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Committee on the Peaceful Uses of Outer Space

Legal Subcommittee
Thirty-eighth session
Vienna, 1-5 March 1999

Draft report of the Legal Subcommittee on the work of its thirty-eighth session, held in Vienna from 1 to 5 March 1999

Introduction

A. Opening of the session and election of the Chairman

1. The Legal Subcommittee held its thirty-eighth session at the United Nations Office at Vienna from 1 to 5 March 1999 under the chairmanship of Vladimír Kopal (Czech Republic).
2. At its opening (613th) meeting, the Legal Subcommittee was informed that Václav Mikulka (Czech Republic) would be unable to complete his three-year term of office as Chairman of the Legal Subcommittee. In that connection, the Subcommittee recalled the agreement reached in 1997 on the working methods of the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies,¹ which had been endorsed by the General Assembly in its resolution 52/56 of 10 December 1997. That agreement provided, *inter alia*, that when any officer could not complete a term, the regional group holding the office concerned should nominate a candidate to be elected at the beginning of the session that immediately followed the termination of that officer's tenure. The Subcommittee elected Vladimír Kopal (Czech Republic) to complete the three-year term of office vacated by Mr. Mikulka, subject to the retroactive approval of the Committee on the Peaceful Use of Outer Space at its forty-second session, in 1999.²
3. The Subcommittee expressed its profound gratitude for the guidance and exemplary work of the outgoing Chairman, Mr. Mikulka.
4. Also at the opening meeting, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its current session. The Chairman's statement is contained in an unedited verbatim transcript (COPUOS/Legal/T.613).

B. Adoption of the agenda

5. At its opening meeting, the Legal Subcommittee adopted the following agenda:
 1. Opening of the session and election of the Chairman.
 2. Statement by the Chairman.
 3. Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
 4. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.
 5. Review of the status of the five international legal instruments governing outer space.
 6. Other matters.

C. Attendance

6. Representatives of the following States members of the Subcommittee attended the session: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kazakhstan, Kenya, Lebanon, Mexico, Morocco, Netherlands, Nigeria, Philippines, Poland, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Viet Nam.
7. Representatives of the following specialized agencies and international organizations attended the session: United Nations Educational, Scientific and Cultural Organization (UNESCO), International Telecommunication Union (ITU), European Space Agency (ESA), International Astronautical Federation (IAF), International Organization of Space Communications (INTERSPUTNIK) and International Telecommunications Satellite Organization (INTELSAT).
8. The Chairman informed the Subcommittee at its 613th, 615th and ... meetings that requests to participate in meetings of the Subcommittee had been received from the permanent representatives of Bolivia, Costa Rica, Peru, Slovakia, Tunisia and the United Arab Emirates and from the permanent observer for the League of Arab States (LAS). The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, the Subcommittee could take no formal decision on the matter, but that the representatives of Bolivia, Costa Rica, Peru, Slovakia, Tunisia and the United Arab Emirates and the observer for LAS might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.
9. A list of representatives of States members of the Subcommittee, States not members of the Subcommittee, specialized agencies and other organizations attending the session and of staff members of the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.31.

D. Organization of work

10. In accordance with decisions taken at its opening meeting, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee recalled its recommendation, endorsed by the Committee on the Peaceful Uses of Outer Space,³ that the Legal Subcommittee rotate each year the order of consideration of substantive agenda items on a permanent basis⁴ and that it should consider the substantive items on its agenda (see para. 5 above) in the following order: items 3, 5, 4 and 6;

(b) In accordance with the recommendation endorsed by the Committee on the Peaceful Uses of Outer Space,⁵ the Subcommittee agreed to suspend, for the current session, its Working Group on agenda item 3;

(c) The Subcommittee re-established its Working Group on agenda item 4, open to all members of the Subcommittee, and agreed that Daniel Eduardo Amigo (Argentina) should serve as its Chairman;

(d) In accordance with the recommendation endorsed by the Committee on the Peaceful Uses of Outer Space,⁶ the Subcommittee established a working group on agenda item 5, open to all members of the Subcommittee, and agreed that Vassilios Cassapoglou (Greece) should serve as its Chairman;

(e) In accordance with the recommendation of the Committee on the Peaceful Uses of Outer Space,⁷ the Subcommittee continued its informal consultations, led by its Chairman, with a view to coming up with a list of annotated items agreed upon by consensus that could be considered by the Committee at its forty-second session for possible inclusion in the agenda of the Subcommittee;

(f) The Subcommittee began its work each day with a plenary meeting to hear delegations wishing to address it, and then it adjourned and reconvened, when appropriate, as a working group.

11. The following delegations participated in the general exchange of views: Argentina, China, France, Germany, Greece, Italy, Japan and the Russian Federation, as well as IAF. The views expressed by those delegations are contained in unedited verbatim transcripts (COPUOS/Legal/T.613-615).

12. At the opening meeting, the Chairman made a statement concerning the utilization of conference services by the Subcommittee. He drew attention to the importance that the General Assembly and the Committee on Conferences attached to the effective utilization of conference services by all United Nations deliberative bodies. In view of that, the Chairman proposed, and the Subcommittee agreed, that the following measures, similar to those adopted previously, should be adopted at the current session of the Subcommittee:

(a) The Subcommittee and its working groups should begin their meetings punctually at the scheduled time, even if there was no quorum (16 members);

(b) The morning meetings of the Subcommittee or its working group should begin at 10 a.m., on the understanding that that did not relate to and did not affect the question of the length of the session;

(c) Delegations wishing to speak at the next plenary meeting of the Subcommittee should inform the Chairman of their intention before the adjournment of the previous plenary

meeting; if no such information was received by the Chairman, the next plenary meeting of the Subcommittee should be cancelled and a working group should meet instead;

