

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

*Unedited transcript*

791st Meeting  
Friday, 27 March 2009, 10 a.m.  
Vienna

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Chairman: *Mr. V. Kopal (Czech Republic)*

*The meeting was called to order at 10.13 a.m.*

**The CHAIRMAN.** Good morning distinguished delegates, I now declare open the 791st meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

I would first like to inform you of our programme of work for this morning. We will continue and hopefully suspend our consideration of agenda item 6 (a) the definition and delimitation of outer space and conclude also item 6 (b) the character and utilization of the geostationary orbit. We will continue our consideration of agenda item 7, nuclear power sources and begin our consideration of agenda item 8, draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment. We will also continue our consideration of agenda item 9, capacity-building in space law. At the end of his morning's session the working group on agenda item 4, the status of treaties, will hold its third meeting. As advised yesterday, the working group on agenda item 6 will not be held today and I received a brief message from the Chairman of that working group, Professor Monserrat Filho, in which he communicated that there was no reason, according to his assessment, for another meeting because he finished the agenda of the working group. He asked me to inform the delegations about this fact and reiterate his gratitude for the active participation of all of them, best regards. My intention is to submit his report that he has prepared, together with the Secretariat, towards the end of the coming week and it will be no longer any discussion on it, there will be simply the checking and approval of the report.

Are there any questions or comments on this proposed schedule?

I see none.

We can now proceed with our agenda item 6 (a) the definition and delimitation of outer space and 6 (b) the character and utilization of the geostationary orbit. I repeat that it is our intention to conclude our consideration of agenda 6 (b) and 6 (a), both subparagraphs of our agenda 6 (b).

I have a speaker on my list of delegations and it is the distinguished representative of Nigeria to whom I give the floor.

**Mr. F. CHIZEA** (Nigeria) Thank you very much Mr. Chairman. Mr. Chairman Nigeria notes with appreciation the efforts of the Subcommittee and its working group on the definition and delimitation of outer space and hopes that, very soon, we will arrive at a workable understanding on the issues of definition and delimitation of outer space.

Mr. Chairman we recall that the question of definition and delimitation of outer space was first declared on the agenda of the Legal Subcommittee during its sixth session in 1967. The view expressed by some delegations \_\_\_\_ (?) was that a definition and delimitation of outer space was necessary in order to establish the precise scope of application of the legal regime that should govern outer space activities and that it had to be based on the fundamental principles governing \_\_\_\_ (?) international relations. A case was made to the effect that addressing the problem of definition and delimitation of outer space will assist the

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In its resolution 50/27 of 6 December 1995, the General Assembly endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that, beginning with its thirty-ninth session, the Committee would be provided with unedited transcripts in lieu of verbatim records. This record contains the texts of speeches delivered in English and interpretations of speeches delivered in the other languages as transcribed from taped recordings. The transcripts have not been edited or revised.

Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, within one week of the date of publication, to the Chief, Conference Management Service, Room D0771, United Nations Office at Vienna, P.O. Box 500, A-1400, Vienna, Austria. Corrections will be issued in a consolidated corrigendum.



international community to distinguish between two natural environments namely, airspace where a State may make claims to rights over the airspace above its territory based on the principles of sovereignty of States and, outer space which is a global \_\_\_\_ (?). Even though a lot of activities are taking place in outer space since then without a working definition or delimitation of outer space, time has not advocated the necessity of having a definition and delimitation of outer space. The need for a definition and delimitation of outer space is therefore no less important today than when the subject was first brought on to the agenda of the Subcommittee four decades ago. In other words, the need still exists for a definition and delimitation of outer space and should not be considered a ritual \_\_\_\_ (?) on agenda of the Subcommittee. It is therefore believed that this Subcommittee will be \_\_\_\_ (?) to the development of international law by tenaciously working to arrive at a consensus on this matter. We appreciate and support the ongoing work of the working group on definition and delimitation and hope that progress will be made on the twin subject of definition and delimitation.

Mr. Chairman, developing countries, many of which are yet to be space-faring, have the expectation that an orderly and legally binding set of rules and principles will be developed for all nations, big or small, for the peaceful use and exploration of outer space. Nigeria believes that the task before the Subcommittee is not an impossible task and as such we hope that, at this session, substantial progress will be made by the working group on definition of outer space to justify the time and energy that has been committed to this objective of delimitation of this global \_\_\_\_ (?). Thank you very much Mr. Chairman.

**The CHAIRMAN** Thank you distinguished representative of Nigeria for your statement on item 6 of our agenda in which you underlined the need for a definition and delimitation of outer space which is no less important today than when the subject was first brought on the agenda of the Subcommittee as you said. You also expressed the expectation that, for the sake of the progressive development of international space law, we would be able to arrive at a consensus on this matter. You also emphasized the position of the developing countries that have the expectation that an orderly and legally binding set of rules and principles will be developed for all nations, including that governing this particular issue. Thank you very much.

Ladies and gentlemen, distinguished delegates, I do not have any other speaker that would be applying for the discussion.

Is there ... ?

Yes, I have the distinguished representative of Morocco.

**Mr. S. RIFFI** (Morocco) (*interpretation from French*) Thank you Mr. Chairman. My delegation has followed with great attention the discussion here on the issue of the definition and delimitation of outer space and I would like to take this opportunity to congratulate you at so successfully conducting the work and also I congratulate the Chairman of the working group on this issue for having stimulated a fruitful and specific discussion.

Mr. Chairman, the delegation of Morocco, as we always pointed out in our statements, would like the definition and delimitation of outer space to be developed, taking into account of course the various elements cited by many delegations here. The sum total of treaties and conventions on outer space do not contain a definition of outer space. To date, there is no such definition but that is not the reason to take it off our agenda.

