

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

*Unedited transcript*

669<sup>th</sup> Meeting

Wednesday, 10 April 2002, 3 p.m.

Vienna

*Chairman:* Mr. Kopal (Czech Republic)

*The meeting was called to order at 3.15 p.m.*

**The CHAIRMAN:** Distinguished delegates, I declare open the 669<sup>th</sup> meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

**Consideration of the Convention on International Interests in Mobile Equipment (opened to signature in Cape Town on 16 November 2001) and the Preliminary Draft Protocol on Matters Specific to Space Assets (agenda item 8)**

We shall now continue our consideration of agenda item 8, Consideration of the Convention on International Interests in Mobile Equipment (opened to signature in Cape Town on 16 November 2001) and the Preliminary Draft Protocol on Matters Specific to Space Assets.

The first speaker on my list is the distinguished representative of Brazil, to whom I give the floor.

**Mr. S. LEITE DA SILVA (Brazil):** Thank you Mr. Chairman. First of all, I would like to emphasize that Brazil understands that COPUOS is the appropriated forum to debate the UNIDROIT Protocol, as well as any other subject regarding space activities, including activities carried out by private entities.

It is important to remind that according to the Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking Into Particular Account the Needs of Developing Countries, which was approved by the General Assembly resolution 51/122, "the Committee on the Peaceful Uses of Outer

Space should be strengthened in its role, among others, as a forum for the exchange of information on national and international activities in the field of international cooperation in the exploration and use of outer space".

It is also important to stress that the discussion on this subject has to aim the prevention of any conflicts between the UNIDROIT Protocol and the five United Nations treaties. In case of any conflict, the dispositions of the five United Nations treaties should, in our view, always prevail.

A special attention should be given to the Registry Provisions established in Chapter III of the UNIDROIT Protocol. Brazil considers that the United Nations, through one of its agencies, must be the supervisory authority mentioned in Article XVII of the UNIDROIT Protocol.

The Brazilian delegation agrees with the Belgian point of view that the question of transfer of space objects is the central issue to be solved in the relationship between the Registration Convention and the UNIDROIT Protocol on Space Assets. We believe that it would be quite adequate and convenient that to be registered according to the UNIDROIT Protocol any space object should firstly be registered according to the Registration Convention, which must be considered as the general and superior register of all objects launched into outer space. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Brazil for your statement on item number 8. May I raise a small question to you for clarification? In the last but one paragraph of your statement that has been provided for the Chair in writing, you said that Brazil considered that the United Nations, through one of its agencies, must be the

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supervisory authority. What is meant by the term “agencies”? Do you mean specialized agencies of the United Nations system or should it be a body of the United Nations, such as the Secretariat, for example.

**Mr. S. LEITE DA SILVA** (Brazil): We understand that the agency, we foresee it, first of all, COPUOS but not necessarily. It would depend on the specific decision that the group of the United Nations member countries would consider the best option, but in principle, we understand that COPUOS could be, of course, this agency but not necessarily. It could also be any other body or agency, designed within the structure of the United Nations. It does not matter which internal structure it would or should have. In reality, we do not know in detail all the organs and bodies that exist within the context of the United Nations. That is why we preferred not to appoint COPUOS as the only possible solution for that but we foresee, in principle, COPUOS, not only because we know COPUOS but also because COPUOS has been the main organ to conduct all the international law concerning outer space. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Brazil for your clarification.

Ladies and gentlemen, is there any other delegation wishing to speak? I now recognize the distinguished representative of Argentina and then of India. Now Argentina has the floor.

**Mr. S. SAYÚS** (Argentina) (*interpretation from Spanish*): Thank you very much Mr. Chairman. Mr. Chairman, my delegation would like to thank the Governments of France and Italy for having hosted the meetings for the consultative mechanism and we would like to also acknowledge UNIDROIT for its work, as well as the Office for having prepared the document that is before us for our consideration.

Mr. Chairman, we would like to make a couple of observations on the preliminary draft proposal before us. Firstly, we would like to indicate something which our delegations believes is very important and that is the need that standards of public international law prevail, those that are contained in the principles and treaties of the United Nations on outer space, and they should prevail over the general principles contained in the Protocol.

Likewise, we believe that there should be a study of the costs of implementing the future International Registry, with the understanding that these costs will be borne by the users of the service and not borne by the States.

We would also like to highlight the public service nature of satellites and the need for protecting the users of these services, taking into account not only the need of the businesses which provide the service but the users' needs as well. We also believe it is appropriate to define the support of those who would use the register in future, in other words, would it be through a computer system or would it be on paper, in terms of logistics? And, of course, this would have an impact on greater security but also might incur greater costs as well.

We further acknowledge the importance of having the ITU's opinion in this regard, particularly with regard to the Convention and the Protocol. We do so because this Organization deals with satellite issues which is very much related to the UNIDROIT initiative.

We further note the existence of a conflict between the responsibilities of launching States in keeping with the provisions of the 1974 Treaty which stipulates that the launching State is internationally responsibility or liable for damages incurred during the use of the satellite during its entire life, over damages incurred by satellites which are registered in a given name before the eruption of commercial activity in space. This is particularly true when transfers of property take place to people who are domiciled in different national jurisdictions.

Moreover, we believe it is important to achieve definition which is clear with regard to what we understand by space property. One of the issues discussed is understanding what objects, tangibles within the understood category of space property is in the scope of the Protocol, in other words, we talked about intangibles and artefacts, we are talking about rights which derive from States' rights to protect intellectual property and contractual sources.

Moreover, we should take into account the possibility, due to the nature of these space artefacts to repossess them physically once they are in orbit. Moreover, future applications, based on space technology and of certain space property, could directly be manufactured in space in the future, and thus the manufacturing might be taking place outside of national territories and this should be taken into account.

