

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

*Unedited transcript*

645<sup>th</sup> Meeting

Monday, 5 April 2001, 10 a.m.

Vienna

*Chairman:* Mr. Kopal (Czech Republic)

*The meeting was called to order at 10.19 a.m.*

**The CHAIRMAN:** Distinguished delegates, the Subcommittee is now in session. I declare open the 645<sup>th</sup> meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

**Participation of non-Members in the session**

Distinguished delegates, before commencing our substantive deliberations this morning, I should like to inform the Subcommittee that I have received a communication from the Democratic People's Republic of Korea requesting participation in our meetings. Inasmuch as the granting of observer status is a prerogative of our parent Committee, I feel that we should not take any formal decision on the matter. However, if there is no objection, I would suggest that the representatives of the Democratic People's Republic of Korea might attend the formal meetings of the Subcommittee and might direct to the Chair a request for the floor if they wish to make a statement. This has been our constant attitude to such a request and this is the practice that we have observed for several years when States which are not Members of the Subcommittee have communicated with the Subcommittee requesting participation in its meetings, in its formal meetings.

Distinguished delegates, if I hear no objections, *it is so decided.*

**Agenda item 5, information on the activities of international organizations relating to space law**

Distinguished delegates, we shall now continue our consideration of item 5 of our agenda,

information on the activities of international organizations relating to space law. I would urge those delegations still wishing to speak on this item to inscribe their names on the speakers list with the Secretariat as soon as possible and it relates also to the request of the observers when they wish to speak on this particular item.

I have on my list of speakers no delegation wishing to speak on item 5. However, yesterday I already advised you that today the representative of UNESCO would make a statement on behalf of this specialized agency of the United Nations system of organizations. I give the floor to the distinguished observer for UNESCO, Mr. Fenstad.

**Mr. J. E. FENSTAD** (United Nations Education, Scientific and Cultural Organization – UNESCO): Thank you Mr. Chairman. We are very honoured and pleased invited here to make a statement on behalf of COMEST, the World Commission on the Ethics of Scientific Knowledge and Technology and its activities concerning space.

You will find that certain documents have been put at your disposal. It is the paper that we are presenting today and it is a report of the Sub-Commission on the Ethics of Outer Space and there is also some further informational material concerning our World Commission, COMEST. So I hope that you will make yourself available of those documents because they contain a lot of information that cannot be presented in a short oral statement here.

The mandate of COMEST, the World Commission, specifies that the Commission should first serve as an intellectual forum for the exchange of

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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

ideas and experiences. Two, detect on that basis, early signs of risk situation. Three, fulfil an advisory role for decision-makers in this respect and four, promote a dialogue between scientific communities, decision-makers and the public at large. The composition of COMEST reflects this broad mandate and do not only contain specialists in space issues but broad selections of figure from public life, politicians, literary people, etc.

The mandate expresses a concern with ethical reflection and discourse. This does not mean that ethical theory and general principles are irrelevant. They are necessary guidelines in any ethical discourse but the emphasis of the work of the Commission has been on concrete issues and situations. And maybe it may interest you that one other area that we have been working on is ethical and value questions concerning fresh water issue led by Lord Selbourne(?) of the United Kingdom and with the very active participation of Madame Mubahaca(?) of Egypt and there have already been established several regional centres for this activity.

We have also tried to tackle value questions in connection with the information society. This is led by the Vice-Chancellor Marshall Greenwood of the University of California at Santa Cruz and with a good participation of various United States organizations, National Science Foundation, for example.

What I am talking about here is our activities in the ethics of outer space. Space is a new challenge for humankind and in 1998, the Director-General of ESA, Mr. Antonio Rodotá, approached Frederico Mayor(?) of UNESCO and asked if UNESCO would and the new COMEST would respond to the value questions concerned with the exploitation of space.

This led to a working group which was headed by Professor Alain Pompidou of France and they produced a report on "The Ethics of Space Policy" which was published in 1999. The work was carried further by a special Sub-Commission created by COMEST, of which I have the honour of being the Chairman, and we have produced a report "COMEST Sub-Commissions on the Ethics of Outer Space", a little blue or greenish booklet that you will find at the back of this room and I hope that you will take a copy and make yourselves available of the information there.

You will see that we have emphasized four different aspects of the issue. We look upon space as an ethical issue, space as a dimension, space as an instrument and space as a perception. Other recommendations and conclusions following both the

work of the Pompidou Working Group and our own deliberations is fairly extensive and you will find an outline of proposed recommendations in this little booklet.

Let me just mention a few points. When we talk about space as a dimension, we emphasize the fact that space must be regarded as the common heritage of all humankind and must remain in the service of humankind. It must be regarded as a scientific territory and this means that freedom of access to space must be assured. This is elaborated in a number of points. Let me just mention a few.

Under space as an instrument, we have broad and wide-ranging discussions of how to safeguard data from space. This was based on a very thoughtful and thorough survey by the President of the Chinese Academy of Sciences, Professor Lu at our meeting. I cannot really go into all the details there but in case there are a number of issues of relevance to, particularly, developing nations when it comes to the access to and the control of data concerning environmental issues, there are a number of points of contact here between the broader ethical reflections that we are pursuing and the more concrete actions that a Committee like yours will be considering concerning the protection, access and freedom of data in space.

We also a number of reflections concerning the management of risk specific to space activities. But again, I cannot enter into the details but recommend this little booklet for you.

In pursuance of other ideas that we have to promote a broad dialogue between the various stakeholders concerning space. Educational efforts is a very important part of the COMEST mandate.

Being a natural scientist, I am acutely aware of that when scientists talk to the general public, it is usually very didactic and with a raised finger. This is very wrong. We have to engage in a debate on equal terms and to engage the lay people, the broad community in discussions concerning issues of space. This, of course, was also some of the concerns of the Director-General of ESA, Mr. Rodotá, when he approached UNESCO and asked us to take up this issue and we can see in many areas concerning biomedicine, etc., where one has not been able to engage the public as equal partners in the debate about value issues that modern science and technology raises.

So this is one of our efforts. We are also collaborating with various national space agencies to pursue further of these questions. We are coming to

you here because there are also very many points of contact between the value reflection, the ethical reflections and questions of law and legal things. Very often you can produce a beautiful document talking about mankind, the rights, about the visions, etc., but it comes to a point where you have to implement your good intentions.

There are a number of issues in our report that is relevant to this particular part. Again, there are issues concerning space debris, concerning launching States, that you are very well aware of, but we wish at this occasion to show a little more daring and perhaps foresight and take up one further issue. The issue concerning an international high authority for outer space. I think we approached this with some care in our report. It says that international organizations must be encouraged to reflect on the creation of an international high authority for the use of outer space for the benefit of humankind. We have tried to spell out a little more in detail what this means and I will ask a member of my Sub-Commission, Professor de Faramiñan, to elaborate a bit on this idea for your information.

**Mr. J. M. DE FARAMIÑAN GILBERT**  
(United Nations Education, Scientific and Cultural Organization – UNESCO) (*interpretation from Spanish*): Mr. Chairman, if you accept, I will speak in Spanish. The working document that we brought with us from UNESCO fits within the context of the United Nations treaties and I will just explain this covering the five points.

Showing first of all the interest in humanity, the benefits for humanity, parallels that can be seen with the Law of the Sea, creation within the context of the Law of Sea of high authority for the sea bottom. So for the first of these, the interest of humanity.

This is something that comes within all treaties of the United Nations on outer space and in particular the 1967 Treaty. As you know, in its preamble, it highlights the interest for all humanity as a whole in the exploration and utilization of outer space for peaceful purposes. That same idea is reaffirmed in the content of the Treaty in Article I where it refers to the interest of humanity but also, and this is important, to the well-being and interest of all States, irrespective of economic or scientific development level. This is a point that is repeated later on in Article IV of the Treaty on the Moon, once again referring to the interest of humanity.