Mr. Chairman, my delegation joins our colleague from Indonesia who pointed out that there should be a list of unaddressed matters pertaining to the definition of outer space. We also favour setting up a group of experts comprising independent legal professionals to look into this issue. This group would help the mission of preparing and submitting a report in which they would pronounce on the need or otherwise of coming up with a definition of outer space. Thank you very much.

**The CHAIRMAN** (*interpretation from French*) I thank the distinguished representative of the Kingdom of Morocco for his contribution under this agenda item 6. You pointed out the wish of your country to see this discussion continue, the importance you attach to this discussion. You also referred to the suggestion made by the delegation of Indonesia yesterday. You introduced the idea of setting up a group of experts who might work on this issue very specifically.

Ladies and gentlemen, I do not have any other speaker on this list from among the delegations. Is there any observer here representing different organizations?

I recognize the Chairman of the Space Law Committee of the International Law Association, Professor Maureen Williams. You have the floor Madam.

**Ms. M. WILLIAMS** (International Law Association) Thank you Mr. Chairman. Our institution has been looking at this problem of delimitation and definition ever since it was created and at different stages to date. We feel to be realistic that whatever criteria might be chosen to define the rights of States in outer space they are bound to highly artificial, the time is not ready, it might not survive the times. Maybe if we have a technological approach to the question then technology changes, advances, and then the whole situation is different and that is not what we want. We want more certainty, we need more time, we need perhaps to look at more domestic legislation on this issue to proceed and to see to what degree we find uniformity among them. Thank you very much Mr. Chairman.

**The CHAIRMAN** Thank you very much distinguished chairperson of the Space Law Committee of the International Law Association for your contribution in which you suggested perhaps some new approach to the consideration and examination of the issue of definition and delimitation. You mentioned, for example, a technological approach to this question for examining the different technical aspects for this consideration at this time. You also advanced to look into the national legislation and other documents relating to this particular issue. Thank you very much once again.

I now have on my list of speakers the distinguished ambassador of Chile, to whom I give the floor.

**Mr. R. GONZÁLEZ ANINAT** (Chile) (*interpretation from Spanish*) Thank you very much Mr. Chairman. I did not intend to ask for the floor at this point but I was very impressed by the excellent statement made by the distinguished delegate of Morocco. I thought it was very articulate and very appropriate. Also the statement made by my distinguished friend, Maureen Williams, was very impressive but there are things that I find concerning in this last one.

Something that has not been accomplished in 40 years does not mean that that is something that will never be accomplished. From the two statements we have heard this morning and the work of the working group on this issue make it clear that, even though some efforts have been deployed and particularly in the working group, there is a lot to be done and we also should recall the suggestion made by the Russian delegation. We have to have a clear general idea and the reality is that the current space law as it exists does not reflect the actual situation. We are talking primarily

about the 1967 law, many changes have occurred since then, many developments with regard to outer space activities and how they are pursued and we cannot really, in the year 2009, proceed solely on the basis of the 67 Treaty which does not contain a legal definition of the scope of application of space law, that is a definition of outer space. It is a legal issue, we are talking about space objects, we are talking about aerospace objects, we are talking about new approaches and new types of activities.

There is a number of international institutions and specifically the Committee chaired by my friend Maureen Williams are dealing with these things and they are important and their work is important but we cannot just put it to one side and assume that things should stay there. It emerged in the course of the discussion yesterday that the legal regime governing space activities does not address many of the current activities that take place in reality such as aerospace objects for example. We have to have a new approach, consisting of the following essential elements.

First, these activities are State activities, the legal regime emerged in the years of the Cold War and things have changed since then. Next, also a fundamental issue, from a cold war we have moved to a warm war, hot war, all kinds of war, at present there are all kinds of threats in the international arena and things are, in some ways, less predictable, more fluid.

Also, space activities in terms of their execution have changed in a fundamental manner. The representative of Intelsat spoke here and there is a legal panel looking at commercial, private sector space activities that needs to be taken into account it is a whole new area, a whole new development and the type of activities that are underway and are intensifying.

Then there is the issue of international security which has led to fairly restrictive positions of States and Maureen Williams has alluded to some of the national legislation and related issues.

All of these, in many ways, run along parallel lines and all of these contain country-specific issues but, on the other hand, they all suffer from the same insufficiency that we have referred to before. These situations have to be addressed, they are evolving, they are changing, and there is a very real need for an effort whereby outer space could be looked at in its evolving condition in terms of interpreting the Outer Space Treaty and applying it to the recent developments, the ongoing evolution.

Article 2, for example, is something that needs to be clarified, the actors and the subjects of outer space international law. We first need to define space activities, what constitutes space activities and then define the scope and the environment in which these activities take place.

A new approach, as I said, is needed and definition and delimitation of outer space could, of course, be looked at from a different perspective and, instead of defining and delimiting outer space, some may prefer to focus on defining and delimiting space activities, that is a different approach. For example, the United States and European countries, the thinkers, the scholars, the legal scholars not the diplomats, the scholars, are coming out with the suggestion that space should be defined as a function of activities that take place therein but, many countries continue to believe that defining outer space is essential be it defined in terms of altitude at which outer space begins or in other terms. We know there are now satellites placed in low orbits, the matter of altitude is not as clear-cut or straightforward as it might have seemed once. These things need to be looked into and this is not something that can be resolved in the UN General Assembly. The General Assembly has made recommendations, has issued a mandate for COPOUS and this is something that needs to be the subject of our work, the various alternatives need to be taken into account.

Summing up, Mr. Chairman, my delegation does not believe that this is a closed subject, this is a tough subject, an extremely difficult subject. There is a song in Chile where a fruit ripens on the tree and then falls but this is not one of those situations. Thank you very much, this is something that needs to continue.