Lastly, Mr. Chairman, we would like to refer to the Convention and the fact that it indicates that the exercise of the rights of the creditor would have three limits at least. One of these limits would be non-

alteration of public order and this extremely important for my delegation. It is important because of the special characteristics of space property and, therefore, non-intervention of public order is extremely important, given the basic rights of provision of public services which are crucial, especially with regard to satellites and which would be prejudicial to all of society.

Now with those remarks, Mr. Chairman, I conclude my delegation's statement. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Argentina for your statement on behalf of your country. The next speaker on my list is the distinguished representative of India.

**Mr. P. K. CHAUDHARY** (India): Mr. Chairman, we noted with appreciation the work done by the consultative mechanism, the Office for Outer Space Affairs and the Governments of France and Italy and, of course, of UNIDROIT in the development and further clarifications on the Convention on International Interests in Mobile Equipment and the Preliminary Draft Protocol and Matters Specific to Space Assets.

We expect that the proposed Protocol will not only be in conformity with the United Nations treaties dealing with outer space but it will also ensure the integrity and respect for the Principles, including the rights and obligations of States and signing of those treaties.

Mr. Chairman, the delegations have pointed out many issues which need to be carefully examined and addressed.

The Indian delegation will look forward to the opportunity of closely working with UNIDROIT and the ad hoc consultative mechanism to resolve those issues. I support the inclusion of this item in the work of the Legal Subcommittee for the next session. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of India for the statement on item 8 of our agenda. The next speaker on my list is the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Mr. Chairman. Mr. Chairman, I have taken the floor on this item. The reason I have asked for the floor is two questions.

First of all, I would like to support the idea that this item be placed next year on the agenda of the Subcommittee as well and I also wanted to give clarification. We should say that in the elaboration of the text on space assets or property, account should be taken of the fact that practices in our systems, continental Europe, that is, our systems, in their practices, are such that any property registration is under the powers of the courts, or under the aegis of the courts, and it is very important that we see how, in the national registers, any creditors could file claims on assets or space assets without a national court giving orders. This was a point I raised yesterday in the discussion and I think it is something we should think about.

And a third point and, Mr. Chairman, I think there might be a misunderstanding. Through you, if I may, I would like to ask our colleague from UNIDROIT, Mr. Stanford, if he could give tell us what the process is to convene the Ad Hoc Diplomatic Conference. I think there is a bit of a misunderstanding as to the dates for this whole process of negotiations and the work on the Protocol.

And my last point is a proposal and that is to split L.233 in two, in other words, conclusions and introduction being in a separate document to iron out any possible confusion there might be regarding approval of the text on results. So the conclusions approved in Rome are without legal or political commitment, a reflection of our views that were agreed in Rome. However, the text, the minutes or the records, especially regarding the Paris meeting, that was not approved or discussed. So it is a very useful document as a working document but it was not put through the normal approval procedure. So I would like to ask you if you could ask delegations if they would agree on that split or separation for the text. Thank you.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece for that contribution. You had a question you addressed to the distinguished observer of UNIDROIT. I believe it was clear to him and he is asking for the floor all ready to respond. You have the floor.

**Mr. M. STANFORD** (International Institute for the Unification of Private Law): Thank you Mr. Chairman. Good afternoon ladies and gentlemen. I gather there has been some misunderstanding and some confusion as regards the number of people who have come up to me suggesting that we were intending to push this process through in the course of the next 12 months. I do not know where this information has

come from. It certainly did not come either from me or from the UNIDROIT Secretariat. I think, as was indicated yesterday, we would hope to be in a position to convene a first session of Governmental Experts towards the end of this year and then, I think, there should obviously be the opportunity for those governments, particularly that have not been involved in this process before. I am thinking in particular of the Diplomatic Conference held in Cape Town and the work leading up to that. It would be an opportunity for them to familiarize themselves with the issues and then a second session probably I would have hoped in the course of the year 2003, say towards early September, and perhaps a third session, I would have thought it would be reasonable if the second session makes good progress on the Preliminary Draft Protocol, then to achieve consensus as regards the text, the third session, which I would have thought could be held in the spring of the following year, 2004. I think that time schedule leaves, I think, sufficient time for governments to prepare themselves adequately, given the interaction of both private law matters and concerns of a public international law nature and that would then leave us the possibility of, I would have thought after three sessions, with a bit of luck, of convening a Diplomatic Conference, say actually sending out invitations as soon as possible after the third session, as I say in the spring of 2004, so that a Diplomatic Conference could hopefully be held, either towards the end of 2004 or beginning or early in the year 2005.

Perhaps I might be permitted to take this opportunity to clarify a matter raised in the remarks made by the distinguished representative of Argentina. I think the Office for Outer Space Affairs certainly has the paper. It was the paper that we submitted, rather the Space Working Group submitted to the ad hoc consultative mechanism. It was a paper containing the comments of the Space Working Group with annexed to it a paper on the envisaged working of the international registration system and in this paper, it has, I think, got quite a good analysis of the way in which the international registration system is designed to work, including the fact that it is designed to be fully computerized. In other words, it would not be a paper-based system. I think it was felt that the needs of modern international finance are such and the possibilities of modern technology are such as to make a computerized system infinitely preferable to a paper-based system in this case. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished observer for the International Institute on Unification of Private Law for your answer to the question that has been raised by the distinguished representative of

Greece. As to his second point that he raised, it means the request for a division of the document that was presented as L.233. He raised this question now in more specific terms. However, I already replied to his comment on the character of the document saying that this was the report of the Secretariat. It means that this paper as a whole was not approved by the consultative mechanism and is not submitted on behalf of the consultative mechanism. However, the last part of this document called "Conclusions of the Consultations Undertaken Through the Ad Hoc Consultative Mechanism" was approved and it was stated not only by myself but also confirmed in the statements of some other delegations. If he wants really to divide this document, I personally believe that it is useless after this clarification but if he insists, as very often on his suggestion, so I am ready to accommodate his request. It means to accept that there will be a corrigendum to this document and that Part IV will be put under Corrigendum 1 or after another code number but it would be stated then that "Conclusions of the consultations undertaken through the ad hoc consultative mechanism as considered and approved by the consultative mechanism at its last meeting held in Rome on .....". If this meets your request, it might be so effected.

