO, and it is only after that that we can examine the proposal made by the delegation of the Russian Federation. The document we refer to (unofficially, that is) will help us to resolve this problem generally, but again, until this document has been officially presented, we cannot express an opinion on it as such. But we are open to this possibility and we sincerely hope that some progress will be made in studying this issue.

My delegation is committed to reaching an agreement on this issue and I hope that I have managed to allay some of the doubts which have been

raised this morning. If I have been unclear in any way, I am happy to take the floor again to try and further clarify my delegation's point of view. We believe that some progress should be made here in respect of reaching an agreement in this Subcommittee.

The CHAIRMAN: Thank you for your statement and explanations of your delegation's position on this item. The next speaker on my list is the distinguished representative of Brazil, to whom I give the floor.

Mr. E. LUCERO (Brazil): I will be brief: my delegation would like to thank the Secretariat for preparing document A/AC.105/C.2/L.205/Rev.1, and for providing, in conference room paper 3 and its Rev.1, the compendium of the documentation available on the issue of the orbit of geostationary satellites (also referred to as the geostationary orbit).

Brazil shares the view that the GSO is a limited natural resource that is reaching saturation point in many areas. As a consequence, legal assurances are required to ensure that the benefits of its exploitation will be equitably extended to all nations, irrespective of their present technological capabilities. Brazil understands the role of, and supports the decisions taken by, the ITU related to updating of guidelines for the use of the GSO and radio frequencies, with a view to keeping pace with the accelerated changes in the field of telecommunications.

However, the ITU decisions are of a technical nature; the Legal Subcommittee is thus the competent forum to discuss the legal aspects related to the access to and utilization of the GSO. Brazil expects that a positive result will emerge from the discussions on this matter at the present session of the Legal Subcommittee.

The CHAIRMAN: Thank you for your statement. I now give the floor to the distinguished representative of Ecuador.

Mr. P. PALACIOS (Ecuador) (*interpretation from Spanish*): As this is the first time my delegation has taken the floor, we would like to congratulate you on chairing the work of the Subcommittee. We are sure that with your experience and tact the Subcommittee will make positive progress in its deliberations.

My delegation would also like to thank the Secretariat for preparing document A/AC.105/C.2/L.205, which was drawn up according to the mandate of this Subcommittee and which represents a valuable contribution to our discussions. My delegation also welcomes the other useful

material prepared along with this important document.

As concerns the definition and delimitation of the GSO, my delegation considers that it should be maintained on the Subcommittee's agenda, in conformity with a very clear mandate from the General Assembly, without of course ignoring those issues that fall under the competence of the ITU. However, we believe that this Subcommittee covers a wider scope and covers legal aspects which are rapidly evolving, particularly in view of the growing use of the GSO for many technical and scientific purposes which are of great benefit to humanity.

As regards to the non-paper circulated by the delegation of France, my delegation welcomes the circulation of this document. We believe it a positive step towards progress in the Subcommittee, but given the fact that Ecuador has played a role, and often a dissident role, when discussing these matters, we must have official consultations with our Government and therefore our reaction will be made known at a later stage.

Finally, in order not to repeat the points made by the delegation of Colombia, my delegation nevertheless supports what was said concerning the aspects of the GSO and its definition and delimitation as well as its rational and equitable use. We closely share the points of view which have been mentioned in the past as well as in the present by the delegation of Colombia.

The CHAIRMAN: Thank you for your statement and for your kind words addressed to the Chair. I now give the floor to the representative of the Russian Federation.

Mr. Y. KOLOSSOV (Russian Federation) (*interpretation from Russian*): My delegation has requested the floor again in order to clarify what we had in mind when proposing that, as from the next session of the Subcommittee, we should begin a discussion on the definition and delimitation of the GSO.

My delegation is not proposing to have two new agenda items, rather than one single item as in agenda item 6. What we are proposing is that within agenda item 6 there should be two sections, (a) and (b), so that discussions in the working group should be carried out firstly on definition and delimitation, and then on the GSO. If we have people talking of both issues at the same time, the situation tends to become confused as there is no direct connection between these two points.

It seems to my delegation that whatever documents we have discussed, and whatever is going to be adopted on the GSO - all this requires a considerable amount of work. But we must bear one thing in mind: with all due respect for the importance of this Subcommittee and its work, and also COPUOS as a whole, it seems to my delegation that we must be restrained and hold back from making evaluations, including legal assessments, of decisions adopted in a sovereign way by a sovereign organization, namely the ITU. That organization cannot be involved in the competence of this Subcommittee and we should not get involved in the competences of the ITU. It is only with that understanding that we can continue to discuss any documents which are submitted by delegations on the GSO in this Subcommittee.

The CHAIRMAN (*interpretation from Russian*): Thank you for this clarification of your delegation's point of view. But as regards the discussion of those two questions which are included in one agenda item, in practice it has in fact been like that in the past. In the working group we have discussed the question of definition and delimitation on the one hand, and then the issue of the GSO, on the other. That too has been reflected in the reports of the working group. What we are talking about here is simply to continue this practice in the future.