The interest of humanity is a constant reference throughout the context of United Nations

treaties on outer space law and we have to bear in mind the concept of humanity in Article V in the Outer Space Treaty referring to astronauts as the envoys of humanity.

The second point is, is it only the interest of humanity that is at stake or should we also look at the benefits? We have to bear in mind that within the context of the treaties, there is not full clarity around a concept that exists in public international law and that is patrimony or property of humanity but rather the interest of humanity in this context. And COMEST feels that this is where we should see it as the international community's action through its bodies, in the United Nations in particular and its specialized agencies and that with a view to broadening the scope and concept and consolidating the idea of exploration and utilization of outer space. And this should be not only in the interest of humanity but also to the benefit of humanity and that through greater guarantees with the understanding that we are dealing with the common property of humanity.

If we speak of interest and also benefits for humanity without going to the full concept of a property, we still have the need for supra-national supervision and that with a view to avoiding discrimination among the various countries making up the international community. These are different in terms of economic and scientific development in particular.

So following on that same idea, the international community should find ways and means for these ideas to be turned into reality and all you have to do is look at successful examples in the question of the defence of the interests of humanity and the Law of the Sea is the example here, the parallel that is known and recognized by scholars of space law that was already dealt with in this Committee on previous occasions where, in recent decade, parallels were drawn between space law and the Law of the Sea.

The United Nations Convention of Montego Bay of 1982 recognizes in Article 136 that the area of sea bed and ocean floor are the common heritage of humanity and that set a decisive step for international public law as well as the significant precedent which is worthy of emulation in other areas of law. Similarities between the international area of the sea bed and ocean floor, with the scope of outer space, are clearly evident. For example, Article 137 of the Montego Bay Convention on the Law of the Sea refers to the legal conditions. It says "No State shall claim or exercise sovereignty over this area". And what might be even more interesting is that it refers to resources therein as

well. Thus, in Article 137 in paragraph 2, it points to the creation of an authority on the sea bed and ocean floor and that authority would act in the name of all humanity.

However, any ores extracted could follow norms and procedures established by the authorities in agreement with States making up the authority. In other words, this creation would not eliminate commerce. Quite to the contrary, it would foster controlled exploitation or utilization. Article 140 in the same Montego Bay Treaty refers to the benefit of mankind in the activities in the area, irrespective of the geographical location of States, whether they are coastal or inland, and that giving special consideration to developing States.

The same idea could be extended for outer space to States that have had access to outer space through development and others that have not been able to do so but should be able to enjoy the interest in resources in outer space.

Article 140 in the Convention of the Law of the Sea, to continue with my comparison, says "that the authority shall provide for the equitable sharing of financial and other economical benefits on a non-discriminatory basis through an appropriate mechanism". This enables to deduce that access to any resources in the area is not prohibited but rather the authority is responsible for equitable distribution.

There are other articles in the same Convention on the Law of Sea that refer to the interest and legitimate rights of coastal States, scientific research, technological transmission, protection of the sea, protection of the human environment. Articles 142 to 146 refer to these matters.

So as you can see, there are areas and points that are very similar to the questions dealt with in the area of outer space.

The fourth aspect. How this high authority would work. Bodies would be created. The authority is an organization through which States Parties to the United Nations Convention, that is States Parties, I insist, through the authorities, organize activities in the area and particularly with a view to administering resources. The authority created certain bodies for this, an Assembly, a supreme democratic body, a Council or Board elected by the Assembly, the executive body which can create commissions such as Economic Planning Commission or Legal and Technical Commission. And then finally, the Secretariat, which is the administrative body and they set up procedure

through the creation of an enterprise responsible for transport, treatment and marketing activities of ores or minerals extracted from the area. This enterprise constitutes the most singular unique body of the authority as it has the capacity to act and will have an annual budget. The enterprise that can be in association with any State Party in accordance with its own capacity or with companies within the legal framework of contracts and can thus have legal and international coverage for exploration and utilization of the sea bed and ocean floor.

In the report presented by the Secretary-General of the authority for 2000, there are already operational and substantive activities covered with the first work plans being approved with the first investors under terms of contracts as approved.

And I would just like to say two delegations if the Chairman agrees, that this is a model that is successful, it has been operational under the Law of the Sea. So with great care and with due time, we should be able to consider, through our working document, the possibility of benefiting from this international experience under the coverage of the United Nations that has created an organization such as the International Authority of the Sea Bed and the Ocean Floor. You have the document before you. It has been distributed. In that document, we have an analysis, a very thorough analysis, not utopian at all. We have based ourselves on international practice of States and with that model, avoiding differences and looking at similarities, we could consider the creation of a high authority for outer space. So in the working document we propose that, if COPUOS considers this convenient, the document could be included under the agenda of a future session.

At the very beginning of the twenty-first century, we have a very important step being taken to the benefit of humanity in the question of outer space affairs. Thank you.

**The CHAIRMAN:** Have you finished your statement on behalf of UNESCO?

**Mr. J. E. FENSTAD** (United Nations Education, Scientific and Cultural Organization – UNESCO): There is not much to add to this. I would just point out that, for us the overriding concern is to have efficient means of implementation for many of the ideas that we are concerning. We have here presented, one, suggestions, which is a bold step forward and that the question of implementation may also be looked upon step-wise but we would like to have this broader discussion as some sort of conceptual

unification for this issue of how the ethical discourse can be translated into beneficial actions for humankind. Thank you.

**The CHAIRMAN:** Thank you distinguished representative, or representatives, because you have been two, of UNESCO for your substantive statement. I now have on my list of speakers the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you Mr. Chairman. I am indeed extremely happy because I believe that I am actually speaking on behalf of us all in saying to UNESCO that we are very grateful for the work that it has done here. I would like to focus on the proposal made a while ago by Juan Manuel de Faramiñan, our colleague.

With regard to the establishment of a high authority for the management of special resources, I am very happy to see that after the passage of several years, this idea has been reiterated by the international organization which is *par excellence* concerned with the humanities. And Greece is, indeed, very proud to stress and say out loud that it certainly fully endorses UNESCO's proposal.

At the Seventeenth Session of Plenipotentiaries in Minneapolis in October/November 1998 as well as during UNISPACE-III, which was held in July 1999, officially put the question as to whether such an international organization could be set up on the basis of the high authority on sea beds. Of course, the idea was launched more than 20 years ago by the eminent legal experts of the former Soviet Union as well as Mrs. Cortex, another eminent legal expert, who spent a lot of effort working on this idea. And I remember that former President Gorbachev, when he made a statement of fundamental importance, I believe, in 1989 before the General Assembly, when he referred to human activities in space, also reiterated this self-same idea.

If I might read you the passage from the general statement made by Greece and before UNISPACE-III on this idea which we would like to wholeheartedly endorse. Unfortunately, I do not have the original text in French, so I am obliged to read this out in English. Of course, I start with words in Greek. Sense does not need to be said.

"... that all people and citizens of the entire world already conscious of the dangers \_\_\_\_\_ their own existence, immediately and actively react and \_\_\_\_\_pose to the governments and other political

institutions in their respective countries, as well as to all involved international organizations, the urgent adoption of the necessary and appropriate measures in order to avoid any probability of forthcoming catastrophes because the cosmos is not the exclusive possession of anybody and especially of the States and private international, multinational enterprises that exploit each resources. On the contrary, the cosmos belongs to each one of all of us and to the future human generations as well as other species of the terrestrial fauna and flora and to the other celestial bodies and natural forces that compose it, just like ourselves, are an integral part of it. For this reason, it is absolutely indispensable to preserve and strengthen the intergovernmental and universal nature of the international legal regulation of space activities and also enhance the pre-eminent vocation of the United Nations, each body and its specialized agencies in charge of outer space, giving too, \_\_\_\_\_ noble(?) and \_\_\_\_\_ mission, a new orientation and innovative objectives.

