

**Committee on the Peaceful
Uses of Outer Space
Legal Subcommittee***Unedited transcript***662nd Meeting**

Friday, 5 April 2002, 10 a.m.

Vienna

*Chairman: Mr. Kopal (Czech Republic)**The meeting was called to order at 10.20 a.m.*

The CHAIRMAN: Distinguished delegates, the meeting is called to order. I declare open the 662nd meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

Status and Application of the Five United Nations Treaties on Outer Space (Agenda Item 4)

Distinguished delegates, we shall now continue our consideration of agenda item 4, Status and Application of the Five United Nations Treaties on Outer Space.

To my great regret, I do not have any speaker for this morning's session on this particular item and, unless I see somebody wishing to speak at this morning's session on item 4, Status and Application of the Five United Nations Treaties on Outer Space, I will go further and we will continue our consideration of this item, item 4, this afternoon.

Review of the Concept of "Launching State" (Agenda Item 9)

Distinguished delegates, we shall now continue consideration of item 9 of our agenda, Review of the Concept of "Launching State".

The situation is similar as with regard to item 4. I do not have any speaker on this item at this moment and, therefore, we will continue our consideration of item 9, Review of the Concept of "Launching State" this afternoon.

Distinguished delegates, I have been approached by the representatives of two international organizations, very important international organizations, for our contacts and cooperation, namely, those of ICAO, the International Civil Aviation Organization, and the ITU, the International Telecommunication Union. Of course, their contributions will be on item 5, which has not been yet officially on our agenda for this meeting, but I suppose that you will certainly agree that we will give them the opportunity to speak at this meeting because they are about to leave and we would like to listen to their statements.

Unless I see any objection against this change of our programme, I would assume that you might agree, but I recognize the distinguished representative of Greece.

Mr. V. CASSAPOGLOU (Greece) (*Interpretation from French*): Thank you Mr. Chairman. Good morning to everyone. I took the floor because this issue is completely unrelated to the request from our very dear friends, ICAO and the Union for its presentation, we thank them, but as we will be beginning to look at this item on the agenda, I would like to ask you the following.

As you know, the representative of the World Ethics Commission for Technology and Science from UNESCO met on Monday in Vienna and they met in order to present the report on the ethics of space activities in that context. Our idea as a delegation is that there might be a mechanism put in place for consultation and we might then ask interested governments to join us by sending experts and using this term "expert", it might be a bit difficult because

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.

actually there are very few experts, philosophers and so forth, but the intent here is to have participation of interested governments and to encourage them to send us someone who can contribute to this dialogue on ethics. So it is with great pleasure that we saw some States, France, United States, Greece, and, if I am not mistaken, Belgium, and others as well. And what we would like here is the broadest possible participation at the meeting on Monday, the COMEST meeting Monday morning and it should not just be limited to experts in the strictest sense of the word, let us interpret the term "expert" in as broad a manner as possible in order to encourage participation.

And along these lines, Greece and, I believe, other delegations who have cooperated in this initiative, we would all like to ask for logistical support, i.e., interpretation and other support so that we can meet for a maximum period of time of two hours in this room so we would adjourn the ordinary session in order to attend this meeting.

That is our proposal and I think it is a very good one. It would be much better because having the ordinary session simultaneously or in parallel to the so-called consultation meeting or exchange of views meeting, is a bit complicated, particularly for those delegations which have only one or two representatives because it would require that representative to be ubiquitous, participating both in the ordinary session and the COMEST meeting on ethics of space.

So that is the procedural proposal put forth by Greece. Thank you very much Mr. Chairman.

The CHAIRMAN (*interpretation from French*): Thank you to the distinguished representative of Greece for your information on the interest of the work of the experts and other participants in COMEST's meeting and, of course, you are entirely free to authorize participation in this discussion.

And as regards your request for using the room for the discussion, that will, of course, depend on our Monday programme. On Monday, we will begin discussing item 5 of the agenda and the Legal Subcommittee then will have to decide, have to resolve all of these issues including procedural matters. However, I can assure you that certainly other delegations would like to satisfy you as much as possible. For example, the Legal Subcommittee might finish its deliberations earlier on Monday and then if there are no other working groups meeting, official working groups meeting that is, then, of course, the room would be free at that point in time, and it would be free for you to use. Thank you.