Yes?

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much. It is exactly as you said. That is what I wanted. Thank you.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece for your cooperation.

(*Continued in English*) Is there any other delegation wishing to speak on item 8, Consideration of the Convention and of the Preliminary Draft Protocol? But we still have the two applications by some observers. First of all, it is, I think UNIDROIT already did so, by one observer. It is by the observer for the International Astronautical Federation, Mr. Peter Van Fenema.

**Mr. P. VAN FENEMA** (International Astronautical Federation): Thank you Mr. Chairman. The distinguished delegate of the Ukraine already pointed at a possible, though unintended, benefit of the Space Protocol's registration requirements, that is, that it will create an additional body of information on satellites in orbit complementing the data made available by States under the Registration Convention.

I may add that, given the intent of the Protocol, such data may also be filed and updated at a much earlier stage than is the prevailing State practice with respect to the United Nations Registry presently operated.

Of course, one may not expect government-owned satellites, particularly military satellites, to be treated in the same manner but, given the urgent need for more and more detailed information on satellites in orbit, for the purpose of space traffic management or collision prevention, this unintended by-product of the Protocol is very welcome.

As to the question of the duties of the so-called "appropriate State" under Article VI of the Space Treaty, the fact is that ownership and control of a satellite, a space asset, may shift from the original owner to the creditor and thus make supervision and the exercise of jurisdiction by the original "appropriate State" illusory or at least much more difficult.

It has been said before the problem already exists now and can be addressed in a number of ways.

The easy way out for the original supervising State is to say if the satellite, through the application of the Protocol or otherwise, has been transferred into foreign property, into foreign hands, I am no longer the "appropriate State". The status of "appropriate State", in that theory, has been transferred with the satellite to the State of the new owner who, by virtue of Article VI of the Outer Space Treaty, will be responsible for the supervision and regulatory control of the use of that satellite.

This approach is attractive in its simplicity but Article VI addresses itself not to space objects but, *inter alia*, to activities of non-governmental entities and that may imply that under its national regulations, the original "appropriate State" is required, or should impose upon itself, the obligation to consult with the State of the new owner on the appropriateness of taking over the supervision of the respective activities and the respective national licenses under which the former owner operated the satellite should contain a provision that transfer of ownership can only be effective after the consultation process between the two States concerned on supervision and control of the former and of the new satellite owner has been finalized.

Mr. Chairman, all this has no effect on the question of liability for damage as provided for in the Liability Convention. That Convention is clear. The launching State is liable for damage. It may be

difficult to identify a launching State in case of private launches from launch pads which do not involve national territory or facilities. But once the launching State has been identified, that will be the State which, irrespective of the number of transfers of ownership of the satellite, will be held liable in case of damage caused by that satellite.

Obviously, there is an element of unfairness in this system. A State from whose territory a foreign-owned satellite has been launched, may see the satellite change hands many times in many years, and final owner or operator in a foreign country, may make a vital command and control error resulting in a crash and in damage to third parties. The original launching State will be held liable as if the accident happened on the day of the launch.

*Lex dur sed lex*, Mr. Chairman, excuse my Latin. It means it is a harsh law but it is the law, intended, as you know, first and foremost, to protect the potential victims by making the search for the liable entity as easy as possible.

States which may thus be held liable have to include in their national legislation, in their own interest, provisions with respect to insurance and recourse, *vis-à-vis*, all successive owners of the satellite so there will always be a possibility for such a launching State to get compensation from the new owner for the amount it paid as the liable State under the Liability Convention.

Then there is the question of import regulations, addressed in Article XVI of the Protocol. We have to realize that many States have export laws restricting the export or transfer of sensitive technologies to countries or destinations of concern. Many of these national regulations are reasonably uniform, thanks to either the so-called Wassenaar Arrangement on the export of dual-use goods, the successor of Cocom, its Cold War predecessor, or thanks to the Missile Technology Control Regime, which regulates the exports of missiles and launch vehicles, including the technologies involved.

It is a fact that satellite, in most such regulations, are considered sensitive technologies, so we have to realize that the States concerned will have to make use of the possibility provided for by Article XVI and Article XXVI of the Protocol, to declare that they "may restrict or attach conditions to the exercise of the remedies of the Convention and the Protocol".

This introduces an element of delay and of unpredictability into the system which is undesirable

from the point of view of the creditors but which is also, to a large extent, unavoidable, given the national security aspect of these controls.

Finally, Mr. Chairman, this is a Convention and a draft Protocol created in the initiative of the satellite manufacturing and satellite financing industry. It is meant to create predictable and secure conditions for those industries and their global clients, whether the latter are States or private companies. That is a novel approach to space law-making and there is nothing wrong with that but it should be realized that countries will have to introduce national legislation to bring their laws into conformity with the provisions of the Convention and the Protocol. That is hard and complicated work and it may involve the introduction of concepts or principles which are new and unfamiliar to the legislators concerned.

Many of these latter States will belong to the group of customers of satellite firms. Without that customer States becoming parties to the Convention and the Protocol, this instrument will remain ineffective, if not useless. That imposes a responsibility on the initiators of this international legislation to make every effort to make abundantly clear what the exact benefits of this new regime for customer States are and to be as specific as possible. Otherwise, you may be confronted with a "wait and see" attitude of the majority of States for the simple reason that they do not want to engage in complicated and time-consuming revisions of domestic law on a "nice to have" or "why not" basis.