Under this perspective, it is opportune to reiterate today, the idea launched some years ago for the establishment within the United Nations system of a world space agency comparable to the International Sea Bed Authority which will be competent and responsible for the management and control of the uses of outer space resources by the States and their public entities and private companies."

Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Greece for your half French, half English statement. I have already three other delegations wishing to speak. First of all, it is the distinguished representative of Egypt, to whom I give the floor.

**Mr. K. EL-HUSSAINY** (Egypt) (*interpretation from Arabic*): Thank you Mr. Chairman. Good morning to one and all. I have come from the Arabic world, so it is quite natural for me to speak Arabic. This time I have decided to speak Arabic.

I wish to take the floor, Mr. Chairman, to address my congratulations to the two representatives of UNESCO, whom I would like to thank for the very valuable information that they have shared with us during our meeting today. I would also like to say that I certainly appreciate his referring to the efforts made by Mrs. Suzanne Mubahaca(?) in this regard.

Egypt is certainly very concerned by the developments in outer space and we feel that this should be made to serve all mankind, so we certainly agree with UNESCO's proposal which has also been supported by the delegate of Greece.

*(Continued in English)* This morning concerning the confirmation on the activities of international organizations relating to space law, I noted throughout the last few years that the activities of the United Nations specialized agencies, whether in outer space, in aviation, on social or cultural and other activities, became complex and interrelated in the sense that some of the United Nations embark when exercising their jurisdiction on matters belonging to other specialized agencies. And I may give as an example the work already done by the International Civil Aviation Organization in the field of the use of satellites in the air navigation.

As I told you before, we were instructed in the Legal Committee of ICAO to formulate a legal framework to govern such sort of activity. So part of it, for sure, falls under the jurisdiction of our esteemed Committee on Peaceful Uses of Outer Space.

And my question is whether there is a sort of coordination between the different specialized agencies in order to be duly informed by the activities taken over by another specialized agency when they fall within the jurisdiction of another specialized agency.

I think there should be a sort of code of conduct between the different specialized agencies when one of them embark upon a subject belonging to another organization and this would be, exchange of observers, for example, or between themselves bring to the notice that some of them exercise jurisdiction which falls upon another organization or specialized agency or something.

So my idea, Mr. Chairman, is that there should be a sort of a code of conduct or a means for coordination between the different agencies and I would be grateful to you, Mr. Chairman, if you can provide me with any information in this direction. And giving a specific example, for the work already accomplished by ICAO, for example, in the field of using outer space satellites in the field of air navigation. This particular thing was brought to the attention of your esteemed Committee and the Committee of Outer Space and, because I think, when coordinating our efforts in this direction, this would improve the work accomplished by each of us, as ICAO or as the Committee on Peaceful Uses for Outer Space.

Also ICAO exercised some difficulties concerning other specialized agencies of the United Nations embarking upon an activity which falls within the jurisdiction of ICAO, for example. The World Trade Organization, for example, they embarked upon some regulations dealing with air transport liberalization which falls within the jurisdiction of ICAO.

Also, I may mention another organization here. I hope my memory will serve me right. The GATT, for example. I remember this example now. There is another need really to coordinate between the specialized agencies because their activities became complex and interrelated and I am not aware of any rule governing the common activities between the different specialized agencies. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Egypt for your statement. I intend to pronounce a few remarks on the discussion later so I will also try to answer the question that you have, in a very appropriate way, put during your statement. Thank you very much.

Now the next speaker on my list is the distinguished representative of Colombia to whom I give the floor.

**Mr. C. ARÉVALO YEPES** (Colombia) *(interpretation from Spanish):* Thank you Mr. Chairman. What was just mentioned by the representative of Egypt has led me to consider something and that is this interrelation that should be in the United Nations is something that we should work on harder to try not to duplicate tasks.

And accordingly, the contribution we had today from UNESCO, which is a valuable one, for which we are grateful, points in that same direction. What UNESCO has done with its efforts is to say to us that there is a model that we could observe, examine, analyze and see to what extent it can be followed within the area dealt with by COPUOS. The exercise that is presented in the document, that is a very good one. The work on parallels in analysis between what has been done in the sea and what can be done in outer space would lead me to support the idea proposed by them and, that is, that the document should not only be a basis for discussion in COPUOS, I would suggest that it be updated by UNESCO itself. This is a document on an area that is ever-changing so for its validity, it needs constant updating. So I would say that the experience that we heard from, broken down

into its various elements, shows us that the question of ethics is one that should not be defined, it should be practised and it should be practised through specific examples and effects, as he made very clear.

I endorse the point made by the distinguished representative of Greece. I believe he gave a very good summary of the feelings shared by Colombia whereby UNESCO, with its role in teaching and education, as examined with responsibility, the question of space that, as we know, is of primordial importance today.

That is what I wanted to say. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Colombia. The next speaker on my list is the distinguished representative of Malaysia to whom I give the floor.

**Mr. A. A. ADNAN** (Malaysia): Mr. Chairman. The DCFS(?) (*Malaysian delegation?*) (*speaker not at microphone*) has studied the report by the COMEST Sub-Commission on the Ethics of Outer Space and we also join others in thanking the distinguished delegates of UNESCO for their joint introductory statements. And to this, we fully share the principles that have been outlined in the ethics.

Mr. Chairman, in this matter, we wish to make some preliminary observations in that, while we do not dispute the credibility of the membership of the Subcommittee, we note that the Subcommittee does not include the two major spacefaring nations, the United States of America and the Russian Federation. And to this, we think it does not lend the necessary strength to the Code of Ethics.

Also we also notice that the members representing the developing countries in this Subcommittee, only include those from the spacefaring nations and that there seems to be an apparent imbalance and there is a non-participation of the other developing nations who are interested in space.

Having said that, Mr. Chairman, we only want to raise a few immediate concerns and in particular, we wish to bring to the attention of this meeting on how these ethics should be perceived in moving forward in the future. We also would like to know by whom should the ethics instrument be adopted by and is the ethics an evolving text? If it is, then should it take into account the concerns of all stakeholders including the non-spacefaring developing States?

Finally, Mr. Chairman, we only wanted to know whether these ethics should be further reviewed

by an open-ended group and in which United Nations organization these reviews should take place? And this is in line, I think, with the distinguished delegate from Egypt on the code of conduct of United Nations agencies and where their responsibilities lie.

With those brief comments, Mr. Chairman, I thank you.

**The CHAIRMAN:** Thank you distinguished representative of Malaysia for your statement and I now give the floor to the distinguished Ambassador for Chile.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you Mr. Chairman. Actually, it was a very pleasant surprise for me in that for a few days and a few sessions even, we have been talking about ethics. It is a question that should have been present since the very outset of our discussions. If you look at the conceptual layers of an examination of outer space, there is positive discrimination for countries irrespective of scientific or technical development and there is an ethical element added to the picture with that.

But if you look at the preparatory work and negotiations and subsequent acceptance and adoption in the General Assembly resolution on the Principle of Observation, ethics there too, has an important role as appears evident, along with other principles.

From this, we can deduce clearly that countries should, *inter alia*, have access to a knowledge on their own resources. It is something that appears to be very elementary but has not been clear enough so far. There are many countries now in the world living extreme poverty with shortages with a tremendous potential for natural resources but without the appropriate technological instruments or the adequate technical tools are just so expensive that they become virtually impossible for those countries.

In general terms, space law and the doctrine behind it should be based on ethical foundations. In other words, all countries of the world should have actual opportunities and equal conditions. Legal equality of the peoples consecrated enshrined in the Charter of the United Nations should find expression through law on outer space on the basis of ethical foundations, especially now as we look at the information society or knowledge society.

Without information, a country cannot overcome the most crucial problems in the way of normal economic and social development. Without

access to technology, how can countries define a regulatory framework for safety or security of people, human security, in other words, if the scientific and technological input is not there.