(*Continued in English*) I believe that we now can proceed with our discussions on point 5, particularly with listening to the statements to be made by both organizations of the United Nations system. I have the pleasure to give the floor to the observer for the International Civil Aviation Organization. You have the floor Sir.

Mr. L. WEBER (International Civil Aviation Organization): Thank you Mr. Chairman for giving us the opportunity to address the Subcommittee this morning.

First let me express the interest of our Organization in the work of your Subcommittee and in particular on two matters. Firstly the question of the delimitation of air space and outer space. And secondly, regarding the question of the new convention on international interests in mobile equipment and the protocol relating to space assets thereto.

As you may know, ICAO has participated in the elaboration of the Base Convention, the Convention on International Interests in Mobile Equipment and, therefore, we follow the discussions concerning the elaboration of a space protocol with great interest, including also the questions of an institutional nature which concerns this matter.

I would like to further provide an update to the Subcommittee on the work of our Organization regarding a legal framework for the GNSS, the Global Navigation Satellite System. As you may know, the GNSS is part of the CNS/ATM concept, a satellite-based system for communications, navigation, surveillance and ATM. At the present time, two satellite navigation systems are in operation, GPS, developed by the United States, and the GLONASS system, developed by the Russian Federation. There is also now the development of a new system of the European Union called Galileo, intended to become the third element of GNSS.

In 1998, the thirty-second session of the ICAO Assembly had adopted resolution A32-19 entitled Charter on the Rights and Obligations of States Relating to GNSS Services. This Charter embodies the principles applicable to the implementation and operation of GNSS, including the safety of international civil aviation; universal access to GNSS services, preservation of States' sovereignty, authority and responsibility; continuity, availability, integrity, accuracy and reliability of such services; compatibility of regional arrangements with the global planning and

implementation process; and finally the principle of cooperation and mutual assistance.

In September/October 2001, the thirty-third session of the ICAO Assembly considered the progress report on the establishment of a legal framework with regard to CNS/ATM systems including GNSS. Pursuant to Assembly resolution A32-20, it decided that further work on the legal aspects of CNS/ATM systems be carried out so as to finalize the concept of a contractual framework for CNS/ATM and to provide a path towards its implementation, including the consideration of an international convention, having regard to the following guidance.

Namely, first, to be mindful of States' reliance on others to provide all or part of their CNS/ATM services.

Second, to consider carefully the kinds of relationships States should have with providers of services or elements of services.

And third, to ensure that States retain full responsibility under the Chicago Convention for the services provided on their behalf.

The thirty-third session of the Assembly also indicated that further work could be carried out by the Group within ICAO handling this matter, should include the consideration of an international convention, as well as a review of the security aspects and the prevention of unlawful interference with CNS/ATM systems. With regard to the latter item, the High-Level Ministerial Conference on Aviation Security, held in Montreal from 19 to 20 February of this year, recommended that ICAO carry out a detailed study of the adequacy of the existing aviation security conventions and other aviation security rules, standards and manuals in relation to the new and emerging threats, with a view to developing measures to close the existing gaps, including with regard to potential electronic or computer-based attacks on air traffic control networks or aircraft, including CNS/ATM.

Thank you Mr. President.

The CHAIRMAN: Thank you distinguished observer for the International Civil Aviation Organization. I believe that your statement, which was also distributed in writing, has been very useful for our consideration. However, I would like to raise a small question to you. You use in your paper and also you used it in your oral statement, the acronym CNS/ATM systems. This acronym has not been explained nowhere as a full title. Could you please decipher this

acronym for my benefit and the benefit of all delegations.

Mr. L. WEBER (International Civil Aviation Organization): Thank you. Certainly. The acronym CNS/ATM stands for Communications, Navigation, Surveillance/Air Traffic Management. These are the four functions which the satellite-based systems are to fulfil in relation to aircraft in flight and the system is regarded as an integrated system which comprises all the functions which presently are provided through other means, such as radiocommunications, radar, etc. And, therefore, the four functions which I have mentioned in relation to this acronym are going to be all satellite-based under the new system.

The other acronym I mentioned, GNSS, is the navigation function within those four. Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much distinguished observer. Are there any questions perhaps relating to the statement of the observer for the ICAO?

I see none. Then we will proceed further and I will now give the floor to the distinguished observer for the International Telecommunication Union who will speak from the same seat which is his own.