(continues in English) I now give the floor to the distinguished representative of Colombia once again.

Mr. A. CORDOBA (Colombia) (*interpretation from Spanish*): I apologize for taking the floor again but I will be extremely brief, you have in fact basically replied to what I was going to say. The distinguished representative of the Russian Federation referred to my statement earlier. My delegation has understood his proposal perfectly clearly and our responses are the same as those that you have just given. We have always handled this item this way, as proposed by the Russian Federation, and there is no reason why this should not continue.

My delegation has the impression that part of the proposal by the delegation of France does afford additional help to solve the concerned expressed by the Russian Federation, and we are sure it will be of great assistance in resolving this concern.

The CHAIRMAN: The list of speakers on this particular item now seems to be exhausted. However, I feel that some delegations do wish to take the floor. I give the floor to the distinguished representative of Argentina.

Mr. M. VERGARA (Argentina) (*interpretation from Spanish*): With regard to the definition and delimitation of outer space, my delegation believes that the scientific and technical progress being made in the light of increasing activities in space means that we must achieve a consensus on these issues.

Concerning the character and utilization of the geostationary orbit, which is of interest to the developing countries, my delegation wishes to express its appreciation for the updated document A/AC.105/C.2/L.205/Rev.1, which has been prepared by the Secretariat in cooperation with the secretariat of the ITU. My delegation finds this document very useful in order to help us continue our work in examining this matter. It is necessary to continue with negotiations in order to arrive at a definition of this subject.

We support the action taken by the delegations of France and Colombia in an attempt to reach a consensus which we believe to be very necessary.

The CHAIRMAN (*interpretation from French*): Thank you for your contribution to this discussion. I now give the floor to the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): My delegation would like to say few brief words now and will take the floor again to speak at greater length. As concerns the proposal made by the distinguished representative of the Russian Federation, we believe it to be a most useful one. In what we could call subparagraph (a), we could go even further. Two or three years ago we abandoned examination of what we then called aerospace objects. As you know, in the recent evolution of techniques in telecommunications, objects tend to be launched at great heights, 15 or 20 kilometres in order to send these balloons high to use them for telecommunications transmission in frequency bands of 20-40 Ghz.

This is an important point because large companies will be involved in making these, and it will be important to know what legal regime will be applicable to these telecommunication balloons, or zeppelins. My delegation therefore thinks that the proposal of the Russian Federation has even more value, given that point of view. We will revert to what the Chair was saying, i.e. that perhaps we should once again consider this point of aerospace objects, which we abandoned to some extent in the past.

Everyone has said that the ITU is a technical forum; as most of us here are lawyers, we must not

forget that the decisions taken by the ITU are international treaties. The Final Acts of any conferences, be they Plenipotentiary or Radio Conferences, are international treaties that follow on from those diplomatic conferences. These are therefore legal questions. The one thing the ITU cannot do is to discuss the legal regime for outer space, but all the regulations relating to the use of frequencies fall under the exclusive competence of the ITU.

The CHAIRMAN (*interpretation from French*) Thank you for your contribution to our discussion. (*continues in English*) Are there any other speakers under this item at this time? I see none. We will therefore continue our consideration of agenda item 6, "Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit, without prejudice to the role of the International Telecommunication Union", this afternoon.

My understanding is that the consultations on the appointment of a chairman for the working group are still in progress, and we should wait for them to reach a positive conclusion that can be adopted by consensus. The non-paper prepared by the delegation of France is still being considered by the Government and we must await the results. We have therefore postponed the discussion of this point at the level of the Subcommittee until this afternoon, and we will await the other decisions concerning the working group.

We will now continue our consideration of agenda item 7.

Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (cont.) (agenda item 7)

The CHAIRMAN: I have no names inscribed on the list of speakers, but does any delegation wish to take the floor? I have just been advised that the United States delegation will make a statement under this item this afternoon. If the distinguished representative of the United States would be prepared to make that statement now, it would be much appreciate, but it is of course up to that delegation.

Mr. J. CROOK (United States of America): We do not want to monopolize the conversation, but we do have a short statement which we could make at this point.

We have several observations to make concerning the Subcommittee's consideration of the use of nuclear power sources in space. Although the Subcommittee does not have any specific task to fulfil at this session, we believe there are some developments that are worth noting.

The United States is particularly pleased that the Scientific and Technical Subcommittee, at its last session, began its consideration of NPS on the basis of a multi-year workplan proposed by my delegation, along with the delegations of the United Kingdom and the Russian Federation. The objectives of this workplan are to identify current national and international processes and standards pertinent to the use of NPS, and to develop a relevant database as a source for information concerning NPS. The United States is committed to supporting implementation of this workplan for establishing a solid, state-of-the-art technical foundation for any future NPS deliberations.

In addition, we note that in 1986 the IAEA adopted two conventions dealing with notification and assistance in the event of nuclear accidents, and has issued a 1996 report on emergency planning for re-entry of satellites carrying NPS. These are relevant to the workplan and in this regard the views of the IAEA were most welcome.