**The CHAIRMAN** Thank you very much distinguished ambassador of Chile for your contribution to this discussion in which you emphasized that this is a legal issue that must also be considered as a legal issue and in which you recommended a new approach that would correspond to the state of the present activities, notwithstanding the fact that this issue is under our consideration for 40 years, it is still a valid issue that should be considered. That it is necessary to interpret the Outer Space Treaty and perhaps also other space treaties in the light of these new developments particularly article 2 for example that you mentioned. What is also necessary to define what constitutes space activities and therefore it is not a closed subject, however difficult it is. Thank you very much once again.

I have now on my list of speakers the distinguished representative of Canada.

**Mr. M. BOURBONNIERE** (Canada)

Mr. Chairman thank you very much. The delegation of Canada is very impressed with the quality of the debate and the interventions and the thoughtfulness of the interventions of the various distinguished delegates here on this issue. Canada wishes simply to reiterate a point and to stress the fact that Canada believes that part of the strength and the integrity of the present legal regime in outer space remains in the fact that there are no definitions on certain issues. As lawyers we are sometimes obsessed with defining terms however when we define we sometimes freeze concepts with a specific technological context. Law, and particularly international law, evolves more slowly than technology. Not having definitions allows the international legal regime, I believe, to be more pertinent and vibrant and to evolve in harmony with the technology and allows the technology more freedom to develop and to explore outer space. Thank you very much.

**The CHAIRMAN** Thank you very much distinguished representative of Canada for your contribution to our debate. You introduced a very important point that there is a lack of definitions and, of course, that international law in this respect develops more slowly than technology and perhaps also science I do not know, so that we have been probably more patient in this respect but, I believe that it is not an obstacle to consideration of legal aspects of these issues. Thank you very much distinguished representative of Canada.

I now have the distinguished representative of Greece on my list of speakers.

**Mr. V. CASSAPOGLOU** (Greece)

(*interpretation from French*) Thank you very much Chairman. Good morning to one and all. Two comments if I might.

The first on the idea presented by the distinguished chairman of the ILA group on two points. The regulation of the obligations of States, if I correctly understood I was listening the statement in English, as outer space becomes defined or is subject to definition. I would like to point out that the four or five outer space treaties as well as the cosmic magna carta of 1967, here I am referring to the foundations, the basic tenets of States' behaviour in outer space. These are the pillars on which the activities of States are based or the activities of the non-State bodies which, nonetheless, are acting under the management or within the jurisdiction of States, under States' control. What are these activities which should be developed?

First, for peaceful ends and this in the interest of all countries wherever they are in the world irrespective of their degree of scientific, economic development, development in all fields. I do not believe that there would be any question of changing the basic underlying principles, they are going to remain, they remain eternal I believe. Then there is another approach which is very similar to the evolution of outer space and that is the evolution of telecommunications. It started with telegraphy, then radio telegraphy and now, radio telecom. So, the major principles which still govern were pronounced in Paris in 1885 for telegraphy and then it was also applied to telephonics and then Berlin in 03 and 06 and there were other basic principles governing radio communications, as is presently termed, so few tap into the Paris text and the Berlin text.

You will see that these are one and the same sort of thing and this despite the rapid evolution within these two fields, the principles remain sempiternal but there may be some adaptation of the regulatory branch which is based on those roots, those foundations and this is possibly what our colleague from the ILA was saying with regard to national legislations. Of course, the international practice of States is one of the ways to work towards a reflection of the crystallization of these rules in national legislation. We cannot await national legislators' activities, we cannot wait for them to adapt the basic foundations and basic tenets because they have the constitutional order and that must interface with other regulations and other administrative operations. These are the two comments which I wish to share in this respect.

As for the problem, this actually came up yesterday I do not remember exactly which delegate referred to this, this issue of the definition of outer space activities. Let us adopt the hypothesis that we have gone beyond or bypassed the problem and that we are presently in a situation where it is necessary for us to define outer space activities. What is that sort of activity? As you know better than I, throughout the discussions that have ensued ever since the times where the fledgling Committee on the Peaceful Use of Outer Space was created there were always debates about the criteria for the definition. I believe it was the French delegation at the time, speaking on behalf of the predecessor of ESA, and another body that spoke very much about the importance of the criteria. There was a so-called realistic approach and another one which was more pragmatic as it was termed and I remember that there was also the idea floated that one should seek to establish a list of activities.

In other words, that one should establish a system which could be traced back to Anglo-Saxon traditions that there could be as exhaustive a list as possible established but that was, of course, in inherent danger of not being exhaustive or being overly restrictive in foreclosing the possibility of the introduction of new activities subsequently arising and this as a direct knock-on of the implementation of outer space activities and the evolution thereof. This is the brunt of what I wish to say this morning. Thank you.

**The CHAIRMAN** (*interpretation from French*) Thank you very much distinguished representative of Greece for your contribution, your comments, giving us the historical, philosophical, backdrop for our considerations here. You have stressed the importance of the legislative work to be done by States but also the limits thereto. You have also stressed the inherent value of listing studies and you have spoken about the importance of all of the debates around the issue of delimitation. Thank you very much.

(*continued in English*) I now give the floor to the distinguished representative of Saudi Arabia who applied for the discussion.

**Mr. M. TARABZOUNI** (Saudi Arabia) (*interpretation from Arabic*) Mr. Chairman, my delegation strongly endorses the points of view presented by the distinguished delegates of Morocco, Indonesia, Nigeria as well as the statement made by the distinguished delegate of Chile.