Mr. R. SMITH (International Telecommunication Union): Thank you very much Mr. Chairman. My statement is essentially for the purpose of providing information for delegates here on the activities of the International Telecommunication Union relating to space law. I have provided the text of this to the Secretariat and I assume that they will make that text available to everyone. I should mention that the statement includes a couple of annexes which I will not cover in my remarks but those annexes are primarily for information and when I come to them in the statement, I will mention them and you will be able to look at those annexes and read them at your leisure. They are primarily for your information as I say.

Mr. Chairman, the International Telecommunication Union has, as its main legal texts relating to regulation of telecommunications, a constitution, a convention and associated administrative regulations called the Radio Regulations. These Radio Regulations provide the regulatory text and regulatory regime allowing access to frequency spectrum and satellite orbit resources essentially for the development of satellite communications.

The general principles for the use of these resources are, indeed, found in Article 44 of the ITU Constitution which I have provided a copy included in this text for your information. It was recently updated indeed at the Plenipotentiary Conference in Minneapolis in 1998.

For the further information of the Subcommittee, I have provided also an overview of the legal framework for the management of the radio-frequency spectrum and orbit resources. I will not refer to that but as I said it is provided to you for information and I hope that you will find that useful as part of your documents of your Subcommittee.

Mr. Chairman, the main instrument or main body that deals with Radio Regulations and changes to the Radio Regulations is a World Radiocommunication Conference and these are held every three years, approximately. The last one was held in 2000 in Istanbul and the next conference is to be held from 9 June to 4 July 2003 in Caracas, Venezuela. Indeed, Mr. Chairman, I will be unable to be at your meeting next week. I would have indeed wished to be here but I will be unable to do so because I will be in Caracas next week for preliminary discussions on arrangements for that conference to be held in mid-2003.

Now between those Conferences, significant studies are carried out by study groups of the ITU-R sector, Radiocommunication. For regulatory and procedural matters, a lead role is taken by a committee that we call the Special Committee on Regulatory Matters and that Committee meets in July 2002 in preparation for the next conference. The output from the various study groups and Special Committee are reviewed by a Conference Preparatory Meeting and that meeting takes places in November 2002 and will bring together all of the proposals for change.

There are likely to be significant proposals for change as indeed there are at most World Radio Conferences and many of those changes affect the interests of this Subcommittee, I am sure.

Just to give you some examples, at the World Radiocommunication Conference in Istanbul, it reviewed various provisions relating to space services but one of the major changes approved was a significant overhaul of the Broadcasting Satellite Service Plans that apply in regions one and three, and for those who are not familiar, the regions are geographic regions specified in the Radio Regulations. Region one is primarily all of the European countries, region two is the Americas and region three is Asia-Pacific countries. So the Plans for regions one and

three were revised at the last conference. Those revised Plans updated their provisions and in particular increased the capacity for those Plans to improve the channel capacity available for each country and those decisions are expected to provide capacity to meet current and prospective demand for broadcasting satellite services in the planned frequency bands for some years to come.

Other issues addressed by the World Radiocommunication Conference 2000 included spectrum, terrestrial and satellite, for third generation mobile telephone systems such as IMT-2000; sharing arrangements, that is technical sharing arrangement between non-geostationary satellite systems and geostationary satellite systems; provision of spectrum for new Global Positioning Systems, that have been mentioned by my colleague alongside me a few minutes ago; and the protection of radio astronomy through the establishment of quiet zones in frequency bands in which they operate. Now that is just a few. There were many other decisions taken.

Now to turn to another issue of interest and that relates to regulatory provisions for the processing of Satellite Network Filings or Notices for new satellites. This is a long-standing issue for the ITU given the delays and the barriers to access to spectrum and orbit facilities brought about by those delays and backlogs in processing of new systems and modifications to systems. Associated with those delays has been the complexity of the regulatory procedures under which we need to do that processing and the problem of over-filing by Administrations of Member States, the problem of so-called "paper satellites". Just to indicate to you, we would launch, I guess internationally, somewhere around about 70 communications satellites a year but the ITU receives filings for something between 400 and 500 satellites per year. So it is quite a significant difference and that causes problems. Attempts to resolve this problem are continuing. Some small improvements were made at the World Radiocommunication Conference 2000 and these are now having some effect. Further consideration of this, however, will continue through the various forums in the ITU system and will result in consideration at the next World Radiocommunication Conference in Caracas in WRC-03.