The UNESCO document on ethics, in the view of our delegation, is an excellent framework for reference. We have also listened to a good friend of ours, Juan Manuel de Faramiñan, a member of the group that drew up the document and referring to the need to establish a high authority similar to that on the Sea Bed and Ocean Floor under the Law of the Sea. Certain concepts would have to be worked on further but we do believe that this is an idea that should be taken up.

Once and for all, Mr. Chairman, I believe that we have to focus our work down the path of ethics where science and technology, and especially space science and technology, an essential instrument to solve these problems, aside from Hurricane Mitch and the El Niño phenomenon and everything else that has afflicted poor peoples, bringing on catastrophe after disaster, the natural catastrophe was that of poverty but now the time has come for us to take awareness of the ethical foundations coming from the treaties of space as a clear mandate but also under the principles adopted by the General Assembly. And within that framework, we should be methodical, possibly within a working group, to examine this UNESCO document that, in my view, has been a breath of fresh air and it should be ever present in the reflections of this Committee. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Chile, Ambassador González, for your statement on this item. The next speaker on my list is the distinguished representative of Spain to whom I give the floor.

**Mr. M. R. CANTERO** (Spain) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation has listened to the statement made by the representatives of UNESCO with great interest, especially the most valuable presentation given by Juan Manuel de Faramiñan, drawing similarities between the Law of the Sea and outer space law.

And I would like to recall that, at the thirty-ninth session of this Subcommittee last year, Spain came forth with a proposal for a comparative study of the Law of the Sea provisions and international space law and there was a similar proposal also from the Netherlands, as in reflected in paragraph 95 of the Report of the Subcommittee, A/AC.105/638.

In the broad sense, Mr. Chairman, we would like to congratulate Professor de Faramiñan for his very good proposal on an examination of the possible establishment of a high authority for outer space. That proposal is one that we believe is most relevant, although ambitious, and I am sure this could contribute to solutions to some of the uncertainties reigning regarding the peaceful use of outer space, thus contributing to the need that we have all seen in making progress and regulation of peaceful uses of outer space that we all acknowledge, is the aim pursued here.

As other delegations have already said, it would be interesting if the Subcommittee at later session periods could continue with the examination of this initiative and that we might see that high authority described in general terms by Professor de Faramiñan.

We give our best wishes for the success to follow this proposal. Thank you.

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

**Mr. P. PALACIOS** (Ecuador) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation would like to thank UNESCO for their valuable contribution and we are grateful to the Committee and in particular to Professor de Faramiñan.

Ecuador feels that ethics is a substantive part of international law. Legal science could not exist today without the ethics component. For space law, it should be there as well. I would not go so far as to say that here in the COPUOS Subcommittee we have worked without it on the scene. It has been present. This contribution would help us give structure and a reference framework to these principles and I believe the Committee should take up the proposal and the Commission should do so and that to work on within our areas of competence.

I would agree with what was said by Greece and Egypt and, not to repeat points made here by other delegations, I would like to say that I feel certain that the Chair will cover, in the Report, everything that has been said on this most important subject. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Ecuador for your contribution to our present discussion. Is there any other delegation wishing to speak? I recognize two delegations. First, Argentina and then Mexico.

**Mr. M. VERGARA** (Argentina) (*interpretation from Spanish*): Thank you Mr. Chairman. Just briefly to stress the interest felt following this report from UNESCO. My delegation feels that the Members of the Subcommittee should consider it and I would like to echo what was said by previous speakers. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Argentina. Next on my list is the distinguished representative of Mexico.

**Ms. S. FLORES LIERA** (Mexico) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation, too, would like to express its satisfaction with the debate held this morning. We are grateful to UNESCO for its contribution to our work. We believe that that idea is a very useful one. It enriches our debate and we feel that it should be examined at ease here in the Committee and we join the Ambassador of Chile and other delegations, Greece, Colombia, Argentina, Spain and others, in supporting this idea given by UNESCO.

As has been said this morning, we believe that this is an idea that is not utopian. It is based on practice with the model of the Law of the Sea, which was an extremely difficult one to negotiate, is one that has useful aspects for our own deliberations. We support the continuation of this debate on the idea. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Mexico for your contribution to the debate and I now give the floor to the distinguished representative of China.

**Mr. H. HUIKANG** (China) (*interpretation from Chinese*): Thank you Mr. Chairman. The Chinese delegation would like to express our thanks to the representative from UNESCO for his statement. We will not make a comment on his ideas here. I would just like to say that these days, after hearing the statements of various international organizations including UNESCO, my strong impression is that, apart from the Legal Subcommittee of our COPUOS, there are other international organizations where they are governmental or intergovernmental. They have very extensive work concerning international space law and they are very active in this field. These are very helpful compensation to our work here in COPUOS and, at the same time, we can also see that they oppose a serious challenge to our work in this COPUOS.

The Legal Subcommittee of COPUOS as a central organization in charge of international space law, during the past four decades, has achieved some accomplishments but we can see that most of the achievements are made in the two decades at the beginning of these 40 years.

In the first two decades, the Legal Subcommittee had formulated five international space treaties. This is the achievement that this Legal Subcommittee has always been proud of. However, ever since 1979, we can see that there is no single outer space document produced in the Subcommittee. Though we have made some so-called soft laws, soft principles in this field, rather we have made several sets of these soft principles or soft rules in this field. But the issue now is if we, in this Legal Subcommittee cannot take a leading role in this legislation in the outer space field then the Legal Subcommittee will lose its importance or significance here.

These see as a lot of delegations have put forward very good proposals. We have a lot of legal issues that merit our serious exploration. However, regrettably up to now, we cannot reach any consensus on any of these issues. We hope this situation can be improved soon. This is our opinion after hearing the statements of international organizations, or rather this is our impression.

I hope this can be taken seriously in this Legal Subcommittee. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of China for your contribution to our discussion. Is there any other delegation of the Members of the Subcommittee wishing to speak on this item at this stage? I see none. I will now give the floor to the distinguished observer for the European Space Agency who applied for a discussion.

**Mr. G. LAFFERRANDERIE** (European Space Agency – ESA) (*interpretation from French*): Thank you ever so much Mr. Chairman for having been so kind as to give us the floor during this debate. I believe that this is the commencement of the debate that is going to be quite lively in the Subcommittee and in all our organizations as well for quite a while.

We have to see why this resurgence of the word “ethics”. Occasionally, there are words like that, that come back and become fashionable after centuries or millennia go by and I would like to make some comments and say that we must not lose sight of what was said at the International Institute on Space Law which, last year, in Rio, devoted a significant segment

of its work to ethics. This was certainly one of the topics which was the subject of debate in the IISL Symposium last year in Rio, and the UNESCO representative, *inter alia*, has referred to various people including the ESA authorities which have certainly supported his thinking and the publication of this report as well.

And it is for this reason that I have taken the liberty of speaking. As I speak, I will seek, Mr. Chairman, to basically focus on general considerations and thoughts. As I have already said, ethics is an ancient concept. I think that it probably emerged along with the first human societies and I believe that thinking about ethics is basically to be found in the ancients. I am sorry that our Greek representative is not here because among these fundamental works on ethics, the nature of ethics, for which we have definitions, they are the works of Aristotles, St. Thomas Aquinas, Benozza(?), Kahnt(?), Nitcher(?) and I would go on and on with my list. So the debate on ethics is not new in any way. We have had with us the basic definitions of ethics for a while now and I believe that now we have to see how this concept can be applied when man gets engaged in new activities in space where he has not yet been involved. This remains a human activity in outer space. This is a new dimension and this has an affect on the application of ethics but not as definition. So we have to see exactly what the effects on ethics are of human activities in outer space.

