



**Committee on the Peaceful
Uses of Outer Space**
Legal Subcommittee
Fifty-first session
Vienna, 19-30 March 2012

Draft report

VI. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

1. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 8, entitled “Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space”, as a single issue/item for discussion.
2. The representatives of China, Saudi Arabia, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 8. During the general exchange of views, statements relating to the item were also made by representatives of other member States, the representative of Ecuador on behalf of the Group of Latin American and Caribbean States and the representative of Kenya on behalf of the Group of African States.
3. The Subcommittee noted with satisfaction that the adoption of the Safety Framework for Nuclear Power Source Applications in Outer Space (A/AC.105/934) by the Scientific and Technical Subcommittee at its forty-sixth session and the endorsement of the Safety Framework by the Committee at its fifty-second session, in 2009, constituted an important step with regard to the progressive development of international space law and considerably advanced international cooperation in ensuring the safe use of nuclear power sources in outer space.
4. The Subcommittee noted with satisfaction the workshops organized by the Working Group on the Use of Nuclear Power Sources in Outer Space during the forty-eighth and the forty-ninth sessions of the Scientific and Technical Subcommittee, in accordance with the multi-year workplan and objectives adopted by the Scientific and Technical Subcommittee at its forty-seventh session (A/AC.105/958, annex II, paras. 7 and 8).



5. Some delegations were of the view that it was exclusively States, irrespective of their level of social, economic, scientific or technical development, that had an obligation to engage in regulatory activity associated with the use of nuclear power sources in outer space and that the matter concerned all of humanity. Those delegations were also of the view that Governments bore international responsibility for national activities involving the use of nuclear power sources in outer space conducted by governmental and non-governmental organizations and that such activities must be beneficial and not detrimental to humanity. In that context, those delegations called on the Legal Subcommittee to undertake a review of the Safety Framework and to promote binding standards with a view to ensuring that any activity conducted in outer space was governed by the principles of preservation of life and maintenance of peace.
6. Some delegates expressed the view that there should be greater coordination and interaction between the Scientific and Technical Subcommittee and the Legal Subcommittee in order to promote the development of binding international standards to provide a legal framework for the use of nuclear power sources in outer space.
7. Some delegates expressed the view that close communication should be maintained among the two Subcommittees and the International Atomic Energy Agency (IAEA) in exploring the feasibility and necessity of amending the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (General Assembly resolution 47/68).
8. Some delegates expressed the view that more consideration should be given to the use of nuclear power sources in outer space, specifically in geostationary and low-Earth orbits, in order to address the legal aspects of potential collisions of nuclear-powered space objects in orbit and the incidents or emergencies that might be created by the accidental re-entry of such objects into the Earth's atmosphere, as well as the impact of such a re-entry on the Earth's surface, human life and health and the ecosystem.
9. Some delegates expressed the view that the Principles should be revised to prohibit the use of nuclear power sources in Earth orbits for the safety of the environment and humankind.
10. The view was expressed that the Principles would benefit from an update on the basis of the Safety Framework.
11. The view was expressed that the Principles and the Safety Framework provided States with technical guidance on the safe application of nuclear power sources in outer space and had laid a foundation for gradually setting up a legal regime and that the promotion of and wider adherence to those documents were important for ensuring the safe use of nuclear power sources in outer space.
12. Some delegations were of the view that space-faring nations with relevant experience in the use of nuclear power sources should make available their information and know-how on measures taken to ensure the safety of space objects that use nuclear power sources.
13. The view was expressed that States planning to launch any space objects with nuclear power sources should notify other member States about their plans within a reasonable time to allow for action related to the mitigation of any possible risk.

14. The view was expressed that, although at times it might be necessary to use nuclear power sources in outer space, they should be used with caution, when other sources of energy were not available and preferably at great distances from Earth, in order to ensure the safety of humankind, the Earth and the equipment orbiting it.
15. The view was expressed that research should be carried out on ways and means of optimizing or substituting the use of nuclear energy in outer space activities.
16. The view was expressed that, in view of the importance of the full implementation of the Safety Framework to ensuring the safety of the use of nuclear power sources in space activities, a comprehensive report on the implementation of the Safety Framework should be prepared by the Office for Outer Space Affairs.
17. The Subcommittee agreed that it was necessary to continue examining the issue and that the item should remain on its agenda.