Now Mr. Chairman, I have not included these in my notes but I thought I should mention them to you particularly because it appears in your item 6(b) of your agenda and has already been the subject of consideration by the Subcommittee and that is the question of equitable access to the geostationary orbit. Indeed, your previous consideration resulted in

conclusions at your thirty-ninth session as outlined in Annex 3 of the Report of the Legal Subcommittee's thirty-ninth session and that is in document A/AC.105/738. In this regard, the World Radiocommunication Conference in Istanbul in 2000 revised a resolution from the previous conference, WRC-97. This resolution is referred to as resolution 80 and essentially this resolution requires two streams of work to be undertaken with a report to be made to WRC-03 in Caracas next year.

One stream is to be carried out by an advisory group which is to undertake studies linking the formal procedures for coordination and notification of satellite systems with the principles of Article 44 of the Constitution, which I mentioned earlier and had provided a copy for you, and number 03 of the Radio Regulations which is a similar provision mirroring the text of number 196 of the Constitution in Article 44.

A similar parallel stream of work is being undertaken by a body called the Radio Regulations Board, which I will not go into any detail on. Both bodies, as I mentioned, are to report the results to WRC-03 in Caracas and we would hope that that will provide some progress on this issue. I should note, however, that there are still 14 months remaining with these studies and some difficulties have already been noted in reconciling the procedures which are essentially first come, first served, and the elements of those principles in Article 44 of the Convention.

A not insignificant issue also is the fact that a number of developing countries which are mentioned in these Principles, including some least developing countries, or LDCs, are relatively significant players and proponents of international satellite network systems. These systems provide international services, not just national services or national requirements. However, the Principles in the paper adopted by the thirty-ninth session of this Subcommittee have been noted and are being helpful and are being seen as helpful in consideration possible solutions to this problem. So Mr. Chairman, when you may address this possibly when you look at item 6(b) of your agenda, so that information I hope will be useful to you.

Mr. Chairman, that is a brief summary of the overall situation but if anyone has any questions, I will be happy to respond if I can. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished observer for the International Telecommunication Union for your statement which has been also

distributed in writing. I particularly appreciate that in addition to your one statement you have provided for us, for our benefit, in your written statement, both annexes, Annex 1 dealing with Article 44 and Annex 2 dealing with the legal framework for the management of the radio frequency spectrum and orbit resources by the ITU, which also includes two paragraphs on the issue of relationship with the United Nations legal regime. I think all these parts of your statement have been most useful for us.

The Secretary of the Subcommittee, Dr. Lála, has just informed me that both these papers that were already partly distributed will be available as a Conference Room Paper document early next week for all delegations so that we could indeed use these papers in our further consultations.

I also appreciate very much your coming. It means the coming of both observers for ICAO and the ITU to our meeting and I think I speak on behalf of all delegations. We are looking forward to our close contacts and cooperation for the future at the next session of the Subcommittee and if any other inter-sessional session is heard, you would be, of course, also both welcome.

I now have on my list the application of the distinguished delegate of Greece.

Mr. V. CASSAPOGLOU (Greece) (*interpretation from French*): Thank you Mr. Chairman. Looking at the statement made by the ITU representative, Mr. Smith. He is in charge of the most delicate, difficult task in the ITU, being Head of Special Services, so he is the one who receives all requests but also problems of States with their space systems. We are grateful to him and the Secretary-General of the ITU for re-establishing that contribution. And in that connection, there are a couple of things I would like to say on the ITU contribution to development of international space law and international law in general.

At the Symposium, I heard that ITU is the coordinator, not the international regulator for telecommunications, which I do not think is fully right. ITU is the international regulator for telecommunications and they contribute to developments. It might not be well known but the constitutions and conventions of international treaties but there are also the annexes as well and the administrative regulations, these are also international treaties. The International Telecommunication Regulation which is about a 2,000-page long document, which is full of mathematical formula and

other provisions, physical science and other, that is a treaty. Everything single change affects the changes in international space law.

What is also impressive is that these international law rules are drawn up, not by jurists, but mostly by engineers and that is the contribution of science to development of law. So this is one of the best contributions of ITU to the development of international law. And the second point, which is yet more important, management of resources which does not belong to anyone or any State but rather humanity. Orbital positions and those related to radio frequencies regarding different radiocommunications services and also the numbering that not everybody is familiar with. That, too, is an extremely difficult exercise which is more less a natural resource which is also limited.

