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

Script

866th Meeting

Thursday, 11 April 2013, 3 p.m.

Vienna

Chairman: Mr. T. Brisibe (Nigeria)

The meeting was called to order at 3.18 p.m.

The CHAIRMAN: Good afternoon distinguished delegates. I now declare open the 866th meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

This afternoon we will continue our consideration of agenda item 3, General Exchange of Views, and we will continue, and hopefully suspend our consideration of agenda item 6(a), Matters Relating to the Definition and Delimitation of Outer Space, pending the adoption of the report of the Working Group on the Definition and Delimitation of Outer Space, and continue and conclude our consideration of agenda item 6(b), Matters Relating to the Character and Utilization of the Geostationary Orbit.

We will continue, and hopefully conclude, our consideration of agenda item 8, Nuclear Power Sources in Outer Space.

We will also begin our consideration of agenda item 11, General Exchange of Information and Views on Legal Mechanisms Relating to Space Debris Mitigation Measures, Taking into Account, the Work of the Scientific and Technical Subcommittee.

Following the conclusion of our meeting this afternoon at 6.30 p.m., all delegates are cordially invited to attend an evening seminar hosted by the European Space Policy Institute, ESPI, on the topic "The Relevance of General International Law for Debris Questions". This seminar will be followed by a reception and will be held at the premises of ESPI at Schwarzenbergplatz 6 in the Third District here in Vienna.

Delegations are also kindly reminded to provide the Secretariat with written amendments to the provisional list of participants which was distributed as Conference Room Paper 2 by the end of Wednesday, 17 April, so that the Secretariat can finalize it.

General exchange of views (agenda item 3)

Distinguished delegates, I would now like to continue our consideration of item 3 on our agenda, General Exchange of Views.

I do not have any speakers on my list so I would put the floor to delegations if there any who would wish to take the floor on the general exchange of views at this time.

I see none.

We will, therefore, continue our consideration of agenda item 3, General Exchange of Views, tomorrow morning.

Matters relating to: (a) the definition and delimitation of outer space, and (b) the character and utilization of the geostationary orbit (agenda item 6)

Distinguished delegates, I would now like to continue, and hopefully suspend, our consideration of agenda item 6(a), Matters Relating to the Definition and Delimitation of Outer Space, pending the adoption of the report of the Working Group on the Definition and Delimitation of Outer Space, and continue, and hopefully conclude, our consideration of agenda item 6(b), Matters Relating to the Character and Utilization of the Geostationary Orbit.

The first speaker on my list is the distinguished delegate of Indonesia.

Mr. A. SUBEKHI (Indonesia): Thank you Mr. Chairman. Mr. Chairman and distinguished delegates, as an equatorial country, Indonesia has a national view on the geostationary orbit. Physically, the GSO is by a natural part of outer space. The GSO is a limited resource having certain characteristics and conditions, possession strategic and economic values for the countries which use it. The irrational use and inefficiency in utilizing the GSO risk saturating it. The

GSO should be preserved. Indonesia is of the view that member States should make efforts to seek alternative ways of using the GSO which are more rational and balanced.

In regard to this matter, Indonesia is of the view that consideration of this issue would allow us to reach a decision in assuring guaranteed and equitable access to the GSO. According to the needs of all nations, taking into particular account the needs of the developing countries as well as the geographical position of certain countries. To extend the access to the GSO to developing countries to boost their socio-economic development, developing countries should be provided with assistance and technical capacity in order that satellite communication can help alleviate the digital divide.

I thank you Mr. Chairman.

The CHAIRMAN: I thank the distinguished representative of Indonesia for his statement.

Are there any other delegations wishing to make a statement under this agenda item this afternoon? These are the items pertaining to 6(a), the Definition and Delimitation of Outer Space, and (b), the Character and Utilization of the Geostationary Orbit.

Perhaps at this time, I should give the floor to the Secretariat to provide some clarification with respect to the intervention and statement which was made by the distinguished representative of the Netherlands concerning CRP.8 on the document that it was requested the Secretariat prepare following the work of the Working Group on this item at its sessions during the course of the fifty-first session of the Legal Subcommittee last year.

Mr. N. HEDMAN (Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman. Yes, indeed, I would be delighted to that. However, before I relayed to Conference Room Paper 8 that delegations have before them, I will just step aside and demonstrate the new webpage on the Office's website relating to definition and delimitation of outer space.

