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**Committee on the Peaceful Uses of Outer Space:**  
**Legal Subcommittee**  
**Fifty-third session**

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882nd meeting  
Wednesday, 26 March 2014, 9.59 a.m.  
Vienna

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*Chair: Mr. Kai-Uwe Schrogl*

*The meeting was called to order at 9.59 a.m.*

**Mr. Kai-Uwe Schrogl** (Chair) Good morning distinguished delegates, I now declare open the 882nd meeting of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space.

This morning, we will continue our consideration of agenda item 4, General exchange of views, we will continue and hopefully conclude our considerations of agenda item 5, Information of the activities of international intergovernmental and non-governmental organizations relating to space law, and we will also continue and hopefully suspend our consideration of agenda item 6, the Status and application of the five United Nations treaties on outer space, pending the discussions in the Working Group on the Status and application of the five United Nations treaties.

Time permitting we will also begin our consideration of agenda item 7, Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit.

The Working Group on the status and application of the five United Nations treaties on outer space will then hold its second meeting.

During lunchtime, informal consultations of State Parties to the Moon Agreement will be held in meeting room C0727, from 1:15 to 2:30 p.m.

Distinguished delegates, I would like now to continue our consideration of item 4 on our agenda, the general exchange of views.

The first speaker on my list is the distinguished delegate of Burkina Faso, Mr. Dieudonné Sougouri, you have the floor.

**Mr. D. Sougouri** (Burkina Faso) Thank you Mr. Chairman.

Chairman, on behalf of the delegation of Burkina Faso, let me congratulate you on your election and tell you how happy we are to see you at the helm of this session. We assure you of our full cooperation throughout your mandate.

My delegation would like to recognize the important work carried out by the outgoing chairman. We are thankful to him as well. I would like to add my voice to those as well before me and congratulating Ms. Simonetta di Pippo of Italy, the new Director of OOSA and wish her every success in her mission.

It is with great regret that we learned of the passing of Professor Vladimír Kopal of the Czech Republic and we join those who spoke before us in conveying to the entire United Nations family our sincere condolences.

Mr. Chairman, the great breakthroughs in space activities and their applications in various domains have convinced mankind of their great benefits. Still, these activities cause serious concerns regarding the preservation of the space environment. It is therefore important to step up international cooperation in the peaceful exploration and use of outer space and to work within the framework of international legal instruments that govern these activities.

Chairman, Burkina Faso is committed to the universalization of rules governing space activities that great principles enshrined in the conventions such as the principle of transparency and free access to installations and equipment, the principle of non-appropriation, peaceful use, mutual assistance and international responsibility.

Mr. Chairman, natural disasters linked to climate change today cause great concern for all of humanity. Some countries have the means to confront these challenges, others are ill-equipped to come up with appropriate responses. Therefore it is necessary to promote international cooperation and space research because space-based technology can and should be used for the sustainable development of human kind. We call on everyone to coordinate space technologies and their development, particularly in the developing countries relying on the transfer of technologies, knowledge and know-how.

In this regard, we welcome the use of space data in managing and mitigating natural disasters, inter alia, through the system of early warning based on United

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Nations platform for exchange of information and early response to natural disasters UN-SPIDER.

Burkina Faso is prepared to work with all States to share experiences and good practices in the peaceful use of outer space for the benefit of all humankind. Thank you.

**Mr. Kai-Uwe Schrogl** (Chair) I thank the distinguished delegate from Burkina Faso for his statement. Next on my list is the observer from APSCO represented by Mr. Celal Unver, you have the floor.

**Mr. C. Unver** (APSCO) Mr. Chairman, distinguished delegates and ladies and gentlemen, good morning. On behalf of Asia-Pacific Space Cooperation Organization known as APSCO, I would like to thank to the Secretariat of UNOOSA for organizing this 53rd United Nations Legal Subcommittee session and also congratulations to Mr. Kai-Uwe Schrogl from Germany for a new chairman of Legal Subcommittee as well as Ms. Simonetta as new Director of UNOOSA.