So, for the sake of all involved, there is a definite and continuous needs for an educational exercise which makes clear that the Convention and the Protocol meet a clear need. The industries concerned have the burden of proof. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished observer for the International Astronautical Federation, Dr. Van Fenema, for your comments.

Distinguished delegates, I have again the distinguished representative of Greece. You have the floor.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Mr. Chairman, I am truly saddened to say that I made a statement last week. I thought it should be taken into account and yesterday afternoon, I repeated the same statement and I feel under the obligation to repeat it regarding statements made by observers. In general and, more particularly, observers that do not represent intergovernmental

organizations, especially when it is a question of comments and especially on views expressed by representatives of States and members of the Committee.

I am in an uncomfortable position, seeing the continuation of this practice which is fully in opposition with the rules of procedure. National delegations should, perhaps, hold a special meeting and that exactly to clarify this matter. I believe this is highly political. It is one which directly affects the dignity of sovereign States in a political forum of a parliamentary nature. I do not see how external parties should comment. This is not a symposium. This is not an academic meeting nor any other type of meeting. It is a highly political forum and observers, whether intergovernmental entities or organizations or not, all they should do is present their activities and nothing other than that. Comments should be reserved for academic meetings.

I feel that it is a very delicate question because if I could choose, I would ask you not to give the floor. I recognize the good faith here but I do not believe there should be any comments on views given by States. This should be taken into account and there should be some suggestion found to re-establish order in this forum. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Greece for your point of view that you have expressed here yesterday and earlier and today you have repeated it. Unlike you, I believe that the contribution just made by the distinguished observer of the International Astronautical Federation was very useful, very interesting and to the point. Not all the declarations here, even by some delegations, are always of this high quality and if I am wrong, please you can, distinguished delegates, overrule me. I am ready to listen.

First the distinguished representative of the United Kingdom.

**Mr. D. LUSHER** (United Kingdom of Great Britain and Northern Ireland): Thank you Mr. Chairman. My delegation shares your views that comments/statements by NGOs and other observer bodies serve to inform and enrich our discussion, particularly beneficial to those like myself who do not have a background in space science and who occasionally struggles with the technical ins and outs of our discussion here. So the United Kingdom greatly appreciates the contribution made by observers but it would be of interest perhaps to share with everyone

here, and if the Secretariat could respond please, on the status of such statements, the status of statements made by observers here. It may serve to clarify the situation. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of the United Kingdom. The next speaker on my list of speakers is the distinguished representative of Ecuador.

**Mr. P. PALACIOS** (Ecuador) (*interpretation from Spanish*): Thank you very much Mr. Chairman. I was going to ask for the floor after hearing the remarks from the distinguished representative of Greece but you, with more authority and expertise than I have, had pointed out some points that I believe are highly relevant which I truly agree.

My delegation does not feel the strong susceptibility that the Greek delegations feels and expressed as is his right to do. I believe as the United Kingdom does. We, who are not full experts on this, have been enlightened by the information given on the subject that we are examining. Thank you.

**The CHAIRMAN:** Thank you very much distinguished Ambassador for your contribution. The next speaker on my list of speakers is the distinguished representative of Australia.

**Mr. A. BELL** (Australia): Thank you Mr. Chairman. Like yourself, our delegation found the intervention by the IAF very useful, extremely clear and concise in identifying some of the issues with which we all need to grapple when looking at the UNIDROIT Protocol. It is not our view that such comments and statements by intergovernmental organizations, NGOs, etc., pose any sort of danger to our State or national sovereignty. On the contrary, we believe that it enhances it and enables us to have a more informed process in developing our national position. So in that respect, in relation specifically to the IAF's statement, the more generally to statements by observers, we would welcome and want to see this practice continue, as you suggested. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Australia for your statement. The next speaker on my list is the distinguished representative of Canada, to whom I give the floor.

**Mr. B. LEGENDRE** (Canada) (*interpretation from French*): Thank you very much Mr. Chairman. Indeed, Canada would like to join in the statements made by the United Kingdom, Ecuador and Australia.

Canada appreciates the observers' contribution, including the IAF's contribution.

Now with regard to the value of their statements for our deliberations, Canada awaits the response of the Secretariat to the question posed by the United Kingdom. However, we would like to say that no-one here calls into question the sovereignty of nations as was said yesterday by the distinguished representative of Belgium, who is not here today. We believe, as sovereign States, and I say this with all due respect to our friends from the IAF, States here have all the leeway and opportunity to do what they wish with the information that comes from observers to their benefit or not. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Canada. I give the floor to the distinguished representative of the United States of America.

**Mr. K.HODGKINS** (United States of America): Thank you Mr. Chairman. Mr. Chairman, my delegation would like to join those delegations who have also expressed the view that having statements and opinions presented by the observers is fully consistent with how we want to do work. In fact, Mr. Chairman, I would hesitate for the Legal Subcommittee, or the Committee itself, to be too rigid in how we do our work because, in fact, we have showed tremendous flexibility in how we conduct our business in terms of re-opening items after they have been closed for several days, we have allowed items to be re-opened, for example, this morning. We have allowed delegations to speak more than one time on an agenda item in our formal sessions. So I would hesitate to see now that we have become very rigid in how we treat observers of this Subcommittee because their views are very important. As long as the observers are to the point, then that we think that it is very appropriate and we agree, Mr. Chairman, with your approach in conducting the work of the Subcommittee. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of the United States of America. The distinguished representative of Germany has the floor.