I will try to speak up. Anyway, can you hear me? This is the home page of the website of the Office for Outer Space Affairs and you are familiar with that. Now if you go to the menu on the left hand side and you click on the Committee on the Peaceful Uses of Outer Space, you will then, of course, be able to select either the main Committee or the respective Subcommittees. And we then turn to the Legal

Subcommittee and you scroll down and you come to this part where I have the cursor now, Working Group on Definition and Delimitation of Outer Space. And this is the dedicated webpage that we were requested to create by the last session of the Legal Subcommittee, and what you will find, I will just go down very quickly now first so that you will see the volume of this webpage. So you see, there is an impressive collection of documentation that the Legal Subcommittee has generated over the years and it is quite an easy tool to operate. You have the main document that is related in general and then follows all the documentation under that particular symbol number. And when you come, for instance, to document 865 and its addenda, National Legislation and Practice Relating to Definition and Delimitation of Outer Space, you will consequently see that we have added the present documents that have been before the plenary and the Working Group at this particular session they issued in 2013 and the same relates to document 889 and its addendas. There you will also, of course, find the latest addendas, 11 and 12, of this particular session.

I just wanted to demonstrate this for your attention so that you are familiar with this webpage and we will continuously update the webpage with documentation in the coming years.

So having said that, I would just very briefly relay to the request for clarification and suggestion made by the distinguished delegate of the Netherlands at this plenary meeting this morning.

So I refer to Conference Room Paper 8 which is the requested summary of information on national practices and legislation of States with regard to the definition and delimitation of outer space. And as delegations recall and it is also reflected in paragraph 1 of this document, the Secretariat was requested last year to provide a summary or a compilation of the responses made by member States on their national practices and legislation with regard to the definition and delimitation of outer space. And, as delegations also note, you see in paragraph 1 there but you can also refer to the Working Group Report from last year's session in document 1003, Annex 2, and it is, in fact, paragraph 11(b), you will see that the documents that we extracted those responses from are listed.

The method that we employed in collecting all this and extracting this information from the entire bulk of documentation that I have actually just demonstrated from the webpage, we structured the document per documents. So we first took document 889 and then document 865. However, there are, of course, other

methods that can be employed and if I understood the distinguished delegate of the Netherlands, an alternative way of structuring this document could be, first of all, to take the two documents, just list the two documents and then place each country in alphabetical order and under a given country, we relay consequently to its responses in this regard to both documents. So it will be the first document, 865, and then document 889.

Just for your understanding, I will make an example here. If you take, for instance, Jordan. Jordan would then appear in this document and it would then first be the response by Jordan which is reflected on Page 11 which is a response to document 865 and right under that response would be what is reflected on Page 2 under Jordan in a response to document 889. And that would then apply to all member States, so it would be in alphabetical order and it would be clustered by, collected by member States rather than chronological order in terms of year. So the Secretariat is happy to try this alternative method for the document to be presented and consequently as necessary updated for the next session of the Subcommittee so the Secretariat would then prepare a revised Conference Room Paper for the next session and we will use this new method that I just explained, if it is agreeable to delegations, of course.

Thank you.

The CHAIRMAN: I should thank the Secretariat for providing that clarification with respect to CRP.8. But before I give the floor to delegations enquire from the distinguished representative of the Netherlands if this is an acceptable explanation.

Thank you.

Are there any delegations wishing to take the floor on this agenda item at this time or are there any questions with respect to the clarification that has been provided by the Secretariat.

Yes, I see the distinguished representative of Brazil.

Mr. A. J. RYPL (Brazil): Thank you Mr. Chairman. Yesterday we did not really approach the question of sub-orbital flights and their relation to the issue of the delimitation and definition of outer space and I believe that this was a question in the questionnaire submitted by the Working Group last year, if I am correct. So we would like to address this topic of sub-orbital flights and its relation to the issue of the definition and delimitation of outer space.

As we recall, Brazil believes that it is important to work towards a legal definition of the limits of outer space, and in our view, this legal definition is necessary to determine which legal regime would be applicable to sub-orbital flights. It is specifically in relation to space law as provided by the Outer Space Treaty and all other international agreements derived from it. Without proper assessment of the applicable regulation, including the applicability of national jurisdiction in this regard, we would have inevitably legal uncertainties and these legal uncertainties may impose relevant difficulties to sub-orbital missions, whether governmental or non-governmental. And, accordingly, only through the provision of a clear and proper legal definition of sub-orbital flights and the delimitation of outer space, it can be possible for the international community to avoid complex and potentially cumbersome conflicts of jurisdiction.

This is the view of my delegation. Thank you Mr. Chairman.