Mr. Chairman, currently APSCO has the indispensable duty not only to promote the study of legal issues but also to enhance the regional space cooperation activities.

Concerning the United Nations Workshop on Space Law, APSCO attended and supported this workshop in the years of 2009 in Iran, 2010 in Thailand and APSCO yearly Space Law and Policy Forum in 2011 at Harbin Institute of Technology in 2012 at BeiHang University and in 2013 at Beijing Institute of Technology in China. Thus, for the 2014 United Nations Workshop on Space Law with China as Host Country, UNCOPOUS, Chinese Government, China National Space Administration and APSCO support this workshop to be held in Beijing, China. APSCO is also planning to merge our annual space law and policy forum with this workshop. On behalf of APSCO, I invite all United Nations Member States and International Organizations as well as all legal experts to join this workshop.

Mr. Chairman, distinguished delegates, for further activities in space law and policy of APSCO, APSCO has proposed in the report of the Secretary-General on the 5th Council Meeting on the feasibility study of Asia-Pacific Research Centre for Space Law and Policy in 2011. The feasibility study and the expert forum have been undertaken since 2011. In 2013 APSCO organized the 3rd APSCO Space Law and Policy Forum in Beijing, China from 26 to 28 June, which was jointly organized with Beijing Institute of Technology and it was a very successful forum we believe.

The Forum was divided into four sessions: Keynote Speakers on Space Law and Policy, National Space Legislation of Member States, International and Regional Cooperation on Space Law and Policy, and finally, Establishment of APSCO Research Centre for Space Law and Policy.

Eighteen papers were selected to give a presentation during the Forum. Throughout this Forum, the participants shared many ideas on the development of space laws and policies, and exchanged views on legal issues related with regional space activities and capacity-building on space law and policy in Asia-Pacific region.

Mr. Chairman, as my final words in order to improve and develop the space law and policy, APSCO strongly urges and recommends that the Asia-Pacific Research Centre for Space Law and Policy should be promoted and established. Thank you for your attention.

**Mr. Kai-Uwe Schrogl** (Chair) I thank you Mr. Unver for this statement on behalf of APSCO and congratulations for your recent appointment as Secretary-General to this organization.

Are there any other delegations who wish to speak on this agenda item, General exchange of views? I see none.

We will therefore continue our consideration of agenda item 4, General exchange of views, this afternoon.

Distinguished delegates, I would now like to continue and hopefully conclude our consideration of agenda item 5, Information of the activities of international intergovernmental and non-governmental organizations relating to space law.

The first speaker on my list is the International Law Association represented by Ms. Maureen Williams, you have the floor.

**Ms. M. Williams** (ILA) Thank you Mr. Chairman for giving us the floor to give a glimpse of the activities of the International Law Association during 2013. Before doing this, the ILA would like to congratulate the newly appointed Director of the Office of Outer Space Affairs, Simonetta Di Pippo, wish her well in her future responsibilities and challenges. We would also like to congratulate the past president of the Legal Subcommittee, Tare Brisibe, for the work done, and you Mr. Chairman to congratulate you and wish you well and give our full support to all of you in this new period.

Mr. Chairman, the ILA has been informing annually over the years on our different activities, so in

this case, we are going to skip the details which are recorded in the documents submitted by the ILA under item 5 of the agenda of the Legal Subcommittee and shall confine my statement to points of substance contained in the four central topics addressed by the ILA for the forthcoming Washington Conference in April.

The working session on space law of the 76th conference of the International Law Association will take place on Tuesday April 8th and it will be a tribute to Professor Kopal and to say the least for inspiring the following generations.

We are happy to announce that we are organizing the Washington Conference jointly with the American Society of International Law, who will be holding its 108th Annual Meeting.

I shall go very briefly to remind you that the ILA was founded 141 years ago in Brussels. Its headquarters are in London, the head of the ILA is Lord Mance, justice on the Supreme Court of the United Kingdom. The Director of Studies is Professor Marcel Brus from the Netherlands and the Officers of the Committee are Professor Stephan Hobe as general rapporteur and the present speaker as the Chair.