I believe that there are solutions if one were to take the trouble of properly thinking about the true meaning of the point of view presented by the Russian Federation and also the point of view expressed by the chairman of our group yesterday and this on the basis of the Liability Convention.

I was very interested to hear the French contribution as well. The example which was referred to by the distinguished delegate of France has no relation to the Chicago 1944 Convention which had to do with civil aviation not military. We believe that, at this present juncture, it is necessary on the basis of the progress registered in outer space activities and technologies and given the challenges which we must needs address today, that we must cope with today, and this after 40 years of history of thinking about outer space activities, it is necessary indeed to define outer space, we believe. This can be done on the basis of a definition of activities in outer space as well as the celestial bodies. In order to do this work we must engage the efforts of legal scholars as well as of scientists. Thank you very much.

**The CHAIRMAN** Thank you very much distinguished representative of Saudi Arabia for your contribution to the discussion on item 6 of our agenda. With reference to several interventions made already during this discussion, you came to the conclusion that, if I understood it correctly, given the challenges we must meet today the need for definition of outer space is really actual on the basis of the definition of space activities and also, for this reason, we should engage the cooperation of lawyers and scientists and technologists. Thank you very much once again.

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

**Mr. S. GUÉTAZ** (France) (*interpretation from French*) Thank you Chairman. I have been listening with great interest to the statement made by the distinguished delegate of Saudi Arabia and I would just like to make a clarification rendered \_\_\_\_ (?). I would like to point out that what he was referring to was the statement of Greece and not France I believe, I just wanted to make that point. Thank you.

**The CHAIRMAN** (*interpretation from French*) Thank you very much distinguished delegate of France for that comment by which you have rectified the reference made by the distinguished delegate of Saudi Arabia.

(*continued in English*) Once again I give the floor to the distinguished representative of Saudi Arabia.

**Mr. M. TARABZOUNI** (Saudi Arabia) I think it was France and he mentioned yesterday the F-16 exactly. Thank you.

**The CHAIRMAN** Thank you very much for your remark distinguished representative of Saudi Arabia. I understand the distinguished French delegate agrees and so this minor issue has been peacefully settled. Thank you very much gentlemen.

Is there any other delegation wishing to speak this point on item 6 of our agenda? Is there any observer wishing to add something to this discussion?

Yes, I still have the application of the distinguished chairman of the Space Law Committee of International Law Association. You have the floor Madam.

**Ms. M. WILLIAMS** (International Law Association) Thank you Mr. Chairman. In brief answer

to my colleague and friend Ambassador Raimundo González Aninat and, in a way, to the distinguished delegate of Greece. I was thinking it took a lot of pain to agree on the width of the territorial sea, many years, finally we had a rule of customary international law, speaking of 12 miles and then it was very easy to write it into the Convention of Montego Bay. Shortly after the Scientific and Technical Subcommittee of COPUOS, in 1967, reached the conclusion that it was not possible then to have a definition or delimitation of outer space. The ILA Space Law Committee suggested, as a kind of working tool, why do we not, for the time being consider, and this was in the days when Professor \_\_\_\_ (?) and Professor Jennings were chairing the Committee, \_\_\_\_ (?) as well, why do we not agree on the following. Let us consider that the lowest perigee attained by a satellite on 27 January 1967 should be a kind of provisional limit. We might consider \_\_\_\_ (?) space above that limit but still this would be an important working tool and, from 1967 to date, things went relatively well and we thought it was not necessary to have a definition now even though the general opinion seems to be that 100 kilometres is quite acceptable.

I understand Ambassador González's position, it is a strictly legal position, it is a strictly juridical position. Of course, we can draw up a very good kind of agreement from the political side but we cannot ignore and, let us move within reality, that every legal issue has a political element therefore the question of delimiting and defining outer space is essentially legal and we are the Legal Subcommittee but we cannot ignore that the political winds, at governmental level, are blowing in all directions and do not seem to favour the adoption of a strict figure at the moment.

I appreciate, as I have said, the importance of a political side of a question but, it seems to me and to us in the ILA, that to argue in this way would be arguing from a conviction. In other words, we are convinced that we need a figure because if we are going to have rules on space traffic management, for example, this would help but still you cannot argue from a conviction because then you are not being objective. I am not saying not to have convictions but I do say let us put them aside and try to be objective. In this light and in this context what Professor Monserrat Filho was saying yesterday about responsibility and liability has its importance particularly insofar as liability in fault is concerned. We know, lawyers, that it has been terribly complicated from the days of a lotus decision of the permanent International Court to define and to determine the degree of fault of each of the Parties involved. Perhaps we should continue talking about this but, at the moment, I do not think I would go ahead

with any strict delimitation because the political moment is not there. Thank you Mr. Chairman.

**The CHAIRMAN** Thank you distinguished chairperson of the ILA Space Law Committee by which you contributed to our discussion. What was interesting from your contribution particularly was your reference to the suggestion made in the beginning of this discussion by the late Professor Eugene \_\_\_\_ (?) and some other participants at that time. In this discussion was the idea of only a provisional limit. You then emphasized that every legal issue has also a political element without any doubt and therefore you suggested that we should not perhaps consider, for the time being, a strict figure that would lead to the conclusion of the discussion by establishing a strict limit. You also referred to yesterday's discussion, during the meeting of the working group, where Professor Monserrat Filho referred to the possibility of considering this issue from the point of view of liability. Thank you very much.