The CHAIRMAN: I thank the distinguished representative of Brazil for his statement. I would also like to make an enquiry to both the Secretariat and especially to the Chair of the Working Group on the Definition and Delimitation of Outer Space with respect to the CRP.8, the document that has just been described and which will be revised in the intersessional period for what will be the fifty-third session of the Legal Subcommittee and especially considering the intervention which has just been made by the distinguished representative of Brazil, taking into account the questionnaire with respect to sub-orbital flights. Because if I understand correctly, this document is really a summary of information on national practices and legislation of States with regard to the definition and delimitation of outer space. On the one hand, and another set of documents which is based on the historical questionnaire, which is reflected in the documents that are currently listed on the website of the Office for Outer Space Affairs.

So the question to you, Sir, the Chair of the Working Group on the Definition and Delimitation of Outer Space and the Secretariat would be, the responses to the four questions on sub-orbital flights which were received by the Chair and the Secretariat during the intersessional period between the fifty-first session in 2012 and this session, one, are they reflected in this document, CRP.8, and, if they are not, should they be reflected in CRP.8, because I remember, I recall clearly the intervention of several States during the course of the Working Group session at the fifty-

first session of this Legal Subcommittee from the Netherlands, including from Nigeria, from Russia, from Saudi Arabia, from the Canadian delegation of the time, regarding the requests to have this document prepared by the Secretary and for which we now have the first draft of the CRP.8.

So as we take this item forwards, 6(a) and (b), and given that we have had several questionnaires over the years, for which the last questionnaire was prepared during the fifty-first session that addresses, or intends to address sub-orbital flights and for which we have already received responses, could we now not be considering how this CRP.8 would serve as, for lack of a better term, and I recall when the intervention was made at the time by the representative of Nigeria, yours truly, that we needed to take stock of this wealth of information that has been acquired over literally decades of brilliant interventions and proposals in the work of this Legal Subcommittee.

So may I firstly give the floor to the distinguished representative of Brazil, perhaps also to the Chair of the Working Group on the Definition and Delimitation of Outer Space, and, of course, to the Secretariat, to see how we can go about dealing with this issue of the CRP so we have an up-to-date document.

Mr. J. MONSERRAT FILHO (Brazil) (*interpretation from Spanish*): Thank you Mr. Chairman. I would like to explain. From the Secretariat, we received a compilation of replies on the matter of sub-orbital flights and the relationship with the definition and delimitation of outer space and our attitude towards the replies is read it through, review it for information for distinguished delegates. We interpret these replies as those replies given last year when the question was raised from then until now. We see this compilation of replies as the replies that came in over that period. There were not any other questions as far as we were concerned.

What we had was the duty or obligation to review these replies and that was for information from member States. That was our attitude. The information regarding replies was given to us by the Secretariat. That is what I can say in a straightforward way as to what actually happened. I do not know if there is any other explanation to be given, but that is my understanding of this matter. I am open-minded, however, towards any further explanations that might be deemed necessary.

Thank you.

The CHAIRMAN: I thank the distinguished representative of Brazil and Chair of the Working Group on the Definition and Delimitation Outer Space and give the floor to the Secretariat.

Mr. N. HEDMAN (Secretary, Office for Outer Space Affairs): Thank you Mr. Chairman. Yes, indeed, first of all, of course, as has also been confirmed by the Chair of the Working Group on the Definition and Delimitation, the mandate for this summary Conference Room Paper is given in the report of the Working Group from last year's session and it was clearly stipulated which documentation should be included and where we should extract information from.

What is very important to have in mind here, and this is good that we bring this up in this discussion, is the role of the Secretariat in this regard. As delegations are very familiar with because I have demonstrated the volume of documentation over the span of years, is that many States have, of course, reported and contributed to the entire issue of definition and delimitation of outer space and what you find in Conference Room Paper 8 is a strict extract relating to national practices and legislation of States. So the Secretariat is not under a mandate to assess or analyze the responses of States and do any self-assessment in that regard.

When it comes to the document 1039 and Addenda 1 that delegations have before them for this session which relates to the question on sub-orbital flights, that document is not limited to national practice and legislation of States, it is also more of a conceptual issue relating to the entire issue of how sub-orbital flights would be seen in the context of definition and delimitation of outer space. So if those responses are to be extracted and placed in the Conference Room Paper 8 that we are considering now, then the Secretariat needs very clear guidelines in order to extract information because we cannot take whatever we feel would be appropriate for the document because these are really serious matters we are dealing with here, national practice and national legislation, and we do not want to enter into any interpretation or assessment in this regard so we need very clear instructions from the Legal Subcommittee in how we operate the sub-orbital flight issue into this document if that should be a consensus in that regard.