**Mr. C. HENRICHS** (Germany): Thank you Mr. Chairman. I would like to associate the German delegation with all preceding speakers and you, Mr. Chairman, in welcoming substantive comments from observers in this forum and we found the statement made by the IAF particularly useful and to the point and, in that sense, very concrete and pushing the matter

forward much more than maybe other statements that have been heard in the course of the negotiations here.

Let me point out one more thing in this context please, Mr. Chairman. This is a project, this UNIDROIT Convention with the Space Protocol, of a very peculiar nature. It involves the commercial activity and the financial interests and so it is a field where the international space law that this Committee is used to deal with and economic questions merge and come together and this is why we find it particular useful to have inputs from observers who maybe can point out things and have perspectives that the State alone represented in this Committee might not have in this full broad prospective.

And finally, let me point out there may very well a situation during the intergovernmental conferences on the Space Protocol that COPUOS itself will be in a function of an observer, being an observer to the intergovernmental conferences, as UNIDROIT has already pointed out that COPUOS is welcome and the conference is open to COPUOS and other observers and I have no doubt, also speaking from the history of the Diplomatic Conference, which I was in a position to attend, I have no doubt that, during the intergovernmental consultations on the Space Protocol, COPUOS and any other observers will be gladly given the floor and contributions from their part, in their function as observers there, would be very welcome there.

To sum up, this delegation shares the view that statements of observers should be welcomed here as well. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Germany for your statement. The next speaker on my list is the distinguished representative of the Russian Federation.

**Mr. Y. M. KOLOSOV** (Russian Federation) (*interpretation from Russian*): Thank you Mr. Chairman. My delegation, for some decades now, has always applauded the participation in our debates of the representatives from observers organizations. However, we think that in the report of the Committee and the Subcommittee, opinions expressed by observers should not be reflected. "Opinion was expressed" or "the view was expressed" should not be in the document. That should only apply to members of the Subcommittee.

Secondly, observers' interventions should be neutral. They should not be judgmental, express any stance taken. They are not government delegations and

they should not have any influence on positions taken by delegations nor should they in any way influence the arriving at a consensus or not. Having said that, we are very pleased by the contribution of these organizations. Thank you Mr. Chairman.

**The CHAIRMAN** (*interpretation from Russian*): Thank you to the representative of the Russian Federation. The next speaker on my list is the distinguished representative of the Netherlands.

**Mr. G. LAMMERS** (Netherlands): Mr. Chairman, I can agree with most of what has been said by most of my preceding speakers. I think the statement was informative, enlightening, general, not directed against the view of any particular State or groups of States and I think it is a little bit exaggerated and the international conditions, as they are now, during international conferences, to think that the sovereignty of States is affected by this. Thank you very much.

**The CHAIRMAN:** Thank you distinguished representative of the Netherlands for your statement. The next speaker on my list is the distinguished representative of Brazil.

**Mr. S. LEITE DA SILVA** (Brazil): Thank you Mr. Chairman. I wish to take the floor again on the same item. We also found very interesting the comments presented by the IAF and, being the essence, we do not oppose for hearing the comments that could enrich our view on issues that at least some delegates are not very much aware about, especially diplomats who do not know the technical aspects and then great parts of the legal aspects. But saying that, we found good comments as it occurs under the specific comments presented by the Russian Federation. We have to specify the conditions under which the opinion of the observers are going to be issued.

And also, as the United Kingdom representative pointed out, it is important to establish the standards and the standards have been mentioned very well by the Russian delegation. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Brazil. The distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you. I requested the floor after your remarks but I think it would be more useful to be the last, not necessarily to have the

last word but to speak last on the issues that I raised here.

I was speaking about the non-acceptability of commenting on States' views. As the honourable delegate of Russia just indicated, as well as the honourable delegate of Brazil, the issue is that these interventions should be neutral and they should be of value as a contribution. However, Mr. Chairman, I want to reiterate that I did not call into question or doubt, because I did not talk about the issue of substance of the contribution made by observers, particularly the observer from the IAF, that is your own conclusion. We did not speak of the value, the scientific worthiness of the presentation made by the IAF. If you have qualified it in one way or another, that is your right as a Head of the delegation of the Czech Republic, but I do not think that the issue was raised in the room for delegations with regard to the quality of the IAF's presentation. The quality was not at issue, thus, the value of it is not at issue here.

To not prolong the discussion, I would simply like to repeat that we need criteria in place and abstain from any critical comments or negative or positive comments which lead to doubt. States should be able to express themselves as they see fit. And I think we have cleared the air here and I entirely accept the remarks of our colleague from the United States in terms of flexibility, etc., but with the caveat of respecting States sovereignty. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Greece but I have to say that I had not had the impression that the observer for the International Astronautical Federation would have somehow criticized or taken any position in relation to the views and opinions of the representatives of States. My understanding was that he was speaking on the issues, on the problems involved, nothing else and this statement that he made on the problems, in my assessment, was very valuable. That is all what I will still add. If you agree, I could now finish the discussion. If not, I will submit officially the question of confidence of this Subcommittee for the Chair of the Subcommittee. What do you wish? Yes, you have the floor.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): I am sorry. I apologize for saying this. We have gone too far here without due cause. I simply want to say that if the Federation representative referred to the statement of the Ukraine perhaps there was some issue in what was heard in the French version, but I do not think I dreamed this up. I

have not hallucinated here. There was reference twice to the honourable delegate from Ukraine and that is why I said what I said.

I apologize. I am not in any way calling into question your chairmanship or leadership, to the contrary. You are very well aware of my feelings towards you. You have my full trust and loyalty, so please do not go too far. I am just explaining why I took the floor and I said what I said. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Greece. I have double-checked the text of the statement made by the distinguished observer for the IAF. Perhaps I am wrong. I do not know because this text is handwritten but I have not seen here any mention of any country whatsoever.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): I am sorry. It is possible that our colleague did not write the introduction of the text in the manuscript that you have there but when he said it, I do not think all booths interpreted words which were not said.