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

**Mr. R. GONZÁLEZ ANINAT** (Chile) (*interpretation from Spanish*) Thank you Chairman. I am a bit lost I must admit, that may not be new for you, but I thought I was clear when I spoke, when I made proposals. I thought that these proposals that I had advanced had legal aspects but also political aspects packed in because the United Nations is a political entity, within which there are agreements amongst various delegates and those on the basis of national positions. I believe in this forum, we have to keep on a legal tack pursuant to international tradition given the obstacles we keep coming up against. I included political elements into my proposal and I am somewhat concerned by the fact that an international legal association, so prestigious a body as that headed by Maureen Williams, is expressing its frustration with regard to the pursuit of a debate just because there are political obstacles availing. Well, I would recommend to her, very gently, that she should leave political considerations and angles up to us. The way in which one could incorporate political considerations is the way I presented my proposal and contribution. I believe that the more legal experts have a say in the way we broach things the easier our way with dealing with this is going to be. Thank you.

**The CHAIRMAN** Thank you very much distinguished ambassador of Chile for your second contribution by which you clarified your position in relation to the point raised by Professor Maureen

Williams and by which you completed and clarified your earlier statement.

Ladies and gentlemen, is there any other delegation or any observer that would still wish to speak on this particular item?

I see none.

Therefore I can declare that we have suspended our consideration of agenda item 6 (a) and concluded our consideration of agenda item 6 (b) this morning.

Are there any comments on this conclusion?

I see none.

We will now continue and hopefully conclude our consideration of agenda item 7, nuclear power sources. I have a speaker on my list of speakers for this particular discussion and it is the distinguished representative of Venezuela to whom I give the floor.

**Ms. T. OROPEZA** (Bolivarian Republic of Venezuela) (*interpretation from Spanish*) Thank you very much Mr. Chairman. With regard to the safety framework for the use of nuclear power sources in outer space which was approved in February within the framework of the Scientific and Technical Subcommittee of COPUOS. The delegation of Venezuela welcomes the progress made, however, we believe that it is still necessary to clarify and further discuss some aspects of the matter particularly with regard to legal aspects.

In view of the above my delegation stated its reservations with regard to the above-mentioned security framework for some fundamental reasons, namely, there are some ambiguous provisions that open the possibility that nuclear power sources might be used in terrestrial orbit which is a practice totally unacceptable for my republic, in view of our attachment to the principles necessary to maintain peace and life on this planet. The discretionary nature of some of the decisions with regard to such a delicate matter needs to be considered further.

Another aspect has to do with the fact that the exclusive and entire responsibility vis-à-vis the nations of the Earth lies with member States of the United Nations and it is not transferable. States are responsible, in the international arena, for all of their national activities that might involve the use of nuclear power sources in outer space, be those activities pursued by governmental bodies or non-governmental

entities, they should be guarantors of regulation, authorization and oversight.

My delegation has some concerns as to the voluntary non-binding nature of the above-mentioned framework. It is necessary to work toward international norms and standards that would regulate the use of nuclear power sources in outer space in a stricter way and for that we must strengthen COPUOS in its function as promoter of outer space law. Once again, this delegation sees the need for interaction between the two Subcommittees, Scientific and Technical and Legal.

Finally, I would like to ask the Secretariat, through you Mr. Chairman, that this statement be reflected in the final report of the Subcommittee. Thank you very much.

**The CHAIRMAN** Thank you very much distinguished representative of Venezuela for your statement or contribution to the discussion of item 7 of our agenda by which you welcomed the progress made so far but also emphasized that it is necessary to clarify the legal aspects of this issue. You referred particularly to some reservations you made in your earlier statements but especially you made it clear that, for your delegation, it is unacceptable to the use of nuclear power sources at the terrestrial orbit. In this conjunction you emphasized the responsibility of States for all such activities be they performed by States or by other private entities. You then referred to the nature of the framework that was agreed upon under the scope of the Scientific and Technical Subcommittee and made an appeal to work for a binding nature of such measures that have been agreed on or will be agreed.

Thank you very much for your contribution and I now give the floor to the distinguished representative of France.

**Mr. S. GUÉTAZ** (France) (*interpretation from French*) Thank you Mr. Chairman. As was pointed out during the general debate when this item was touched upon, France welcomes the international safety framework in the document known as A/AC.55/CA/L.292/Rev.4. We welcome the fact that this document was adopted by consensus by the Scientific and Technical Subcommittee. From France's point of view this is something that needs to be pursued. The Safety and Security Commission of IAEA needs to approve or amend this document and then the joint meeting of the two agencies, the working group on nuclear power sources should take place shortly in Vienna and it will make a decision as to the

future work to refine technical safety criteria that are useful to the design and construction of space vehicles and will look at decisions to be taken by the Scientific and Technical Subcommittee in 2010.

Mr. Chairman, our unchanged position is that discussion on this issue in the Legal Subcommittee closely depends on the work of the Scientific and Technical Subcommittee and the results that will be presented by the joint group to COPUOS. Taking into account the ongoing work on the technical aspects, the French delegation believes that it is not a good time right now to discuss, within the framework of this Legal Subcommittee, any possible revision of the contents of the United Nations principles that apply to the use of nuclear power sources in outer space. Thank you very much Mr. Chairman.

**The CHAIRMAN** (*interpretation from French*) I thank the distinguished representative of France for his contribution to our discussion on agenda item 7. You referred to the document produced by the Scientific and Technical Subcommittee. You also referred to the fact that the Atomic Energy Agency is going to consider the matter in a few days time. You also underscored the fact that the work carried on by the Scientific and Technical Subcommittee on this issue will continue and the results of that work should be approved by 2010. You mentioned that the French delegation believes that a discussion of this matter particularly with regard to a possible revision of the 1992 principles is not appropriate at this time in the Legal Subcommittee. Thank you very much.

(*continued in English*) I do not have any other speaker on this particular item, nuclear power sources, on my list of speakers. Neither do I have any observer who would be requesting the possibility to speak on this subject.

Is there any delegation?