Thank you.

The CHAIRMAN: Thank you very much for that clarification and I think it is important that we reflect on this and perhaps already start to debate

amongst ourselves how it is we deal with, one, a document which I can only imagine is very welcome in CRP.8 and for which, as I indicated earlier, is really the result of a Herculean task that has been implemented on the instructions of the Legal Subcommittee by the Secretariat, as has been demonstrated on the website as you see the sheer volume of documents there. But on the other hand, as far as this item on the agenda goes, we have the reference to sub-orbital flights and it is important for various reasons that we clearly utilize our resources, not only efficiently, but also that we are looking towards a debate on a deliberation that has a direction, as it were. And since we now have, I guess, the preliminary result of that stock-taking exercise in CRP.8, whilst we have an exercise now with respect to sub-orbital flights, it is important that we streamline this activity.

So if there any delegations wishing to take the floor in this respect with regard to the statements that I have made or the interventions from the floor or the clarification from the Secretariat, the floor is open.

Yes, I recognize the distinguished representative of Brazil.

Mr. J. MONSERRAT FILHO (Brazil) (*interpretation from Spanish*): Thank you very much Mr. Chairman. In my view, we still do not have that many replies or enough for a more general analysis of the matter. So my impression is we should wait longer for more replies so that we can have a broader view of positions and ideas and the approaches in countries on this matter.

These questions on the link between sub-orbital flights and the definition and delimitation of outer space, and that was raised only last year, and I think we could just wait a little longer until we get more replies as we did in the case of other questions when we waited for more replies to have a broader idea. These replies that have come in are very important. They have been examined. They were very clearly expressed. However, just to have a more general idea, it would be best if we could have replies from other countries as well.

Thank you.

The CHAIRMAN: I thank the distinguished representative of Brazil for his intervention and see that the distinguished representative of Spain would like to take the floor.

Mr. R. MORO AGUILAR (Spain) (*interpretation from Spanish*): Thank you Mr.

Chairman. I just wanted to support what was just said by our colleague from Brazil in that we should wait longer and examine further replies on sub-orbital flights. For example, my country is thinking about working on a reply to the questionnaire and what we would like to do is see it included in a future document from the Secretariat with a review of all the replies.

Thank you.

The CHAIRMAN: I thank the distinguished representative of Spain for his intervention.

Are there any other States delegations wishing to take the floor on this item at this time, given the interventions that have been made and the discussions about the CRP which is a record of the historical documents and specifically the conceptual note on the questions pertaining to sub-orbital flights.

I see none.

We have, therefore, suspended our consideration of agenda item 6(a), Matters Relating to the Definition and Delimitation of Outer Space, pending the adoption of the report of the Working Group on the Definition and Delimitation of Outer Space, and concluded our consideration of agenda item 6(b), Matters Relating to the Character and Utilization of the Geostationary Orbit.

Nuclear power sources in outer space (agenda item 8)

Distinguished delegates, I would now like to continue, and hopefully conclude, our consideration of agenda item 8, Nuclear Power Sources in Outer Space.

I do not have any speakers inscribed on my list so I will put the question to the floor and see the distinguished representative of Mexico would like to take the floor.

Ms. R. M. RAMÍREZ DE ARELLANO (Mexico) (*interpretation from Spanish*): Thank you Mr. Chairman. On this item, Mexico believes that outer space is reserved for peaceful uses and, accordingly, as was stated by the General Assembly in resolution A/RES/60/99, exploration and utilization of outer space should be for peaceful purposes for all of humanity. However, from a strictly point of view, the principle of utilization of outer space for peaceful purposes is not categorical. The Treaty on the Principles Guiding Activities of States in the Exploration and Utilization of Outer Space simply states that Parties should refrain from placing into orbit

weapons of mass destruction and, in that context, we believe that we should emphasize that. States should refrain from space activities that may be interpreted as a threat to international peace and security, any encroachment on peace or active aggression that could lead to a space arms race among those with such capabilities. Furthermore, all States should refrain from preventing others to develop peaceful space activities regarding outer space and access to it.

As was put in the last report by COPUOS from 2012, militarization or placing of weapons in outer space would generate tension between States which would undermine international cooperation on outer space affairs as well as the promotion of disarmament and non-proliferation.

With that in mind, my delegation would support the initiative, not only to codify international law, but also to strengthen it and incorporate into treaties questions such as those related to the Principles Related to the Use of Nuclear Power Sources in Outer Space, adopted through resolution 47/68 of 14 December 1992.