And then accessibility. Accessibility is not an economic idea or concept. It is a legal aspect. An ethical one as well because to give developing countries the possibility, talking about equitable access after all, you have to ensure that States will have accessibility at low cost. If you do not have that, you have nothing. That is another contribution of the ITU and its sector for world telecommunications. That real sustainable accessibility has to be guaranteed for all peoples of the world and that for new telecommunications services, space satellite telecommunications.

And then, to conclude, another great contribution of ITU to reasonable management of resources is what was established two years or three years ago and that is due diligence. The Radiotelecommunications Office does not accept notification of space systems if they do not have this due diligence showing they are operational, functional. They are not, as Mr. Smith said, paper satellites that can stand in the way of functioning of other systems.

So those are just a few points in addition to that very important and interesting report that we heard from the ITU representative and in that connection, I would like, through you Mr. Chairman, to ask the Secretary-General of the ITU to intensify these reports in relation with the Committee and the two Subcommittees and especially the Telecommunications Development Section with our Space Applications Programme of the Office for Outer Space Affairs. This should be intensified so that there can be contributions from both sides to world development preserving two-thirds, it concerns, two-thirds of the whole world. Thank you.

The CHAIRMAN (*interpretation from French*): I thank the distinguished representative of Greece. I am sure that the ITU observer understood the suggestion to expand relations between the ITU and the Subcommittee and, of course, the Committee itself.

(*Continued in English*) Distinguished delegates, I think that this is, for the time being, all on item 5 which we officially started this afternoon to discuss but this was because of the necessity to accommodate the requests of our distinguished colleagues, the observers for both specialized agencies, the ICAO and the ITU.

Unless there is any other request for discussion, I will shortly adjourn this meeting of the Subcommittee to allow for the convening of the fifth meeting of the Working Group on Item 4, Status and Application of the Five United Nations Treaties on Outer Space. Time permitting, following the meeting of the Working Group on item 4 this morning, the Working Group on item 9, Review of the Concept of "Launching State" might also convene its fourth meeting and continue in successful work that was already done yesterday.

Before adjourning the Subcommittee, however, I would like to inform delegates of our schedule of work for this afternoon. This afternoon, we shall continue our consideration of agenda items 4 and 9 and I would like to inform delegations that it is also my intention to begin officially, because we have done unofficially this morning, but this afternoon we shall begin consideration of agenda item 5. Officially it means, Information on the Activities of International Organizations Relating to Space Law. Following adjournment of the Subcommittee's meeting this afternoon, the Working Groups on items 4 and 9 might convene their sixth and fifth meetings respectively.

Are there any other questions or comments on this proposed scheduled?

Does the distinguished representative of Greece want to say something?

Mr. V. CASSAPOGLOU (Greece): I would like to tell two words about, I cannot say what the agenda item is, but in any case, I would like to mention, I think in the framework of the contribution in the evolution of space law, of the contribution of the Köln Institute (*continued in French*) the Cologne Space Law Institute. For three years, they worked on the elaboration of the 2001 project or draft and we had the proceedings last year. So I almost feel under obligation towards the Cologne University and the

Institute, in particular, especially to those who contributed to this. It is a huge six volume piece of work and the Legal Subcommittee, I believe, should officially congratulate the University and also the German delegation for transmission of these congratulations to the authorities. The six tomes did indeed contribute to international space law.

The CHAIRMAN (*interpretation from French*): Thank you very much for that comment and I am sure we can discuss your suggestion during our debate on the item on activities of international organizations this afternoon. Is there anybody else.

(*Continued in English*) ... the announcement of the Secretary to the Subcommittee, please would you tell us?

Mr. P. LÁLA (Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman. The Secretariat has been approached by Mr. Lafferranderie. They would like to have a meeting of ESA members and cooperating States next Monday on 8 April at 9.00 a.m., from 9.00 a.m. to 10.00 a.m., in Conference Room C0713. Thank you Mr. Chairman.

The CHAIRMAN: Thank you distinguished Secretary. In this way we have exhausted the programme for the formal session of the Subcommittee and I will now adjourn it. We will meet again this afternoon. And now is the room for both Working Groups first on item 4 and then on item 9. I see both Chairmen present so they will take over the room. Thank you very much.

The meeting is adjourned.

The meeting closed at 11.10 a.m.