For that, we also must define words and, since our Greek representative has joined us again, I would repeat that we have had definitions of ethics since the first ancient communities arose, along with St. Thomas Aquinas, Aristotles, etc. I will not be giving definitions of ethics but ethics certainly put commands addressed directly to the individual and this involves assessment of actions which are qualified as being either good or bad, as some philosophers have stated.

It is the concern of man who seeks to live well in just societies. In other words, it has to do with behaviours and human relations and since outer space activities of mankind are human activities, ethics necessarily has a direct relationship with those activities.

So we must be very careful in the distinction that we make between ethics, morals and law. These are distinct matters. Ethics has its own definition and ethics precedes law. Law is the expression of concept which have been retained by societies wishing to qualify relations among individuals and governing their activities and this applies to outer space activities as

well. So we must consider that ethics applies to an activity which exists because of a special tool, the satellite, spacecraft, aerospace objects which are going to be used for the purpose of these outer space activities.

And what follows on brings us to our conclusion is that because outer space activities have man as their final purpose, cannot do without one single ethics because ethics can undergo shades of variation. So it would be quite logical to find for outer space activities, principles of ethics which exist, which have been certainly soundly defined and consecrated in various international instruments and most often adopted within the United Nations organization, to start off with the Charter and as well as instruments adopted by UNESCO, *inter alia*. There is one declaration which has always impressed me which was fairly recently adopted in UNESCO, that is the Declaration on the Responsibility of Present Generations Towards Future Generations and this was adopted by the General Conference of UNESCO in 1997.

And there is environmental protection concerns, the use of scientific knowledge and technologies, the Declaration on the Preservation of the Marine Environment, the Kyoto Conference and Protocol. All of this images on ethical considerations and we have to see how this translates into laws. And here we have a legal instrument, which is the Outer Space Treaty and I would like to say that when this was developed and negotiated, I do not know whether the authors of this Treaty, some of those authors are sitting here, did not know actually that they were dealing in ethics, just like Mr. Jordan(?) did not know what he was dealing with when he figure in Moliere(?).

So I believe that, as the Treaty says, these activities must take place for the good of all mankind, all nations, irrespective of their degree of development. It is quite remarkable that the Treaty of 1967 went into effect with an expression of words of such high philosophical content. There are yet other words also in this Treaty of 1967 which also bear reflection of this ethical thrust which we would do well to re-discover. I think that it is remarkable to one extent. Any reading of the 1967 Treaty brings ethical considerations to light in an astonishing way. All of these space treaties and conventions have been approved by resolutions of the United Nations General Assembly, all adopted by consensus, unanimously in other words, but unfortunately we must note that when the States, having voted in favour of these resolutions, were called upon to translate this into law, to sign and ratify them, unfortunately, there were quite a few States who had

approved of these instruments have not found their way to signing and ratifying.

So I would like to stress that if find it extremely important for all these treaties and for the principles supported by the United General as General Assembly resolutions to be supported by all because this deals with the basis for equitable relations of all countries in the world so that space could be harnessed for the benefit of all mankind and so that these treaties could enter into effect as quickly as possible.

I will now be drawing to a close quickly. I could go on at length in speaking about the proposals made by the distinguished representative of UNESCO but I do not believe that it is up to me or other representatives in this forum to do this. I would just like to say in concluding, Mr. Chairman, that we already have ethical principles for space activities available to us. This is basic ethics. It is to be found mainly in the Space Treaty accompanied by the other treaties. Of course, the Charter as well as other instruments approved by UNESCO as well as other international organizations. We must not lose sight of this. We must not weaken this. Quite to the contrary, we should reinforce this thrust and here I would like to share the concern of various delegations speaking here is that what is a bit regrettable is the lack of consultation of efforts among various international organizations which are involved in applying first their own charters and constitutions and forget to inform the other actors on the international scene. We also are involved in space activity, so it is a pity that there is so little done in proper coordinated order. Thank you.

**The CHAIRMAN** (*interpretation from French*): Thank you distinguished observer of the European Space Agency. Is there anybody else wishing to speak on this subject at this meeting? I recognize the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you Mr. Chairman. I would like to sincerely thank the pioneers of space law in France, our friend Gabriel Lafferranderie who has spoken and I would also like to thank him for the contents of his brief contribution.

I cannot resist the temptation of saying the following. After almost a quarter of a century, Greece has been participating in this august Assembly, I have the impression, I would not want to impart a metaphysical dimension to it, but I get the impression that the Legal Subcommittee for one and a half hours now has finally elevated itself to its proper level of deliberation. I am happy and proud to see that this has

taken place. Finally, we have started talking about what we really should address.

At the very highest level of the pyramids of standards setting are ethics. Then, of course, we have laws and then we have the law. Here I would like to compliment what our friend Gabriel Lafferranderie has just said. Beyond ethics is what Demosthanes(?), our Demosthanes(?), said, and I will try to translate, "Of all precious things in life, the measure is man and women, of course". So, Greece, through you Mr. Chairman, would like to make an appeal to all countries, whether they are Members or not of COPUOS, for them to participate on the Symposium on the Human Dimension of the Application of Science and Technology in Outer Space which is going to be taking place under the aegis of COPUOS next 11 or 12 June so that all could bring to bear their significant contributions for the success of this enterprise because I believe that UNESCO's initiative is the point of departure of a new era of effort for COPUOS and for all of the United Nations organizations as a whole. Thank you.

**The CHAIRMAN** (*interpretation from French*): Thank you distinguished representative of Greece. (*Continued in English*) I recognize the distinguished representative of Belgium.

**Mr. J. F. MAYENCE** (Belgium) (*interpretation from French*): Thank you Mr. Chairman. My delegation recognizes the quality of the negotiations taking place this morning on ethics and we would like to note the impressive number of documents that have been developed by COMEST. However, on the debate on this in the Legal Subcommittee, we would like to see more clearly how reflections on ethics are being brought into correspondence with the mandate of our Subcommittee.

As the representative of ESA has said, ethics are not law, or are not yet law, and here we are in a pre-normative, pre-standard setting phase and I am seeking to properly focus on the proposal being made here because, on the one hand, we are speaking about ethics as applied to space activities and then, on the other, we are speaking more particularly in terms of the setting up of a high authority with its roots in parallel attempts in the Law of the Sea.

Now how do the two correspond? We hear that the high authority would be the implementation of rules that already exist with respect to outer space activities basically, in other words, the five space treaties. So we are already I the implementation stage, not in the derivative stage. My delegation certainly is

welcoming the discussion but we would not want rules that have been cast most seriously into being questioned in any way. We would not want that to happen.

As to the establishment of a high authority which would be similar to what exists in the Law of the Sea, comparison between the law of outer space and law of the sea is something which may seem relevant and certainly it is in various points, however, there are fundamental differences and I would like to propose, for the purpose of the continuation of this discussion, that if this exists, we should have given us a document summing up the activities of the high authority of its subordinate body which is the enterprise as well and as from the beginning of its establishment, what have been the accomplishments of this institution? If we could be apprised of that, that would be very valuable.

To sum up Mr. Chairman, I would like to say that my delegation is very open to this sort of discussion but we would like to remain within the realm of the feasible within this Subcommittee. I think that we should not get lost in the meanders of the philosophical discussion which is, of course, of interest but which might get us away off on a tangent, away from the crux of our considerations.

**The CHAIRMAN** (*interpretation from French*): Thank you very much distinguished representative of Belgium for your contribution and to our discussion. Would there be any other delegation which would like to speak in the course of this discussion that we are having? I do not believe that that is the case. (*Continued in English*) and do not wish to make any conclusions, to derive any conclusions from this debate. However, I would like to be permitted to say a few words, a few remarks on this subject, perhaps for the benefit of your further considerations.