No, I see none and therefore I believe that we could conclude our consideration of agenda item 7 this morning.

Distinguished delegates, I would now like to begin our consideration of agenda item 8, draft protocol on matters specific to space assets to the Convention on International Interest in Mobile Equipment. I have an application for the discussion by the distinguished delegation of Germany.

**Mr. I. NIEMANN** (Germany) Thank you Mr. Chairman. Mr. Chairman, in 2008, Germany continued its active support of, and participation in, the

UNIDROIT consultations relating to the preparation of the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment. A major step forward was the establishment of the steering committee with the goal and mandate to build consensus around the provisional conclusions reached as regards the preliminary draft space assets protocol by the government/industry intersessional meeting held in New York on 19 and 20 June of 2007.

Germany was pleased to host the first two steering committee meetings in Berlin. The first meeting on 7-9 May 2008 was co-sponsored by the German Ministry of Justice and the German Space Agency, DLR. The second meeting on 31 October and 1 November 2008 took place at the kind invitation of Commerzbank. Special attention was given to the open questions related to the scope of application especially the inclusion of components, the question of related rights and the non-transferable character of licences and concessions and the harmonious co-existence of the United Nations Register of Space Objects and the UNIDROIT Space Assets Register. The Government of Germany and the German Space Agency, DLR, presented a working paper on application of the protocol to debtors rights and related rights and a further working paper on the scope of application and default remedies relating to components. The intention of the space assets protocol is to offer a new asset-based financing instrument. Existing project-based financing instruments might be sufficient for some operators but Germany is convinced that the space assets protocol, as a new financing tool, would be useful in particular for developing economies and in particular small operators and start-up ventures. Therefore Germany will continue its active support of UNIDROIT in finalizing the space assets protocol. Thank you Mr. Chairman.

**The CHAIRMAN** Thank you distinguished representative of Germany for your brief statement on the state of affairs relating to the negotiation on the space protocol to the Cape Town Convention of 2002. You concentrated particularly on the establishment of the steering committee which held two meetings upon the invitation of the Government of the Federal Republic of Germany in 2008 and you enumerated the issues that were under discussion at those meetings. Finally, you expressed the conviction that the space assets protocol, as a new financing tool, would be particularly useful for developing economies and in particular small operators and start-up ventures. Therefore, as you stated, Germany would continue its active support of UNIDROIT in finalizing the space assets protocol. Thank you very much.

Any other speaker?

Yes, I recognize the distinguished representative of Italy to whom I give the floor.

**Mr. S. MARCHISIO** (Italy) Thank you Mr. Chairman. Dealing with this item 8, the Italian delegation would like to underline its continued support and participation to the process of elaboration of the draft UNIDROIT protocol of space assets to the Cape Town Convention. We considered, very positively, the results of the steering committee meetings which were held in Germany at the gracious invitation of the German Government. This steering committee was established in November 2007 under the auspices and control of the Secretariat of UNIDROIT and open to both the governments and representatives of the international commercial space and financial communities that had participated in the government/industry meetings during the intersessional work. We also considered in a very positive way the participation of 12 governments serving on the committee of governmental experts and 18 representatives from the international community, finance and commercial communities. The issues dealt with, and on which agreement was reached, concerned very important points as the sphere of application and default remedies relative to components of space objects, the issue of the application of the Cape Town Convention and the draft protocol to debtors rights and related rights. Finally the issue was discussed on how best to achieve an appropriate balance between creditors legitimate interests in space assets on the one hand and the interests of States in the uninterrupted delivery of public services on the other. On this issue a working paper was prepared by the Italian Mecanica group. We would like to thank the input and the contributions made until now by the member States of the United Nations COPUOS to the intersessional work of the UNIDROIT exercise and very much recommend their participation in the future work. Thank you very much.

**The CHAIRMAN** Thank you very much distinguished representative of Italy, Professor Sergio Marchisio, who is at the same time Chairman of the Committee of Governmental Experts that has, up to now, two sessions to my knowledge and is expected to re-open its considerations sometime after the work of the steering committee should be finished. I would only mention that he declared that Italy would continue its support and participation in the work of UNIDROIT on this particular issue. He also pinpointed the main results of the work of the steering committee that held its two meetings in Germany, as we were informed and advised by the distinguished representative of

Germany, and Professor Marchisio as representative of Italy very positively assessed this work that has been done by the steering committee. Thank you very much once again distinguished representative of Italy.

I now have on my list of speakers the distinguished representative of the delegation of Canada.

**Mr. M. BOURBONNIERE** (Canada) Thank you Mr. Chairman. Canada considers that there is no legal impediment with the UN Charter to the UN assuming the role of supervisory authority under the space assets protocol. Canada supports the conference room paper circulated at the 2005 session of the Legal Subcommittee. This being said, Canada believes that all options currently under discussion with regards to the supervisory authority are worthy of consideration. The Legal Subcommittee should be careful not to preempt any decision that may be made by States negotiating the space assets protocol at the diplomatic conference for its adoption. Canada is of the view that the UNIDROIT group of governmental experts negotiating the space assets protocol is best placed to coordinate the work of ensuring that the provisions of the space draft assets protocol should be consistent with and co-exist harmoniously with existing international instruments including the ITU Constitution, Convention and Regulations. Thank you very much Mr. Chairman.

**The CHAIRMAN** Thank you distinguished representative of Canada for your contribution to the discussion by which you stated that there would be, in accordance with your position, no impediment to assuming the role of the supervisory authority by the United Nations. You also emphasized the need for the continuing work of the group of governmental experts which should be very harmonious with the work of other international institutions in this field. Thank you very much.

