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Agenda item 9

Review of the concept of the “launching State”

Draft report of the Chairman of the Working Group on agenda item 9, entitled “Review of the concept of the ‘launching State’”

1. At its 656th meeting, on 2 April 2002, the Legal Subcommittee established a Working Group on agenda item 9, entitled “Review of the concept of the ‘launching State’”, with Kai-Uwe Schrogl (Germany) as its Chairman.
2. The Working Group had before it a report by the Secretariat on the concept of the “launching State” (A/AC.105/768), which synthesized information presented during the first two years of the work plan, in 2000 and 2001.
3. The Working Group also had before it a proposal by the Chairman for conclusions of the Working Group (A/AC.105/C.2/L.234). Following consideration of the proposal, the Working Group adopted its conclusions of the three-year work plan, contained in the appendix to the present report.
4. The Working Group stressed that the conclusions did not constitute or contain an authoritative interpretation of or proposed amendments to the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex) or the Convention on Registration of Objects Launched into Outer Space (Assembly resolution 3235 (XXIX), annex).
5. It was noted that the following questions had also been addressed in the Working Group: whether registering a space object by itself implied acceptance of responsibility to pay compensation under the Liability Convention; whether the concept of the “launching State” could be applied in a manner reflecting different phases of space activities and changes in ownership of space objects in outer space; how the launching State concept could be applied to activities of non-governmental entities that might not have been foreseen when the United Nations treaties on outer space were being drafted; and whether the nationality of non-governmental entities



operating launch services was a relevant criterion for determining whether a State was responsible for those activities under article VI of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex) or was liable under the Liability Convention.

6. The view was expressed that, in that context, it would be useful to refer also to general international law concerning the responsibility of a State for activities carried out by non-governmental entities under the State's jurisdiction and control.

7. Some delegations expressed the view that the Working Group's conclusions should form the basis for a separate General Assembly resolution on recommendations concerning the implementation of the concept of the "launching State".

8. The view was expressed that harmonized practices referred to in the conclusions of the Working Group (see appendix, para. [...]) could in no way interpret or amend relevant provisions of any United Nations treaty on outer space, since amendments could be made only under the procedures established by the treaty in question. For instance, harmonized practices should in no way prejudice the rights of potential victims of damage caused by space objects.

9. The view was expressed that there had been no case where a State had applied for damages under the Liability Convention.

10. However, the view was also expressed that the payment to Canada following the disintegration of the satellite Cosmos 954 over Canadian territory in 1978 had resulted from international liability under the Liability Convention.

11. However, the view was also expressed that that payment had been a gesture of good will.

12. Some delegations expressed the view that the Working Group had been a good example of how to make efficient use of the possibilities provided by the new structure of the agenda for the Legal Subcommittee and that the discussions in the Working Group had paved the way for a high-quality, constructive dialogue among member States on that subject.

Appendix

[Conclusions of the work plan (A/AC.105/L.234 as amended) to be attached]