**The CHAIRMAN** (*interpretation from French*): It is very sad to have this problem. Your request is accepted. We will now continue with the agenda.

(*Continued in English*) I have still the request of the distinguished delegation of the United Kingdom.

**Mr. D. LUSHER** (United Kingdom of Great Britain and Northern Ireland): Thank you Mr. Chairman. I am sorry to have the floor again but as I posed a question to the Secretariat, I would very much appreciate clarification. Thank you.

**The CHAIRMAN:** I know give the floor to the staff member of the Secretariat, Deputy Secretary to our Subcommittee, Mr. McDougall, to answer your question. You have the floor Sir.

**Mr. P. R. McDOUGALL** (Deputy Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman, distinguished delegates. I am not sure that my answer will enlighten you in any great way. The difficulty is that the rules of procedure of the General Assembly, under which we essentially operate in this Committee, the subsidiary body of the General Assembly, are fairly silent on the issue of observers and practice as far as how to treat the statements are concerned. What we do have in both the General Assembly and in its subsidiary bodies are practices which have been undertaken over the years. I am

indebted to some degree to the distinguished representative of the Russian Federation for summarizing to a large degree the practice as is generally undertaken in bodies of the General Assembly and its subsidiary bodies. I would just recall a few of those points again.

Essentially observers participate in the meetings of bodies such as this one, by the leave of those bodies themselves and to the extent that they participate. This also is determined by the agreement of the body concerned. So really it is in the hands of yourselves, distinguished delegates, as to the degree to which you will allow them to participate.

That said, it is normal practice, within bodies such as these, that observers do not participate in any voting that might take place. As you are aware in this Subcommittee and its main Committee, agreements are taken by consensus, so by analogy, observers would not be able to stand in the way of consensus or object to an agreement that would be taken by consensus.

In addition, just to clarify the procedure normally undertaken by the Secretariat as far as reflecting the views of observers as concerned, in general, in the reports that are prepared by the Secretariat for your consideration, the views of observers are not reflected, except to the extent that, upon adoption of the reports, it is so agreed otherwise by either the Legal Subcommittee or the Committee concerned. I would note that there has been occasion in the past where certainly reference has been made to an intervention made by an observer but this has then been subsequently endorsed by a consensus decision of the body concerned.

Other than that is the general practice of the Secretariat to style the report so that it does not, if at all possible, reflect the views expressed by observers. Those are taken as being having been understood by the delegations concerned and taken into account as appropriate. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished Deputy Secretary to the Legal Subcommittee of COPUOS.

Distinguished delegates, I no longer have any delegation inscribed on the list of speakers on this item. Do we have still somebody, any speaker, wishing to speak on item 10 in the plenary at this time? On item 8, sorry, this time?

I see none. We will continue our consideration of item 8 tomorrow morning. I should

like to inform delegations that it is my intention to conclude consideration of this item at tomorrow morning's meeting. I would, therefore, urge any delegations still wishing to speak on this item to inscribe their names on the speakers list with the Secretariat as soon as possible. So tomorrow morning, this will be the last opportunity to speak on item 8, the Convention and the draft Space Protocol.

**Proposals to the Committee on the Peaceful uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-second session (agenda item 10)**

Distinguished delegates, we shall now continue our consideration of item 10 on our agenda, Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-second session.

As I mentioned this morning, we shall first discuss this question here at the plenary of the Subcommittee but then I intend to continue at the level of informal consultations in this room under the coordination of Mr. Niklas Hedman of Sweden, with a view to advancing our discussions on this item. However, before doing so, I would like to provide an opportunity for any delegation wishing to make a statement on this item within the formal context of the plenary of the Subcommittee this afternoon. And I have here the first speaker on this item and it is the distinguished representative of Brazil.

**Mr. S. LEITE DA SILVA (Brazil):** Thank you Mr. Chairman. The Brazilian delegation decided to prepare a proposal concerning remote sensing by satellite, the need of a regulation. And I will read now the proposal as it is written.

Taking into account that remote sensing by satellite became a vital activity for the well-being of humanity and for the national development of all countries, as well as its particular significance for the international peace and security and special relevance for the developing countries economic and social programmes, the Brazilian delegation considers the remote sensing by satellite as much important for international community as telecommunications systems.

Despite of this, remote sensing by satellite is a space activity that has not been sufficiently regulated, as the only international instrument related to it, the General Assembly Declaration of 1986 containing the Principles on Remote Sensing, is out of date from the

technological point of view as well as from the economic and political ones.

We consider that it is necessary the elaboration of an international convention for the updating of the Principles on Remote Sensing and the development of rules relating to the new situations that resulted from the technological innovations and commercial applications of remote sensing activities.

The Brazilian delegations proposes, therefore, the inclusion in the Legal Subcommittee agenda for the next session of a new item on the discussion about an international convention based on the 1986 General Assembly Declaration containing the Principles on Remote Sensing.

Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Brazil for your statement and for your proposal on remote sensing by satellite regulations that you have submitted during your statement.

I now give the floor to the distinguished representative of Ecuador.

**Mr. P. PALACIOS** (Ecuador) (*interpretation from Spanish*): Thank you very much Mr. Chairman. My delegation, given the importance of the topic and the reasons expressed by Brazil, supports this proposal. Thank you.

**The CHAIRMAN:** Thank you very much distinguished Ambassador for Ecuador for your statement by which you supported the proposal that has just been made by our distinguished colleague from Brazil.

The next speaker on my list is the Russian Federation.