The first year of the workplan focused on identification of terrestrial processes and standards that may be relevant to NPS, including factors that distinguish NPS from terrestrial applications. We submitted a working paper, provided a technical presentation and supported discussions along these lines. The Scientific and Technical Subcommittee adopted the report of the NPS working group detailing activities for the second year, including the view of various conventions adopted by the IAEA, the recommendations of the International Commission on Radiological Protection (ICRP), IAEA safety documents, and the report of the United Nations Scientific Committee on the Effects of Atomic Radiation.

The working group also agreed that it would be useful, in accordance with the agreed upon workplan, for representatives of launching States to present a detailed review of the processes carried out to obtain final launch approval in their countries.

With regard to the 1992 Principles Relevant to the Use of Nuclear Power Sources in Outer Space, my delegation believes that revision of those Principles is not necessary at this time. While the Principles have no binding legal effect on national programmes, United States policy and practice are fully consistent with their overall objectives and

intent. We have a rigorous safety review process in place prior to the launch of NPS, and we will continue to apply that approach. We wish to draw the Subcommittee's attention to the fact that the United States, as called for in Principle 4, has provided information to the Secretary-General on the results obtained from the safety assessment, and a subsequent update for the Cassini mission to Saturn.

My delegation believes that until there is a firm scientific and technical consensus, it is not appropriate to consider specific revisions. Therefore the Scientific and Technical Subcommittee and its technical working group on NPS should continue work in accordance with the established multi-year. We note the General Assembly's decision at its fifty-fourth session to suspect consideration of this item in a working group pending the result of the work of the Scientific and Technical Subcommittee. However, we have no objection to keeping this item on our agenda for next year, to allow the Legal Subcommittee to track the work of the Scientific and Technical Subcommittee.

The CHAIRMAN: Thank you for your contribution, and also for your willingness to use the time available this morning to present your statement. Are there any other delegations wishing to speak on this point? I see none. I therefore intend to continue our consideration of this agenda item this afternoon.

I would like to draw your attention to the fact that this point has been included on our agenda as a single issue, an item for discussion. That implies that this item would only continue to be discussed by the Subcommittee this year unless renewed by consensus. Therefore delegations should consider *inter alia* the future status of this item on our agenda. I would like to hear your views on this question of procedure this afternoon, as we must reach a consensus either on prolonging consideration of this item, or simply to take into account that this discussion point has come to an end.

As we still have some time available to us, I propose that we might begin a preliminary discussion on agenda item 8.

Review of the status of the five international legal instruments governing outer space (agenda item 8)

The CHAIRMAN: Delegates will recall that this is the third year of the agreed three-year workplan on this item. The workplan appears in the 1997 report of the Legal Subcommittee (document A/AC.105/674, Annex II(b)). Accordingly, this year the Subcommittee, on the basis of the recommendations of the working group convened last

year (the report of this working group is contained in document A/AC.105/721, Annex II), the Subcommittee should consider and implement as appropriate the measures considered adequate to achieve the fullest and widest adherence to the treaties relating to outer space.

Delegates should also note that as this is the final year of the scheduled workplan, they should consider whether this item should be retained on the agenda and, if so, in which format.

I will now open the floor to any delegation that may wish to make a preliminary statement on this item. Does any delegation wish to take the floor at this time? I see none, and we will therefore continue our consideration of this agenda item this afternoon.

I will therefore shortly adjourn this meeting of the Subcommittee. I would urge delegations to utilize the time left over from this morning's session to conduct informal consultations among themselves with a view to reaching agreement on some of the crucial outstanding issues before the Subcommittee, particularly relating to the issue of the geostationary orbit and to the working group on this item. As delegations are aware, we still need to elect chairpersons for both working groups (not only on the definition and delimitation of outer space and the GSO, but also on the concept of the launching State).

In addition, delegations might also begin informal consultations on new agenda items for the next session of the Legal Subcommittee, as we will be taking this topic up in due course under agenda item 10. Before adjourning this meeting, I would like to inform delegates of our schedule of work for this afternoon.

We will continue our consideration of agenda item 6, "Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit, without prejudice to the role of the International Telecommunication Union". Thereafter we will continue, and possibly conclude, our consideration of agenda item 7, "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space".

Following that, time permitting, we will continue our consideration of agenda item, "Review of the status of the five international legal instruments governing outer space". We will also continue our consideration of "Information on the activities of international organizations relating to space law". I

have been advised that we do have one speaker on this particular item.

Are there any questions or comments on this proposed schedule? I see none. I give the floor to the distinguished representative of Brazil.

Mr. E. LUCERO (Brazil): Before you adjourn the meeting, may I request through the Chair that delegations from the Latin American and Caribbean countries remain in this room for informal consultations.

The CHAIRMAN: Thank you. I think the delegations from the Latin American and Caribbean region have heard this announcement from the distinguished representative of Brazil. I will therefore not repeat it; I am sure that they will stay in the room.

Are there any further comments? I see none. This meeting is adjourned.

The sitting adjourned at 11.40 a.m.