The general practice of the Space Law Committee which was set up way back in 1958 shortly after the launch of the Sputnik, is to liaise with international organizations both intergovernmental and private relating to space law. I shall mention briefly, in the first place COPUOS and both its Legal and Scientific and Technical Subcommittees, the ILA has the honour to be a permanent observer to COPUOS since 1990, with International Law Commission, we worked with them on responsibility of international organizations, with the Permanent Court of Arbitration where a number of members of the ILA took part in the drafting of the optional rules on arbitration for dispute settlements relating to space activities. We also work in cooperation with national space agencies in different countries, with universities and in the private area we take part in the activities of the International Institute of Space Law, the European Centre for Space Law and the Ibero-American Institute for Air and Space Law, who has recently been admitted as permanent observer to the Legal Subcommittee.

The closest precedent to our work for Washington was at 2012, Sofia, 75th Conference of International Law Association where we submitted a final report dealing with remote sensing, with special accent on the use of satellite data in court at the state of evidence.

National space legislation where we produced and our rapporteur was the main author of this, the

Model Guidelines, Sofia Guidelines for National Space Legislation. We also had worked on registries and issues and we kept space debris under permanent review.

Now we are under a new mandate with new terms of reference which are the following: there are four central topics. First, in no order of priority is dispute settlement. Second, suborbital flights and their legal implications. Third, satellite data in different applications and fourth, space debris in new light according to most recent developments. I shall take these four central topics in turn.

Concerning dispute settlement, as I said before, some of us were parties in the elaboration of the PCA rules, the idea now is to analyse the response of the different sectors involved to these rules and we are thinking of elaborating a questionnaire and circulate it to different sectors to create awareness and the prevailing idea is that the flexibility of the rules under wide space left to the autonomy of the parties are the most attractive features in addition to their being open to private parties as well. As you may remember the outer space treaties under dispute settlement mechanisms did not include private companies as possible parties to their mechanisms. This means a step forward as commercial space activities are growing exponentially.

The ILA Committee has been introducing and explaining the rules in the various sectors of international, regional and domestic levels in order to create awareness, with positive reactions.

Second topic, suborbital flights. The ILA terms of reference including a separate topic on its agenda, notably suborbital flights and their legal implications. The topic will be formally introduced in one of the sections of the Committee's report to the Washington Conference by the Committee Rapporteur and this may be found, as well as all the other topics, in the ILA report to the Washington Conference on the ILA website. It was posted to the website in early February.

In the Committee preliminary discussion on the subject of suborbital flights, a series of different options were put forward. Some members were in favour of drafting a set of guidelines, whereas others in a more cautious attitude observed the absence of a legal definition for the new modality, noting that any action at this stage would be premature. It was widely perceived that the new topic would bring up and bring back to the limelight issues related to the definition and delimitation of outer space.

Some proposals indicated the need for an in-depth analysis of the matter in the aftermath of the Washington Conference, taken as basis what was

expressed in Sofia in our last report. This again may be found in the document submitted by the ILA to the Legal Subcommittee, which is A/AC.105/1045, which was circulated last year. Therefore, in setting the scenes in suborbital flights, conflicting attitudes are already perceived within the Committee and there are hardly any precedents on the topic.

It was observed that so far there has not been a successful commercial suborbital flights in any nation. Attention was drawn to the direct connection between suborbital flights, liability and insurance. Another point of contention noted by a Committee member referred to registration issues from the reading of the registration convention. It may be easily concluded that suborbital vehicles do not come under the provisions which are limited to space objects launched into Earth orbit or beyond.

Further analysis is expected on this topic as a result of the working session in Washington.

Topic number three, use of satellite data in international litigation. We had analysed in depth profoundly the problem of satellite data in court, especially in cases of international boundary disputes where we had thorny issues of sovereignty coming up. This work was concluded and published in a book edited by one of our Committee members from the British branch. The title is "Earth observation satellites: evidence from Earth observation satellites", this was announced at the previous meeting of the Legal Subcommittee last year.