**Mr. V. Y. TITUSHKIN** (Russian Federation) (*interpretation from Russian*): Thank you very much Mr. Chairman. Ladies and gentlemen, on behalf of the Greek, Chinese and Russian Federation delegations, I would now like to introduce a common working document with a proposal to recommend to the Legal Subcommittee at its forty-second session to examine the appropriateness and desirability of drafting a universal comprehensive convention on international space law as an item on the agenda, Status and application of the five United Nations treaties on outer space.

I will not come back to the arguments for this. These arguments have been explained by our delegation on several occasions already, as well as by other delegations members of COPUOS. I would like to remark the following.

Practically speaking, each item examined at this session indicates a problem for the legal situation with regard to the situation we face today. For example, it is true of the status of the five instruments of the United Nations on space or examining the issue of launching State or delimitation and definition of space, the draft Protocol on Space Property, etc. All of this clearly shows how necessary it is to find new approaches to develop international space law.

I would also like to emphasize that it is not at all a matter of re-visiting what already exists in space law, the basis of which is created by the five United Nations instruments on space. They should not be touched. However, it is crucial to develop new standards which will fill the gaps that exist in space law currently. It is also indispensable to adapt, modify, clarify, a whole series of existing provisions in the area of international space law.

I would like to repeat, today, we do not ask that we move immediately to drafting an international convention on space law. Let us think first, let us reflect. How can we solve the problems that exist in space law? Do we really need a convention for our objectives? Let us not prejudge the ultimate results. Let us begin a dialogue on this issues.

And to end, Mr. Chairman, I would launch an appeal to all members of the Committee to join the initiative of Greece, China and the Russian Federation. Thank you.

**The CHAIRMAN** (*interpretation from Russian*): Thank you distinguished representative of the Russian Federation for your statement. The statement aims at presenting new documents L.236 on the World Convention on Space Law.

(*Continued in English*) The next speaker is the distinguished representative of India.

**Mr. P. K. CHAUDHARY** (India): Mr. Chairman, I will briefly give the views of my delegation on the five topics mentioned by you yesterday. The adding of a topic existing norms of international law relating to space law debris, my delegation is of the view that the Scientific and Technical Subcommittee of COPUOS has already seized of this matter. Therefore, any consideration of

this topic by the Legal Subcommittee should be engaged in following the deliberations in the Scientific and Technical Subcommittee on this topic.

Further, since the topic has been included the provisional agenda of the Scientific and Technical Subcommittee for its fortieth session in 2003, the consideration of this topic during the forty-second session of the Legal Subcommittee would be premature.

Mr. Chairman, on the topic of the appropriateness and desirability of developing a universal comprehensive convention on international space law. Though there are two proposals, as pointed out by you yesterday, the sense of those proposals are the same, only the modalities for the consideration will be differently. My delegation is open to the idea of a comprehensive convention provided it does not affect the sanctity of the present treaties as, in the view of my delegation, the present legal framework of treaties on outer space is working satisfactorily and serving the purpose very well.

Regarding the topic of international cooperation and limiting obtrusive commercial space advertising, that could interfere with astronomical observations, I would like to point out that the Scientific and Technical Subcommittee of COPUOS considered this matter at its thirty-ninth session 2002 in accordance with General Assembly resolution 56/51 and agreed that obtrusive space advertising was a great concern for the future. We, therefore, support this proposal to be considered by the Legal Subcommittee as a single issue item for discussion in the next session. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of India for your statement. The next speaker on my list is the distinguished representative of Chile.

**Mr. J. M. CONCHA** (Chile) (*interpretation from Spanish*): Thank you Mr. Chairman. I would like to back the proposal introduced by the Russian Federation, submitted by China, Greece and the Russian Federation on the desirability and appropriateness of drafting a general universal convention on space law.

We believe, in accordance with what was said by the delegation of Argentina, the examination of a single convention would not basically affect those Principles that exist in the five outer space treaties. And, accordingly, if there is no effect on the Principles of the five outer space treaties, and with this not

affecting the treatment of signature and ratification of those instruments, we agree and give our full support to the question being considered as a sub-item under the Status and application of the five United Nations treaties on outer space. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Chile for your statement. The next speaker on my list is the distinguished representative of Argentina.

**Mr. S. SAYÚS** (Argentina) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation would like to refer to the proposal made by the distinguished representative of Brazil. First of all, we would like to thank them for the contribution that they made and we would like to say that my delegation understands this and sympathizes whether it fits in with the statement made by my delegation at the beginning of the meeting in the general exchange of views, in particular referring to the need and support given by my country for going beyond the capabilities of what some countries have for use and development and research in this area. This also is in line with the Principles and the Treaty regarding Principles Guiding Activities in Exploration and Use of Outer Space and the terms in the 1967 Treaty. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Argentina for your statement. The next speaker on my list is the distinguished representative of the Islamic Republic of Iran.

**Mr. A. HAJIGHOLAM SARYAZDI** (Islamic Republic of Iran): Thank you Mr. Chairman. Mr. Chairman, my delegation listened carefully to the statement made by the distinguished representative of the Russian Federation. My delegation believes that the proposal tabled by the distinguished delegations of the Russian Federation, Greece and China deserves appropriate consideration and, therefore, my delegation can go along with this proposal. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of the Islamic Republic of Iran for your statement. The next speaker on my list is the distinguished representative of Colombia.

**Mr. C. ARÉVALO YEPES** (Colombia) (*interpretation from Spanish*): Thank you Mr. Chairman. My delegation would like to give its support to the proposal made by the distinguished representative of Brazil on remote sensing. We believe that this is yet further proof of the need to update with economic and technological developments in this area

of remote sensing which is of utmost importance for developing countries.

And this also leads me to the second proposal that which was introduced by the Russian Federation and that is to look at the appropriateness and desirability of drafting a single convention and here I would endorse what was said by the representative of Chile. I believe those are significant arguments that should be brought into the balance of this proposal. In the past we have already given our support to this. Thank you.