VII. Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment

18. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 9, entitled “Examination and review of the developments concerning the draft protocol on matters specific to space assets to the Convention on International Interests in Mobile Equipment”, as a single issue/item for discussion.
19. The representatives of Algeria, Austria, Brazil, Canada, China, the Czech Republic, France, Germany, Indonesia, Japan, the Netherlands, Saudi Arabia, South Africa, Spain, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 9. Statements under that item were also made by the observers for ITU and Unidroit.
20. At its 841st meeting, on 20 March, the Subcommittee heard a statement by the observer for Unidroit in which he, inter alia, informed the Subcommittee of the following:
 - (a) The diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, held in Berlin from 27 February to 9 March 2012, had adopted and opened for signature on 9 March the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets;
 - (b) The Protocol had been signed by Burkina Faso, Saudi Arabia and Zimbabwe, and it had been agreed by the Conference that the number of ratifications or accessions needed to trigger the entry into force of the Protocol should be 10. The Conference had been of the view that an additional requirement should be laid down for the entry into force of the Protocol, namely the supervisory authority of the international registry for space assets must deposit with the Depositary a certificate confirming that the international registry for space assets was fully operational;

(c) The Conference had adopted five resolutions, and 25 States and 1 regional economic integration organization had signed the Final Act of the diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets;

(d) Given the uncertainty regarding the identity of the body that would be assuming the functions of supervisory authority of the international registry for space assets, the Conference had taken the view that it was necessary to establish, pending the entry into force of the Protocol, a preparatory commission to act with full authority as provisional supervisory authority for the establishment of the international registry. The Conference also decided that the preparatory commission should operate under the guidance of the General Assembly of Unidroit;

(e) It had been decided that an official commentary on the Protocol would be prepared.

21. The Subcommittee welcomed the adoption of the Protocol and expressed its congratulations to Unidroit for the successful conclusion of its multi-year work with respect to the development, negotiation and adoption of the Protocol. The Subcommittee commended the Government of Germany for its organization of the Conference and facilitation of the adoption of the Protocol.

22. The Subcommittee noted that the observer for ITU at the Conference had communicated the interest of the Secretary-General of ITU for that Organization considering becoming the supervisory authority and that that interest was subject to the matter being considered by the governing bodies of ITU, namely the ITU Council and the ITU Plenipotentiary Conference, and was without prejudice to the decision to be taken by them in that regard. The Subcommittee also noted that the ITU Council would hold its meeting in July 2012 and that the next ITU Plenipotentiary Conference would be held in 2014.

23. Some delegations were of the view that the Protocol on Matters specific to Space Assets, being the first space law treaty adopted in more than three decades and the first international private law agreement in the field of commercial space activities, was important for the completeness of the international regulation of space activities and would establish an optional international regime that could facilitate asset-based satellite financing and promote commercial activities of the private sector in outer space.

24. Some delegations were of the view that the Convention and the Protocol had established a registration and priority system that formed a unified, clear and predictable legal framework for transnational financing of space assets and ensured the universal recognition and protection of international interests based on space assets. In that connection, the delegations expressing that view were also of the view that the Protocol would enhance transparency with regard to existing interests in space assets and would remove misgivings of creditors with regard to the inconsistencies of national laws and laws dealing with the financing of debts.

25. The view was expressed that important participants within the space commerce sector, including the diverse membership of the Satellite Industry Association (SIA), regarded the approach taken in the Protocol as not achieving benefits for the space finance sector. In that connection, the delegation expressing that view was also of the view that further study and elaboration of the economic

effects of the Protocol were necessary and that, although a protocol of that nature had been successful for aircraft, it would be unlikely to achieve success for space assets if it did not gain sufficient support within industry circles.

26. The view was expressed that the Protocol was not intended to affect the rights and obligations of States parties to the United Nations treaties on outer space and to the instruments of ITU.

27. The view was expressed that it was important to encourage all contracting States to the Protocol, as well as international, national and private financing institutions, to assist developing countries that were States parties to the Protocol by providing them with reasonable discounts or rebates on any exposure rates or similar charges levied by such financing institutions.

VIII. Capacity-building in space law

28. Pursuant to General Assembly resolution 66/71, the Subcommittee considered agenda item 10, entitled "Capacity-building in space law", as a single issue/item for discussion.