Ladies and gentlemen I no longer have any application for the discussion, so, unless I see any such application, I will assume that we will be considering agenda item 8 at another meeting, it means this afternoon. Of course we expect, on Monday, the arrival of the Under-Secretary-General of UNIDROIT who would give us detailed information on the progress reached so far under the scope of UNIDROIT. We have had already valuable information from the part of the distinguished delegations of Germany and of Italy but, of course, detail of some other information including the details of those proceedings would be welcome from the position of UNIDROIT itself.

Ladies and gentlemen, before opening the floor for statements on our next agenda item, capacity-building in space law, agenda item 9, I would like to remind the delegates of the documents that are before the Subcommittee under this agenda item.

First, the directory of education opportunities in space law prepared by the Secretariat as contained in Conference Room Paper 4. The replies of member States on their actions and initiatives relating to capacity-building in space law contained in Conference Room Paper 7. This paper also contains a summary of the activities being conducted by the Office for Outer Space Affairs relating to capacity-building. In addition, to those two documents, the Secretariat has also made available Conference Room Paper 5, which contains the preliminary draft and structure of the curriculum on space law that is being developed and which is circulating in Conference Room Paper 5.

With that I would now open the continuation of our consideration of this item 9, capacity-building in space law.

I do not have any delegation that would apply for discussion on this particular item. Is there any delegation wishing to speak now at this morning's session?

I now recognize the distinguished representative of China, who has the floor.

**Ms. Y. ZHOU** (China) (*interpretation from Chinese*) Thank Chairman. China appreciates the tireless efforts made by the Office of Outer Space Affairs and we support the 12 recommendations, adopted at the last session of the Subcommittee, on the strengthening of developing countries' capacities in the field of outer space. We support the adoption of the preferential policies and the supplying of effective assistance for developing countries and we endorse the major role that can be played by OOSA as regional centres and regional cooperation centres in this regard. China attaches importance to the activities relating to the strengthening of capacity in the field of outer space. A law in this regard is ready to exchange information with all countries and to draw upon the experience of the latter.

In China outer space is incorporated into the university international law education programmes in certain universities, it is even obligatory, a mandatory course for all the law specialty students. It is also proposed as a research theme for students doing their masters and their doctoral work. Three Chinese establishments have been registered in the directory of

facilities teaching outer space law as compiled by OOSA. In the future, China will be continuing to supply all relevant information responding to the requests of OOSA. The teaching of outer space law in China is based on a very flexible effective and broad public-based approach. Since 2003, the Chinese Institute of Outer Space Law organizes, on a regular yearly basis, a competitive simulated court competition and higher institutes of education call upon Chinese and foreign experts to attend conferences or fora to present the contents and the latest developments of outer space law. Furthermore, the research and development of outer space technologies institutions also make available various training courses for popularization of knowledge on outer space law and various information research in this regard are to be accessed through the websites of the Government, through pedagogical manuals or professional literature.

Chairman, China attaches importance to research on outer space law and our Government regularly organizes research to be performed on certain issues in this regard. As from 2006, the Chinese Institute of Outer Space Law has been organizing a yearly congress on outer space law with the participation of various relative government departments, the participation of higher institutes of education and research institutions in this field and they all contribute to exchange of results of research in the field of outer space law. Furthermore, these symposia are organized by the Institute on specific issues presenting particular interest.

Chairman, the Chinese Government attaches great importance to international cooperation in the field of strengthening of outer space capacities and it is actively participating in training workshops and symposia, organized jointly by OOSA and the governments concerned, and the Chinese Government hopes that the Office of Outer Space Affairs will be able to redouble its efforts in order to step up capacities in this field and endorses the very important role played by regional cooperative organizations in this regard. Between 2006 and 2007 the Chinese Outer Space Agency organized in Beijing, and this in conjunction with the Secretariat of APSCO, the Asia Pacific Space Cooperation Organization, a training workshop on space technology applications and this comprised 18 students coming from 8 countries from the Asia Pacific region and was conducted on the campus of the University of Aviation Aerospace of Beijing. This workshop contributed much to stepping up space capacities of the countries of the Asia Pacific region to promoting space technology in this region. As a host country of APSCO, China is ready to organize further similar activities in cooperation with

that agency and to encourage other competent organizations to also expand their experience in this field in order to even more contribute to stepping up capacities in this field. Thank you very much for your attention.

**The CHAIRMAN** Thank you very much distinguished representative of China for your statement on item 9, capacity-building in space law. You emphasized that China attached a great importance to capacity-building and you offered us a detailed information on Chinese institutions that have been involved in these activities. You also were speaking about the actions that were undertaken in the regional framework and effected in China and emphasized your readiness to organize further actions as appropriate. Thank you very much.

Is there any other delegation wishing to speak on this subject, item 9 of our agenda?

I see none for the time being. Yes, I have one. It is the distinguished representative of Kenya.

**Ms. J. MWANGI** (Kenya) Thank you Mr. Chairman. We appreciate all the conference documents that have been prepared and circulated by the Office for Outer Space Affairs on this agenda item. However, we note that for example the directory that has been compiled, there is no institution of higher learning in a sub-Saharan African country that offers space law nor, even as we await for the finalization of the curriculum, the regional centres. I was just wondering what special measures, if any, are we going to consider to deal with some of these countries, particularly sub-Saharan African countries, least developed countries, to really accelerate the building of the knowledge and capacity-building in space law in these areas? Thank you.

**The CHAIRMAN** Thank you distinguished representative of Kenya for your contribution to our discussion and by which you referred to the documents that have been submitted to the Subcommittee by the Office for Outer Space Affairs and drew our attention to the fact that there are no specific references to the actions or institutions in the sub-Saharan countries and you raised this question, what measures would be undertaken for this particular part of Africa. Thank you very much.