Reviewing these Principles is something necessary. However, with a view towards adoption of a binding instrument, in other words, at treaty level.

Mr. Chairman, we should, therefore, have an obligation for States Parties, as contained in Article III of the Outer Space Treaty which says States Parties to the Treaty should carry out exploration and utilization activities for outer space, including the Moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations with an interest to maintain international peace and security and fostering cooperation and international understanding.

With that, to review these Principles again, looking at the content, examining this over and over is something that would not be productive. Mexico believes that what we should do is discuss a treaty and that is our proposal.

Thank you.

The CHAIRMAN: I thank the distinguished representative of Mexico for her statement.

Are there any other delegations wishing to make a statement under this agenda item this afternoon, Nuclear Power Sources in Outer Space.

I see none.

We have, therefore, concluded our consideration of agenda item 8, Nuclear Power Sources in Outer Space.

General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee (agenda item 11)

Distinguished delegates, I would now like to begin our consideration of agenda item 11, General Exchange of Information and Views on Legal Mechanisms Relating to Space Debris Mitigation Measures, Taking into Account the Work of the Scientific and Technical Subcommittee.

Likewise, I do not have any speakers or delegations inscribed on my list so I shall put the question to the floor and request if there any delegates that would like to speak on this agenda item at this time?

Considering the debate on exchange we delegations had in the course of the fifty-first session on this particular item and the consensus that was reached at the time, one would expect that delegations would want to make statements on this item.

I recall the interventions perhaps from the distinguished representative of France, referred to the work of the Scientific and Technical Subcommittee on the subject of debris and, given the title, as it were, which is really views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee, would you like to take the floor on agenda item 11 at this time?

In the absence of any delegations wishing to make a statement under this agenda item this afternoon, we will, therefore, continue our consideration of agenda item 11, General Exchange of Information on Views on Legal Mechanisms Relating to Space Debris Mitigation Measures, Taking into Account the Work of the Scientific and Technical Subcommittee, tomorrow morning.

Distinguished delegates, I will shortly adjourn this meeting of the Subcommittee.

Before doing so, I would like to inform delegates of our schedule of work for tomorrow morning.

We will meet promptly at 10.00 a.m. At that time, we will continue our consideration of agenda item 3, General Exchange of Views, and we will begin our consideration of agenda item 7, National Legislation Relevant to the Peaceful Exploration and Use of Outer Space.

We will also continue our consideration of agenda item 11, General Exchange of Information on Views on Legal Mechanisms Relating to Space Debris Mitigation Measures, Taking into Account the Work of the Scientific and Technical Subcommittee.

At the end of our meeting tomorrow morning, there will be a special presentation on the International Space Station by Mr. William H. Gerstenmaier, NASA Associate Administrator for Human Exploration and Operations, and Chair of the Multilateral Coordination Board of the International Space Station.

Tomorrow, directly after our morning meeting, the Office for Outer Space Affairs, will launch the second edition of an online autograph album entitled "Messages from Space Explorers to Future Generations" which contains copies of signed sheets with messages from space explorers to future generations. This is a collection which the Office intends to grow in all of the official United Nations languages. The speakers of this launch event will be Madam Mazlan Othman, Director of the Office for Outer Space Affairs, Mr. Dmitry Gonchar, Head of the Russian delegation to the fifty-second session of the Legal Subcommittee and Deputy Head of the Legal Department of the Ministry of Foreign Affairs of the Russian Federation, and Mr. William H. Gerstenmaier, NASA Associate Administration for Human Exploration and Operations, and Chair of the Multilateral Coordination Board of the International Space Station.

After these speakers, there will be a screening of a documentary which takes us on a tour of the orbital laboratory of the International Space Station. The duration of the documentary is 25 minutes. This event will take place here in Board Room B, directly after the morning meeting.

Are there any questions or comments on this proposed schedule?

I see none.

Finally, I invite all delegates to attend the evening seminar hosted by the European Space Policy Institute, ESPI, on the topic "The Relevance of General International Law for Debris Questions". The seminar will be followed by a reception and will be held at the premises of ESPI at Schwarzenbergplatz 6 in the Third District here in Vienna, starting at 6.30 p.m.

Delegations are also kindly reminded to provide the Secretariat with written amendments to the provisional list of participants, which was distributed as Conference Room Paper 2 by the end of Wednesday, 17 April, so that the Secretariat can finalize it.

The meeting is adjourned until 10.00 a.m. tomorrow morning.

The meeting adjourned at 4.03 p.m.