First of all, I would like to touch the problem of interrelations between ethics and law. Law is often defined as a minimum of ethics that has been transformed into legally binding rules which are then enforceable by legal means. Therefore, there is a certain ethical content, certain ethical substance of law which must be preserved and which may be also further developed by establishment of new legal principles and new legal norms. However, there is still a lot of room for further development of ethical norms and these are outside the concern of our Subcommittee because our Subcommittee, the role of our Subcommittee and of the Committee on the Peaceful Uses of Outer Space, has been defined to consider

outstanding legal issues and to progressively develop adequate legal rules to govern space activities.

This is one remark that I wanted to know. It means we are concerned by ethical problems. We have to watch this development. We have to take into account this development. However, we concentrate on legal issues and we concentrate on the progressive development of outer space law.

My second remark concerns the legal regimes of the sea and outer space. Certainly there are similarities in principles governing these two different areas. However, there are also substantive differences in this respect and we do not have a single legal regime for both these areas. We have two separate regimes. One for activities on the sea and on the sea bed, of course. The other one governing the activities in outer space. Though we have to be aware of the development in the other area, we cannot transfer automatically the legal notions and the legal principles and norms from one area to another area.

My final remarks concern coordination between the space agencies and the United Nations among the space agencies of the United Nations system and among them and the United Nations. For this purpose, the United Nations has established the Inter-Agency Committee Meeting on Coordination and within this administrative Committee on Coordination usually the meetings or the sessions of the agencies and the United Nations are held that discuss their plans and mutually coordinate them. This is the forum where such issues can be discussed, can be analyzed and other recommendations can be derived from these considerations.

Moreover, the Scientific and Technical Subcommittee now deals with the question of means and mechanisms for strengthening inter-agency cooperation and increasing the use of space applications and service within and among entities of the United Nations system. Perhaps I will kindly request our Secretary to inform us in greater detail about the up-to-date discussions on this issue within the Scientific and Technical Subcommittee.

**Mr. P. LÁLA** (Secretary): Thank you Mr. Chairman. For the benefit of the delegations, I would just quote from the report of the Scientific and Technical Subcommittee. This year, the Subcommittee had introduced a new agenda item on means and mechanisms of strengthening this cooperation and they introduced a Work Plan that was adopted at a previous session in 1999. And according to this Work Plan, the first year is for this year, the Subcommittee analyzed

the current levels of usage of space applications and services within the United Nations system and examined the utility of space applications and services for increasing, with regard to space activities, the effectiveness, efficiency and coordination of the operation of the United Nations and did these.

There were several documents which were presented to the Subcommittee which are available. If you request them or if you have them in your files, the first one was the Report of the Inter-Agency Meeting on Outer Space Activities. It was the twenty-first session of this Inter-Agency Meeting and there was also a Report of the Secretary-General on the Coordination of Outer Space Activities Within the United Nations System and a note by the Secretariat which contained analysis of the replies from organizations of the United Nations system. I am quoting from document A/AC.105/761 and the other numbers of those documents, if you wish you can have those documents or at least reference to those documents.

This is a three-year Work Plan. In the year 2002, the Subcommittee will discuss the specific issue of identification of the barriers to greater use of space applications and services within the United Nations system and examination of specific means and mechanisms to eliminate those barriers.

And the final year of this Work Plan, 2003, the Subcommittee will discuss development of specific and concrete proposals and, as appropriate, action plans for strengthening this inter-agency cooperation in the use of space within the system and for increasing the use of space applications and services within the system in general and among particular United Nations entities. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you Mr. Secretary for your explanation and information about the activities of the Scientific and Technical Subcommittee.

In concluding my remarks, I would like still to say this. The Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee have their mandate in the field of the consideration and development of legal issues relating to space activities. We welcome the initiative of some specialized agencies or even organizations outside the United Nations system if they wish to develop adequate legal norms for activities that are within their terms of reference.

On the other hand, let us not forget that it is the United Nations which is responsible for the

progress of development of space law as a whole and this should be the policy of COPUOS, of the Committee and of the Legal Subcommittee. Of course, it is desirable, and even necessary, that the United Nations bodies are active in this respect and work adequately in the development and strengthening of the role of space law in space activities.

I still have an application for discussion from the delegation of Ecuador. The distinguished representative of Ecuador has the floor.

**Mr. P. PALACIOS** (Ecuador) (*interpretation from Spanish*): Thank you very much Mr. Chairman. I would like to look back to the summary that you have made of the session this morning.

There was practically no mention of the important discussion on ethics here with participation from a number of delegations. The summary, of course, is the point of view and an option of the Chairman but I would like to ask that the Secretariat's report give a more extensive coverage of the discussion on the ethics aspects related to space law. Thank you.

**The CHAIRMAN:** Yes, distinguished representative of Ecuador, I can assure you on behalf of the Secretariat and also on behalf of myself that we will take care of your request.

The distinguished representative of Colombia.

**Mr. C. ARÉVALO YEPES** (Colombia) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation would like to support what was said by the distinguished Ambassador of Ecuador. I believe it would be appropriate that the report reflect the discussion which was rich in concepts and which, basically, would have the consequence of shedding light on this topic which is of importance to all of us. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Colombia. I now recognize the distinguished representative of the Russian Federation.

**Mr. Y. KOLOSOV** (Russian Federation) (*interpretation from Russian*): Thank you Mr. Chairman. The documents which have been distributed by the representatives of UNESCO. (*Chairman speaks – no French translation*). (*Russian Federation continues*) Thank you Mr. Chairman. As I was saying, the documents distributed by the UNESCO representatives and their comments are deeply philosophical in nature and we take these as being a contribution to the philosophy of outer space.

As per the most important point, i.e. the high authority, I believe that even the mildest variant of this did not receive support at the time and I say mildest variant in referring to the 1996 Russian proposal about the creation of the World Space Organization. I do not remember the number of this document but it was an official United Nations document and it very clearly and in detail described the possible functions of such an organization, 1997, I believe that it was published. It could be found in the archives of 1997.

Even the mildest variant of an ordinary international organization did not receive any support. So I think that more time will still have to go by before we properly think through the proposals made before we go into the details of these UNESCO proposals. Thank you.

**The CHAIRMAN** (*interpretation from Russian*): Thank you very much distinguished representative of the Russian Federation for your contribution to our discussion. (*Continued in English*) I now recognize the distinguished representative of Brazil to whom I give the floor.

**Mr. S. LEITE DA SILVA** (Brazil): Thank you Mr. Chairman. The Brazilian delegation would like to comment on the document of UNESCO that we consider that any point of view a very positive contribution for the debate. We consider that the comments presented by Mr. de Faramiñan and also Mr. Fenstad. They are not posed as an immediate concrete questions to be adopted today. I consider that they were proposed as broad guidelines that, as several delegations sustained, ethics since old Greece has been interfering in the formulation of the right of legal framework on all organizations and, of course, ethics suggested by UNESCO and, of course, ethics going beyond what has been discussed here, they will always have to be presented in any formulation of any legal framework. And, of course, also we hope as much ethics as possible would have to be presented on the formulation of a legal framework concerning COPUOS work and we would also like to suggest, according to what has been proposed by the Ambassador of Ecuador, that all the debate, the importance of attributed to the debate by many delegations would be properly reflected ...

(*interpreter*) There are problems in the French booth. They have parasites. Electronic or natural, I do not know.

(*Speaker unknown*) Excuse me. I was informed from the booth that there is probably some

interference. Somebody has a cell phone or something. This must be from the Board or forum. So if you could switch off all equipment please.

**Mr. S. LEITE DA SILVA** (Brazil) (*Continued*): Thank you Mr. Chairman. Just to conclude that we agree with the proposal made by the Ambassador of Ecuador and also supported by other delegations, that the debate, or at least the importance that we attributed to the debate, initiated by UNESCO today, should be reflected in the report properly. Thank you Mr. Chairman.

**The CHAIRMAN**: Thank you distinguished representative of Brazil and as I said already after the intervention of the distinguished representative of Ecuador, the views of a number of delegations on this particular issue will be duly reflected in the report.