29. The representatives of Austria, Brazil, China, Germany, Japan, Libya, Nigeria, South Africa, Spain and the United States made statements under agenda item 10. During the general exchange of views, statements relating to that item were made by representatives of other member States, by the representative of Kenya on behalf of the Group of African States and by the representative of Ecuador on behalf of the Group of Latin American and Caribbean States.

30. The Subcommittee had before it the following:

(a) Conference room paper containing information submitted by Algeria, Australia, Austria and Japan on actions and initiatives to build capacity in space law (A/AC.105/C.2/2012/CRP.12);

(b) Conference room paper containing a directory of educational opportunities in space law (A/AC.105/C.2/2012/CRP.13).

31. The Subcommittee agreed that capacity-building, training and education in space law were of paramount importance to national, regional and international efforts to further develop the practical aspects of space science and technology and to increase knowledge of the legal framework within which space activities were carried out. It was emphasized that the Subcommittee had an important role to play in that regard.

32. The Subcommittee noted with appreciation that a number of national, regional and international efforts to build capacity in space law were being undertaken by governmental and non-governmental entities. Those efforts included encouraging universities to offer modules on space law; providing fellowships for graduate and postgraduate education in space law; assisting in the development of national space legislation and policy frameworks; organizing workshops, seminars and other specialized activities to promote greater understanding of space law; providing financial and technical support for legal research; preparing dedicated studies, papers and publications on space law; supporting space law moot court competitions; supporting the participation of young professionals in regional and

international meetings relating to space law; providing for training and other opportunities to build experience; and supporting entities dedicated to the study of and research relating to space law.

33. The Subcommittee noted that some member States provided financial assistance to enable young students to attend the Manfred Lachs Space Law Moot Court Competition, held each year during the meetings of the International Astronautical Congress. The Subcommittee also noted with satisfaction that in 2011 the African regional round of the Competition had been organized for the first time and that universities from Kenya, Nigeria and South Africa had taken part.

34. The Subcommittee noted with appreciation that the Office for Outer Space Affairs had included on its website a new section entitled “United Nations treaties and principles on outer space: travaux préparatoires” (www.unoosa.org/oosa/en/SpaceLaw/treatyprep/index.html).

35. The Subcommittee noted with appreciation that the Office for Outer Space Affairs was assisting in regional efforts to build capacity in space law, including by providing support to the Fourth African Leadership Conference on Space Science and Technology for Sustainable Development, held in Mombasa from 26 to 28 September 2011 on the theme “Developing a shared vision for space in Africa”, during which a session dedicated to space law, organized jointly by the Government of Kenya and Office for Outer Space Affairs, had been held.

36. Some delegations were of the view that it was important to disseminate knowledge on space law through bilateral channels, as well as through multilateral cooperation, and to give the Office for Outer Space Affairs an increased role in assisting States in their efforts to develop national legislation on space activities.

37. The view was expressed that adequate support, through the provision of both expertise and material and financial resources, was necessary to enable institutions to effectively conduct courses on space law.

38. The view was expressed that international organizations should be encouraged to establish cooperation with States to further develop and promote educational programmes in space law in order to increase the interest of students and enhance their skills and knowledge in the area of space law and its implementation, in particular with regard to dispute settlement mechanisms.

39. Some delegations were of the view that capacity-building initiatives should include a variety of options, including the provision of online courses at a reasonable cost, in order to reach a wider audience.

40. The view was expressed that it was important to build capacity in the area of space-derived geospatial data.

41. The Subcommittee noted with appreciation that the Office for Outer Space Affairs, together with the Government of Argentina and the National Commission on Space Activities (CONAE) of Argentina, had begun preparations for the eighth United Nations workshop on space law, to be held in Argentina from 5 to 9 November 2012.

42. The Subcommittee noted that the workshops organized by the Office for Outer Space Affairs in cooperation with host countries were a valuable contribution to

capacity-building in space law and international cooperation in the peaceful uses of outer space.

43. The Subcommittee noted with satisfaction that the Office for Outer Space Affairs had updated the directory of educational opportunities in space law (A/AC.105/C.2/2012/CRP.13), including with information on available fellowships and scholarships, and agreed that the Office should continue to update the directory. In that connection, the Subcommittee invited member States to encourage contributions at the national level for future updating of the directory.

44. The Subcommittee recommended that member States and permanent observers of the Committee inform the Subcommittee, at its fifty-second session, of any action taken or planned at the national, regional or international level to build capacity in space law.