**The CHAIRMAN:** Thank you distinguished representative of Colombia for your statement. The next speaker on my list is the distinguished representative of Mexico.

**Ms. M. T. R. JASSO** (Mexico) (*interpretation from Spanish*): Thank you Mr. Chairman. I just wanted to give the support of my delegation to the proposal submitted by the distinguished representative of Brazil. Thank you.

**The CHAIRMAN:** Thank you very much distinguished representative of Mexico. The next speaker on my list is the distinguished representative of Ukraine.

**Mr. V. CHERNYSH** (Ukraine) (*interpretation from Russian*): Thank you Mr. Chairman. My delegation would like to support the proposal that was submitted by China, Greece and the Russian Federation and to include a sub-item to what is item 4, Status and application of the five United Nations treaties on outer space on the appropriateness and desirability of drafting a universal convention on international space law without going into question the effectiveness of existing agreements.

However, considering the number of problems that have already been identified during this session regarding activities in outer space, we can see that this is a question that should be examined by the Subcommittee.

**The CHAIRMAN:** Thank you distinguished representative of Ukraine. The next speaker on my list is the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Mr. Chairman. Just briefly, on the joint proposal from China, the Russian Federation and Greece.

We have said this already over the last two years and that is this proposal should not seek to change what is in the five treaties already in force.

The inclusion of this proposal as a sub-item for the Working Group of Item 4, this is really to facilitate a dialogue on this subject matter which is appropriate to the tasks of the Working Group. I was out for a couple of minutes but hearing the distinguished representatives of Colombia and Mexico address the proposal from Brazil on the principle of remote sensing by satellite, I do not know if the proposal was already put by Brazil which is linked to the initial proposal from Greece to put into an international treaty, the two Declarations on Principle. In any case, we are in favour of the proposal from Brazil. Thank you.

**The CHAIRMAN** (*interpretation from French*): Thank you distinguished representative of Greece.

(*Continued in English*) I give the floor once again to the representative of Brazil.

**Mr. S. LEITE DA SILVA** (Brazil): Thank you Mr. Chairman. As many delegations pointed out and as the distinguished representative from Greece clarified, the proposal made by China, Greece and the Russian Federation is not going to affect the existing framework that is comprised by the five treaties and that is exactly the preoccupation not only of Brazil but of many delegations. In this case, we are totally in favour of including this, not as an issue to be decided, but as the proposal says at the end "to review the issue of the appropriateness and desirability of drafting a universal, comprehensive convention" and I consider it a very positive exercise. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you distinguished representative of Brazil for your statement. The next speaker on my list is the distinguished representative of Indonesia.

**Mr. N. GUSTAMAN** (Indonesia): Thank you Mr. Chairman. My delegation is in support to the proposal to the COPUOS for a new item to be considered by the Legal Subcommittee and that is the review of existing norms of international law applicable to space debris. Thank you Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Indonesia.

This has brought me to the end of the list of delegations that wanted to speak on item 10 and the

plenary meeting of the Subcommittee. However, I would like to ask once again is there any other delegation wishing to speak on this item at this moment? I recognize the distinguished representative of Greece.

**Mr. V. CASSAPOGLOU** (Greece) (*interpretation from French*): Thank you very much Mr. Chairman. I do not know if this is correct from the procedural point of view but as we have concluded our examination of item 5 of the agenda, contributions from international organizations, I would simply like to inform the Subcommittee of the results of our first exchange of views on COMEST.

I do not know if this is the right time for that. Would you rather I did this later on, tomorrow or the day after?

My colleagues from Belgium and Morocco had to leave. It would be up to them to give the communication but I have been asked to do so. It is up to you to decide.

**The CHAIRMAN** (*interpretation from French*): I thank the distinguished representative of Greece. Perhaps I can give you the floor tomorrow on this subject. Right now I would like to maintain continuity with comments and remarks on questions of the agenda for the next session. After the formal meeting of the Subcommittee, we can continue with informal consultations on this same subject. And that is why I would like to let Mr. Niklas Hedman conduct the informal consultations and that straightaway after our meeting.

(*Continued in English*) Therefore, I intend to adjourn this formal meeting of the Subcommittee and, as I already told, I will give the opportunity to inform us about the results of the work of the consultations of the experts on the COMEST report tomorrow. Yes, I recognize the distinguished representative of Austria.

**Ms. U. HIEBLER** (Austria): Thank you Mr. Chairman. I took the floor to ask you for your permission to make a short announcement. I would like to remind those delegations that have declared their interest in participation in the roundtable discussion on the commercial use of outer space, that this event will take place tonight at 7.00 p.m. at the Diplomatic Academy of Vienna. And I would like to add that the Federal Ministry for Foreign Affairs of Austria will be very honoured to welcome you, Mr. Chairman, delegates and representatives of the Office for Outer Space Affairs as its guests at that event. Thank you very much Mr. Chairman.

**The CHAIRMAN:** Thank you very much distinguished representative of Austria for your announcement.

I will shortly adjourn this meeting of the Subcommittee to allow for the convening of informal consultations under the coordination of Mr. Niklas Hedman of Sweden on item 10. Before doing so, however, I would like to inform delegates of our schedule of work for tomorrow morning.

Tomorrow morning, we shall continue and hopefully conclude consideration of item 8, Consideration of the Convention on International Interests in Mobile Equipment and the Preliminary Draft Protocol on Matters Specific to Space Assets. We shall also continue our consideration of item 10, Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its forty-second session, in the formal context of the plenary of the Subcommittee and, if necessary, in informal consultations. And as I promised, I will give the opportunity to the Group of Experts to inform us about the results of their consultations.

Are there any questions or comments on this proposed schedule?

I see none. This meeting is adjourned.

*The meeting closed at 4.50 p.m.*