Do you wish to reply the Secretariat?

**Ms. N. RODRIGUEZ** (Secretariat) Thank you Mr. Chairman. Of course the Secretariat can only respond on elements of the directory because this is

where we have been involved in collecting information. The reason we do not have any information on the institutions that teach or provide opportunities for education in space law in sub-Saharan Africa is because we have not received any information from any such institutions. We did, in the past, have one or two institutions but the information that we had for those two institutions have not been updated since 2005 and, since it has been several years, the data can no longer be verified we decided to delete that institution from the directory. We will, however, continue efforts to try and re-contact the institution to get update of data and we will not wait a year to insert the institution back into the directory if we do get the information earlier. The directory is on the web and if that information comes through we will be placing it on the web so the directory is timely updated as necessary.

The Secretariat in fact would greatly welcome any information from delegations on institutions that they are aware of in any part of the world. We have done a broad research but of course we never catch all the institutions that may be out there and, if there are delegations that do have information who we could contact, we would be very grateful to receive that information to improve the directory for you.

**The CHAIRMAN** Thank you the acting Secretary for your detailed answer on this particular question that was raised by our distinguished colleague from Kenya.

Any other delegation wishing to speak at this moment on this issue?

I see none.

But, I have here an application from an observer delegation to this Subcommittee and it is the representative of ESA/ECSL, European Space Agency/ European Centre for Space Law. Madam Vincent.

**Ms. M. VINCENT** (ESA/ECSL) Mr. Chairman, distinguished delegates. The European Centre for Space Law is pleased to inform the Legal Subcommittee that the European Space Agency activities concerning capacity-building in space law are mainly channelled through the European Centre for Space Law, ECSL, which promotes educational and capacity-building activities in the field of space law in Europe and, on a more limited scale, in developing countries notably in the African Mediterranean countries. It is worth to mention that the ECSL contributed to the symposium jointly organized with the International Institute of Space Law during the

forty-sixth session of the Legal Subcommittee on the theme: capacity-building activities of national and international space institutions. Taking into account the list of actions recommended by the Legal Subcommittee at its forty-seventh session to further strengthen capacity-building in space law, it is to be noted that the European Space Agency, through ECSL, has contributed to the introduction of modules of space law in the general international law courses of national educational institutions, mainly at the European level. The creation of a regional European space law network and partnerships through the national points of contact on which ECSL relies for carrying out its activities and through its partnerships with high-level institutions and universities involved in the promotion of space law in Europe and in other regions of the world. The dissemination of reports, studies and articles relating to space law through the ECSL legal database, ECSL newsletters and the ECSL booklet, Space Law Teaching in Europe, which constitutes useful tools for students and academics from all over the world, developing countries included.

The establishment of training opportunities to enhance the capabilities and increase the experience of young professionals in the field of space law is the main aim of the summer course on space law and policy in which, in 2008, students from Europe but also from Brazil, Mexico and Nigeria participated. Since 2002, ECSL regularly supports organizations of workshop and conferences in North African countries as a part of its programme on capacity-building in space law. For instance ECSL and the Royal Centre for Remote Sensing, jointly organized a workshop on capacity-building in space law end of February 2002 in Rabat, Morocco. ECSL, together with the Centre Régional de Télédétection des Etats de l'Afrique du Nord held in Tunis, in September 2002, the conference on satellite remote sensing in aid of development: legal considerations. The international conference on the natural disasters and the role of satellite remote sensing: economic and legal considerations, the Tunis Declaration the Second was organized in Tunis in April 2006. ECSL also supported the international workshop on space applications for the management of disasters and emergency situations: technical and legal aspects, held in Rabat, in October 2008.

The European Space Agency will continue to support the European Centre for Space Law activities on capacity-building in space law and to further develop the extension of these activities for the benefit of developing countries. Thank you for your attention.

**The CHAIRMAN** Thank you distinguished observer for the European Centre for Space Law of the

European Space Agency for your contribution to our discussion on agenda item 9. You assessed the activities that have been undertaken by ECSL so far and which include a number of conferences and workshops that have been organized. Finally you also presented here the commitment of the European Space Agency to continue its support to the European Centre for Space Law activities in capacity-building in space law and to further extensions of these activities for the benefit of developing countries. Thank you very much.

This meeting is adjourned until 3 p.m. this afternoon. Thank you.

*The meeting closed at 11.53 a.m.*

Ladies and gentlemen this ends my list of speakers that would wish to make a contribution to the discussion on agenda item 9. Is there any other delegation or observer that would wish to speak on this particular agenda item?

I see none.

As there are no other delegations or observers we therefore suspend the discussion for this morning's session and we will continue our consideration of agenda item 9, capacity-building in space law this afternoon.

Distinguished delegates, I will shortly adjourn this meeting so that the working group on status and treaties can hold its fourth meeting but, before I adjourn this meeting, I would like to remind delegates of our schedule of work for this afternoon.

We will meet promptly at 3 p.m. At that time we will continue our consideration of agenda item 8, draft protocol on matters specific to space assets. Continue with our consideration of agenda item 9, capacity-building in space law. We will also begin our consideration of agenda item 10, national mechanisms relating to space debris mitigation measures and will also begin our consideration of agenda item 11, national legislation relevant to the peaceful exploration and use of outer space. At the end of the afternoon's session the working group on the status and application of the five United Nations treaties on outer space will hold its fourth meeting.

I would also like to remind delegations that the Secretariat circulated yesterday the provisional list of participants distributed as Conference Room Paper 2 and would like to request delegations to kindly provide the Secretariat with possible corrections to the list by the end of Monday, 30 March.

Are there any questions or comments on this proposed schedule?

I see none.