So the Committee decided to keep this under permanent review but move on to other applications of space technologies which it thought important at this point in time. One is verification of treaty behaviour in some particular areas like disarmament, also regarding water management, the anticipation of natural catastrophes and so forth.

In this framework, the committee's examining the use of satellite data for, also going back to issues of privacy, because we consider that this item will be appearing for a long time in this area of remote sensing.

Privacy in this context is an issue that remains outstanding since the ILA first addressed the application of remote sensing technologies in 1976 in its Madrid conference. As I have said before, it is expected to continue as a central issue on our agenda taking different shapes as the technology develops.

Far reaching technologies such as Google Earth are a good example and the challenge is to strike the right balance between freedom of information and the protection of privacy, for it is no easy task. All of us

are aware that today's international settings differ sharply from the Sunday Times case decided at Strasbourg at the end of the 70s where the principle of freedom of information was applied in most absolute terms and where the protection of privacy suffered one of its worst defeats.

We are now in a completely different scenario. This situation has been reflected recently in the media, for example the London Times in its leading articles and editorials is pointing out that in recent court decisions in the United Kingdom, freedom of the press is sometimes overridden by the protection of privacy. So at this stage, it seems valid to ask whether this attitude is responding to the need of further protection of privacy in the world of today.

The ILA Committee considers that what constitutes privacy may be different when looking at a citizen-to-citizen relationship, a citizen-to-Government relationship and, moreover, a Government-to-Government relationship. The cultural aspects underline the value of privacy have also been explored during the debates last year and according to some observations, the cultural aspect would probably have an important influence on relevant laws and regulations. Recent events and situations are indeed showing the way such as, for example, the Snowden case. This is one of a points to be explored by the Committee during its current mandate.

Fourth topic, space debris, and on this topic, in this field, the International Law Association has a long tradition which began with the adoption of an international instrument for the protection of the environment for damage caused by space debris. It was adopted in 1994 at the Buenos Aires Conference, the 66th Conference of the ILA and it continued under permanent study by the Committee in light of the new developments in that area.

The Committee's objective is to open a new chapter in the treatment of space debris and collision generating debris in the current international scenarios. The Committee's objective is also to work in cooperation with the Scientific and Technical Subcommittee of COPUOS, having in mind its work on long-term sustainability about which we heard a very interesting report yesterday.

The Committee has also considered profoundly, the Czech proposal, which was introduced by the then head of the Czech delegation Professor Kopal in recent times, noting that the 2007 guidelines of COPUOS on mitigation were drafted without any intervention of a Legal Subcommittee, so their proposal suggested that once having been seen by the Legal Subcommittee, they should be moved on to the status of general

principles, or UN principles, such as direct broadcast, remote-sensing and the use of nuclear power sources in outer space. There are a few keywords that underline this problem of space debris, one is mitigation, the other is anticipation and now in recent times we feel we should have a look at proposals going round in the different context concerning removal of space debris, so the word removal has moved on very rapidly as a keyword in this topic.

This is somehow remindful of a proposal in the beginning of the 90s, but then the political will of States was not prepared to go so far but as now we are in a completely different scenario with new developments. We think it's worthwhile to examine the question further.

Finally, Mr. Chairman, the last bit of a mandate of ILA Council to Space Law Committee said that we would indicate it, and I quote "keep a general watching brief over further developments in space law that may occur during our mandate 2012-2016". A few proposals have already been advanced by the Committee members intended in general for implementation out of the conclusion of this mandate. What follows is in no order of priority a list of suggestions received by the committee chair at this stage. There is a group that suggests working on space communications in light of recent developments in international and regional telecommunication law. This area at the moment is reflecting a myriad of unresolved legal issues calling for prompt attention. Another group advocates the idea of looking into legal issues relating to very small satellites importance of which as we saw yesterday and will see next Saturday is growing by the day and appearing as an attractive choice, particularly for developing countries. And another group of suggestions refers to the legal implication of missions to Mars and the potential exploitation of resources on the Moon and asteroids. This implies that the environmental sides of the Moon Agreement should be revised, bearing in mind that its provisions also apply to other celestial bodies, and that the legal aspect of space-mining companies working in asteroid missions should be considered as well.