I still have some speakers. The next speaker on my list is the distinguished Ambassador of Chile.

**Mr. R. GONZÁLEZ** (Chile) (*interpretation from Spanish*): Thank you Mr. Chairman. I have had some technical difficulties following the debate but I think as to the basic ideas, I have grasped the most relevant aspects.

First of all, I would like to refer to the proposal from the distinguished delegation of the Russian Federation. Indeed, that country did propose some years ago the establishment of World Space Organization but, from the realistic point of view, we know that it would be somewhat difficult to obtain that type of organization as this level in our debate here. I do not agree with him first to have a decision on that and then to turn to the question under debate. Quite the contrary, I think we have to fill the conceptual voids with content in respect of the treaties on space and I would like to say to the distinguished representative of Ecuador that I am not all that sure that ethics has always been present in our debate. It has, indeed, on our own behaviour, there is no doubt, but ethics as a legal concept, I cannot say that it has been covered adequately in our debate. Look at the question of access of States to natural resources as enshrined in the United Nations General Assembly resolution 103. This conduct of equitable treatment for all is something that has not always been considered.

I do, however, have some difficulties with some of the points made by the distinguished representative of Brazil. We heard that what we should bear in mind here is guidelines, simple guidelines. I think there is a qualitative change in international law and contemporary international law with activity in

space. This was already pointed out by the ESA, Article I. Exploration and utilization of space should be to the benefit of humanity and also looking at the Rio Declaration on the Environment and Development, where exploration of resources should take into account aspirations and expectations of present and future generations and thus including intra-generational principles as well as precautionary principles.

There is a very special normative context here where ethics would have a central position. And here we believe, for example, that General Assembly resolutions as approved over the last 20 years on the question of space in preambular paragraphs says that reaffirming the importance of international cooperation for the fostering of rule of law included relevant rules on space law and their important in international cooperation for exploration and utilization of outer space for peaceful purposes and so on. With that, there is an ethical element incorporated and that is international cooperation should be one under a rule of law. First of all, what law? Space Law? What Space Law? Fundamentally, it would be the 1967 Treaty and the subsequent principles as well as the Charter of the United Nations, which fundamentally, takes into account two elements.

One, that they should be to the benefit of humanity and to the benefit of all countries of the world, irrespective of economic or scientific and technical development levels.

We must acknowledge the tremendous powerful element of ethics as a mandate for our Commission and we would like to ask that the summary in the report clearly cover this question.

And finally, we would also like to agree clearly with what was said by the representative of China on this in that this is the body that has to deal with this matter and we must acknowledge the majority of views expressed here and that is that this question, as such, should be debated substantively. While we accept that we have the treaties on space, but there are some voids, some gaps that need filling such as Article IV on demilitarization. There are gaps that must be bridged. There are other articles such as contamination or pollution, I think it is Article X. I do not recall exactly which does not specifically cover debris. We have suffered recently with the very complex situation which was the re-entry of the MIR Space Station programmed for the Pacific Ocean. You might programme it in whatever ocean you choose but this, without taking into account the sovereign rights of the neighbouring States or any States that may be affected, whether in the present or in the future but there are all

these various elements we believe that it is extremely important to deal with the question of ethics in a very clear and precise way and they should be clearly reflected in the report. Thank you.

**The CHAIRMAN:** Thank you distinguished Ambassador of Chile for your contribution to our discussion. I still have here the representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you Mr. Chairman. I apologize if I am going beyond your patience or that of colleagues but I would like to comment briefly on what has been said.

First of all, I would like to remind colleagues that, unfortunately, in the Vienna Declaration of UNISPACE-III, the adult declaration, there is no reference to ethics, whereas the Geneva Declaration, fortunately, Space Generation Forum Declaration, there is an explicit reference on ethics and thanks to that, Mr. Lafferranderie in a recent article, in the French Journal on Space Law, refers to this. Based on that, and also bearing in mind the comments made by the distinguished colleague and dear friend, the Ambassador of Ecuador and others who have supported his remarks, I do not want to stand as attorney for anyone but in your first conclusion, to give a personal reaction, I must say you excluded the discussion or examination of the ethics question related to space activity, especially in relation with legal problems on and relation to activity in outer space.

Of course, the role of our Subcommittee and the Committee in general, is a normative role. Other international organizations in the United Nations system, specialized agencies, dealing with activities within their area, whether exercised in space or through space, ITU, WMO, IMO and so on, those agencies or organizations are dealing with second degree rules, basically regulations. There is not any question of calling into question the authority of our Legal Subcommittee or the General Assembly at the head of the whole process of elaboration of international space law.

Here, there is the question of the autonomy of distinct legal systems of the different international organizations. In other words, ITU has its own UNESCO and so. In my view, there is a complementarity here. These are not seen within a pluralistic hierarchy in international legal order. These are complementary systems. It is not a question of the General Assembly of the United Nations prevailing or our Legal Subcommittee. Prevalence in the normative

process of international space law is established. There is a practical question of coordination between COPUOS and other organizations or specialized agencies. The Big Boss meeting of five agencies every October in New York under the chairmanship of the Secretary-General of the United Nations is a routine process on organizational matters or other questions related to the system of agencies of the United Nations.

In my view, it might be a question of closer or more intensive cooperation between the departments in these specialized agencies with COPUOS because, if you look at ICAO or others, in June, February and even in April, you have the declarations and that is it. There is not what I would call follow-up, some kind of back-up with the activity. For example, just to be frank, who, out of all of us, knows about what is going on in the ITU for the preparation of the Third World Conference on Radiocommunications to be held in a few months time in Geneva? Of course, radiocommunications regulations will be looked at there too. So there is probably a question of coordination or just closer contacts between the organizations here.

That is why this is very important and on this coordination between the Scientific and Technical Subcommittee with the organizations in question, that is simply for their part of technological progress or achievements in space aside from the very important activity concerning crisis or natural disaster management, which is something extremely important.

But that is what I wanted to say and I do hope that I will conclude now for the last comment I have to make. I would like to repeat that, even looking at internal rules of procedure for the General Assembly or our own practice over the last 40 years, there is nothing in the way in dealing with anything that might be an important factor for the formulation of rules of law. There is an additional reason here to discuss the matter or debate it. You know as well as I do the implementation of the treaties, the application of the treaties is much more difficult than the actual preparation or conclusion work because the way not to implement or apply a treaty is through its interpretation. So any State not wishing to implement or apply the terms of a convention, just has to use the pretext of interpretation. Thank you.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece and without wishing to go into any controversy, I would like to say that I said that I was giving my views as conclusion. I made that quite clear.

On the mandate of our Subcommittee, I should repeat that it is legal questions, legal principles and norms that we should develop here at this level. Of course, we have to take into consideration ethics because if you have views based on ethics and you transform them into legal principles, then that means ethics is part of it but it is only in relation to incorporating those axioms into the law.

(*Continued in English*) The next speaker on my list of speakers is the Russian Federation.

**Mr. Y. KOLOSOV** (Russian Federation) (*interpretation from Russian*): Thank you Mr. Chairman. I would say that in the light of this lively discussion here in the Subcommittee on Ethics of Scientific Knowledge and Technology, COMEST, that it should be able to continue its work on the document that has been made available to us and I would like to draw the attention of the authors of this document to a number of questions that should be taken into account with a future processing of this report.

On Page 4, the paragraph starts with (b), reference is made to the fact that not one of the treaties relating to outer space indeed has this concept of general heritage. This probably is an inaccuracy that authors could usefully take into account next time round.

Another inaccuracy is in the analysis in the article by article approach of the Convention on the Law of the Sea. This unfortunately does not take into account that the United Nations General Assembly took a special decision changing the beginning of the eleventh part of this Law of the Sea Convention.