(d) Conference services should be notified as early as possible whenever it was anticipated that any of the services usually provided were not going to be required; if possible, prior notice of 24 hours should be given;

(e) The Chairman should set a deadline for closing the list of speakers for the general exchange of views and for each of the substantive agenda items;

(f) There should be the possibility of holding informal meetings and consultations outside the work schedule of the Subcommittee;

(g) Working group meetings could be cancelled on an ad hoc basis if informal consultations were required; however, the practice of cancelling those meetings in advance in order to conduct informal consultations should not be reintroduced. Informal consultations (i.e. outside the auspices of the Subcommittee and its working groups) should not interrupt the work of the Subcommittee or its working groups;

(h) Informal meetings and consultations of the Subcommittee and its working groups held in the framework of the work schedule of the Subcommittee should be provided with interpretation services;

(i) When adopting and following the schedule of work, the Subcommittee should exercise flexibility in the allocation of time for consideration of items on its agenda. If the time previously allocated for the consideration of an item was not fully used or was unlikely to be used, the Subcommittee should seek, on the basis of consensus, to use the time for the consideration of other items on the agenda or, as the case might be, consider the possibility of concluding the session ahead of the scheduled date. The adoption of that measure was without prejudice to the position of various delegations concerning the duration of the sessions of the Subcommittee;

(j) The general rule for annexing documents to the report of the Subcommittee should be that normally any document would be annexed, if at all, only once to the report of the session in which it was first submitted, but not to later reports.

13. The Subcommittee agreed that a similar flexible organization of work as agreed upon at the current session would serve as the basis for organizing the work of its thirty-ninth session.

14. At the 613th meeting, on 1 March 1999, the Chairman recalled the recommendation of the Committee on the Peaceful Uses of Outer Space that the current session of the Subcommittee would meet for five days.⁸ The adoption of the above measures was agreed upon on an exceptional basis for 1999 only, so that the saving resulting from the shortening of the sessions could be utilized for the Third United Nations Conference on the Exploitation and Peaceful Uses of Outer Space (UNISPACE III).⁹

15. The Subcommittee recommended that its thirty-ninth session be held from 27 March to 7 April 2000 and that the items of the agenda should be considered in the following order: items 3, 5, 4 and 6. The adoption of the above measures was without prejudice to the positions of various delegations concerning the duration of the sessions of the Subcommittee.

16. The Subcommittee noted that in view of the shortening of the sessions of the Committee and the Subcommittees in 1999 and the fact that the International Institute of Space Law (IISL) would organize an eight-session workshop on space law as part of the UNISPACE III Technical Forum, there would be no IISL/European Centre for Space Law (ECSL) symposium

during the current session of the Legal Subcommittee. The Subcommittee agreed that IISL and ECSL should be invited to hold a symposium on space law at the thirty-ninth session of the Legal Subcommittee.

17. The Subcommittee held a total of ... meetings. The views expressed at those meetings are contained in unedited verbatim transcripts (COPUOS/Legal/T.613- ...).

18. At its ... meeting, on 5 March 1999, the Subcommittee adopted the present report and concluded the work of its thirty-eighth session.

II. Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (agenda item 3)

19. The Chairman made an introductory statement on agenda item 3 at the 613th meeting, on 1 March 1999.

20. The Chairman drew attention to the fact that the General Assembly, in its resolution 53/45 of 3 December 1998, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee continue its consideration of the question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (Assembly resolution 47/68 of 14 December 1992).

21. As mentioned in paragraph 10 (b) above, the Legal Subcommittee, at its 613th meeting, decided not to re-establish its Working Group on agenda item 3.

22. The Legal Subcommittee recalled its recommendation, made at its thirty-seventh session and subsequently endorsed by the Committee,¹⁰ that, at its thirty-ninth session, consideration by the Working Group on agenda item 3 of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, again be suspended pending the results of the work of the Scientific and Technical Subcommittee, without prejudice to the possibility of reconvening the Working Group if, in the opinion of the Legal Subcommittee, sufficient progress had been made in the Scientific and Technical Subcommittee at its thirty-seventh session, in the year 2000, to warrant the reconvening of the Working Group.

23. The view was expressed by one delegation that strict safety precautions should be exercised in connection with any use of nuclear power sources in outer space and that they should be such as to guarantee the sustainability and use of outer space. That delegation was also of the opinion that the subject of the use of nuclear power sources in outer space would need to form an integral part of any future discussion within the Legal Subcommittee on issues relating to space debris.

24. Another delegation expressed the view that the scientific and ethical aspects of the use of nuclear power sources in outer space should be studied in order to develop further the legal issues involved, especially in relation to collisions between nuclear-powered objects and space debris. That delegation also expressed the view that emerging technological developments could require the revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space in the future, as had been anticipated upon their adoption by the General Assembly in its resolution 47/68 of 14 December 1992.

25. The full texts of the statements made by delegations during the discussion on agenda item 3 are contained in an unedited verbatim transcript (COPUOS/Legal/T.613).

Notes

¹ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 20 (A/52/20), annex I.*

² *Ibid.*

³ *Ibid., Fifty-third Session, Supplement No. 20 (A/53/20), para. 176.*

⁴ *Ibid., Forty-fifth Session, Supplement No. 20 (A/45/20), para. 143.*

⁵ *Ibid., Fifty-third Session, Supplement No. 20 (A/53/20), para. 175.*

⁶ *Ibid., para. 145.*

⁷ *Ibid., Fifty-first Session, Supplement No.20 (A/51/20), para. 211 (c).*

⁸ *Ibid., para. 180.*

⁹ *Ibid., para. 181.*

¹⁰ *Ibid., para. 175.*