And my third comment is that though on Page 5, the authors proposed, *mutatis mutandis*, that this Law of the Sea should be adapted to outer space. It does not take into account the following.

The Law of the Sea has not, indeed, noted that the world's ocean are general heritage of mankind. Here, there is just a reference to the sea bed and its resources, not the whole of the oceans. So even *mutatis mutandis* what is said here in the Law of the Sea can scarcely be applied to outer space as a whole. And as concerns similar parts of outer space, there indeed the common heritage concept is taken into due consideration reflected. Thank you.

**The CHAIRMAN** (*interpretation from Russian*): Thank you distinguished representative of the Russian Federation for your statement. (*Continued in English*) ... the application from UNESCO, I give

the floor to the distinguished representative of UNESCO.

**Mr. J. M. DE FARAMIÑAN GILBERT** (United Nations Education, Scientific and Cultural Organization – UNESCO) (*interpretation from Spanish*): Thank you. I would like to thank the distinguished representative of the Russian Federation for that remark. To say that when we speak about common heritage of mankind in the context of space law, we should say that while that this concept has not as yet been accepted, it is the French term “apponage”(?), the province, but it is not heritage or property yet. That is still being worked on and that is why we think that it is important to move on towards a more elaborate concept of this common heritage and that is why we stress that this is a path that is being beaten but it is not as yet ready.

Whereas, in the context of the Law of the Sea and the Montego Bay Convention, yes, there it is common heritage of mankind and that in reference exclusively to the sea bed and ocean floor. Thus, when we speak *mutatis mutandis* here, looking at the ocean, it is specifically in reference to the sea bed and ocean floor. For that reason, we wanted to be as rigorous as possible with a complete report so that in time, we feel no haste, after all, this is a working document, we wanted to have ideas ready so that they could be worked on further in time for an in-depth discussion at some time for the possibility of a high authority on outer space. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of UNESCO also your colleague, Mr. Fenstad, requested the floor, so I give him the opportunity to speak.

**Mr. J. E. FENSTAD** (United Nations Education, Scientific and Cultural Organization – UNESCO): I just want to add a few words here. It is that we have listened to this very interesting discussion for almost two hours and I am very happy that our paper could promote such discussion in this audience. I would like to make a few observations. We, in COMEST, are, of course, going to work further on this document and many of the comments that I have heard from people here, there were some comments from Malaysia, for example, there were comments from Russia, from Belgium also in particular, that certainly we will take account of.

What I would like to urge on you is that our document is not deeply philosophical all through, as one of the representatives says. If you look into this document, we try to enter into communication with

many groups. There are very specific proposals concerning education, concerning contacts with the National Space Agency, etc. I think that the over-philosophy has, to quote a word from the Belgian delegation, to say within the realm of the possible and to make many steps in many directions in order to increase the ethical consciousness in the public at large concerning the exploitation of space.

We also have come to you and I hope that we can continue our collaboration because there are also important contacts with the law. I am quite aware that you have to stay very clearly to your mandate but that mandate, of course, has to be, as has been said here, influenced by this ethical reflection and this kind of reflection is a common enterprise between our efforts and your more general powers. I hope that this session here is just one step in the longer interaction between our concerns as a world commission on the ethics on scientific thoughts and technology and your very specific mandate concerning space law.

**The CHAIRMAN:** Thank you Professor Fenstad for your, what I may consider, concluding contribution or statement on this particular issue but I still have the application of the representative of the United States of America to whom I give the floor.

**Mr. S. MATHIAS** (United States of America): Thank you Mr. Chairman. We have listened with great interest this morning to the presentation of the representatives of UNESCO and to their comments of the Members of the Committee and the other observers on this important subject of UNESCO’s work in connection with outer space.

I want to associate myself and my delegation with the views expressed by the Chairman with respect to the Committee’s mandate, the Subcommittee’s mandate as well. Of course, the positions that our delegations take with respect to outer space are informed by ethical underpinnings and, of course, the outer space treaties and the principles reflect the application of ethical judgement by our delegations.

At the same time, I think we must bear in mind that our mandate is the development of legal principles. We should focus on actual practical legal questions that arise in connection with activity in outer space. We should be mindful of the fact that principles developed in respect of other areas such as the Law of the Sea, cannot automatically be transferred into the area of outer space. This is a long-standing issue. We do not need to review all aspects of it here this morning but I think all delegations are aware that we must be very cautious when we try to compare the outer space

regime with any other regime. It has its own unique characteristics and the work of the international community over four decades clearly confirms that point. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of the United States of America for your contribution.

In this way, my list of speakers on this item is now exhausted. Is there any other delegation wishing to speak today on this item? I see none. We have, therefore, concluded our substantive consideration of item 5 at this meeting. We will continue our consideration of this item and hopefully close this discussion tomorrow morning. I particularly expect the presentation of views of the representative of the International Law Association, Professor Böckstiegel, who, as I have been informed, arrived or is coming for this session but will probably be with us tomorrow morning.

Distinguished delegates, we shall now continue our consideration in the Plenary of item 6 on our agenda, matters relating to (a) the definition and delimitation of outer space and (b) 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 ITU.

I do not have any speakers on my list of speakers on this particular item. Are there any speakers wishing to do so at this moment? I see none. We will continue our consideration of item 6 tomorrow morning.

Distinguished delegates, we shall now continue consideration of item 7 on our agenda, review and possible revision of the principles relevant to the use of nuclear power sources in outer space. Again, I do not have any speakers, either from among the delegations or from observers on this particular item. Is there any speaker wishing to speak on this item still during this meeting? I see none.

We will continue our consideration of item 7 tomorrow morning. I would inform delegations that it is my intention to conclude consideration of item 7 at tomorrow morning's meeting. Therefore, I would urge those delegations still wishing to speak on this item to inscribe their names on the speakers' list with the Secretariat as soon as possible.

Distinguished delegates, we will shortly adjourn this meeting of the Subcommittee in order to

allow the Working Group on Item 6 to convene its second meeting under the guidance of Ms. Flores Liera of Mexico, at least this was my intention and expectation for this morning. But before adjourning the meeting, I would like to inform delegates of our schedule of work for this afternoon and tomorrow morning.

As previously mentioned, this afternoon's meeting will be devoted entirely to informal consultations in order to consider the various proposals which have emerged within the context of agenda items 4 and 10. These informal consultations will take place within this Conference Room with the facilities of full interpretation services.

It is also my intention to request the kind assistance of Professor Cassapoglou of Greece and Mr. Hedman of Sweden to assist me in coordinating the informal discussions on issues relating to agenda items 4 and 10 respectively.

Tomorrow morning we shall continue our consideration in the Plenary of items 6 and 7. As indicated earlier, it is my intention to conclude consideration of item 7 at tomorrow morning's meeting. Thereafter, we might begin a preliminary consideration in the Plenary of agenda item 9, review of the concept of launching State. I have been informed that the Chairman of the Working Group who chaired this group last year, Dr. Schrogl, is also on his way to this session, so we could enjoy his presence here.

Time permitting, the Working Group on Agenda Item 6 might also convene at its next meeting. It should be already the third meeting, if we still hold a meeting of this Working Group today under the guidance of Ms. Flores Liera of Mexico.

Are there any questions or comments on this proposed schedule? I see none. I have the request of the Secretary to the Legal Subcommittee for a remark or an announcement.

**Mr. P. LÁLA** (Secretary): Thank you Mr. Chairman. The Secretariat was asked to make an announcement that there will be a meeting of Western European and Others Group today in Room C0713 from 2.00 p.m. to 3.00 p.m. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you Mr. Secretary. Therefore, I shall declare this meeting adjourned and invite Ms. Flores Liera of Mexico to convene the second meeting of the Working Group on Item 6. I regret that very little time has remained for

this second meeting but still we might use the remaining time for at least some work of the Working Group. Thank you.

This meeting is adjourned.

*The meeting closed at 12.44 p.m.*