However, this would not imply automatically adding to the current terms of reference as central topics, any of these, we shall follow the state-of-the-art, and we should be very grateful to receive suggestions from the Legal Subcommittee to this end and from the distinguished delegates. On this note, Mr. Chairman, I shall close the ILA statement for this year, as announced at the outset, we are pleased to say that we are working jointly with the American Society of International Law to hold our 76th Conference in Washington, the working session, I repeat, is to honour

Professor Kopal. You are all more than welcome at the session and at the Conference.

Thank you very much, Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) I thank the representative of the International Law Association, Professor Williams, for her statement. Are there any other delegations wishing to speak on agenda item 5, Information on the activities of international intergovernmental and non-governmental organizations relating to space law.

I see none, so we will now conclude our considerations of this item, Information on the activities of international intergovernmental and non-governmental organizations relating to space law.

Distinguished delegates, this leads me to agenda item 6, we will now continue and then hopefully suspend our consideration of agenda item 6, Status and application of the five United Nations treaties on outer space, pending the discussions in the Working Group on this item and I have already two speakers on my list and we can start with Venezuela, Mr. Roberto Becerra. You have the floor Sir.

**Mr. R. Becerra** (Venezuela) Thank you Chairman. This is the first time I have taken the floor so I would like to welcome you and the members of the bureau who are here, we have faith and hope that under your leadership we will achieve the goals of this Subcommittee.

Mr. Chairman, I have to be really frank, by virtue of the debates we've held over the last few days, I've had to make some changes to my statement, especially some important comments that I think will lead to a sincere discussion on this particular subject. I have asked the Secretariat to project this resolution adopted by the General Assembly, which details the responsibilities of COPUOS and I'd like to refer to (b). It says in English, to study the nature of legal problems which may arise from the exploration of outer space. [*The delegate apologizes for his pronunciation*] but I think it is clear that we have a very important mandate, and that is to legislate if we analyse the 1960s, up to 1969, we see that the Subcommittee did in fact do that, it complied with that mandate. We have the United Nations space treaties, but then the big question now is, why are we not making any progress? There are many possible answers to that. I would like to mention two.

The first one is that most of the stakeholders want to keep the status quo of the legal framework. Why? Because they benefit from current circumstances, and whilst there are no new limitations or restrictions, States, companies, space institutions, abuse space resources and really put at risk future

generations use of space. That is why it is important to raise this issue. We could also comment on the fear of other stakeholders regarding changes in the achievements made based on United Nations principles. When we mention the implementation of the space treaties up until 1979, there was a lot of interesting work done, but then we saw a different style of work. We have guidelines, principles, codes of conduct, which is being called "soft law". I never really understood that, because to my mind, law is law, it is not hard or soft, but this mechanism has been used to avoid binding laws and instruments and that is the work that has been done, and that brings me to another major concern that we have. There are guidelines covering space debris and the use of nuclear power sources in outer space and we ask ourselves why has that research and study not been brought to this Subcommittee for its legal evaluation?

Regarding the guidelines on space debris, Professor Kopal worked very hard and I really want to honour his memory and his legacy. One of Professor Kopal's requests, which the previous speaker referred to, was that of turning the guidelines into principles. Let's motivate ourselves, let's do that work, not just in honour of Professor Kopal, but the whole of mankind. That's our duty as Subcommittee.

I have taken note of some requests made by other countries during this meeting and which have been worked on in previous committees. The first one is trying to use as a mechanism to join COPUOS, having all countries at least adhere to the main space treaties. Why don't we work on that? Is it that complicated? How can we act against our own principles? And I would ask the Secretariat to please take note of this and include it as a suggestion for our work. I think we could do something and show that if you asked the room now who would agree to that, I'm sure that most delegations would raise their names plates and say that this should be one of the rules for a membership. Those countries that have joined COPUOS but have not adhered to the treaty should do so. I think that would be proof of the progress we could make in this Subcommittee.

There is a second point, and many delegations have stressed this. That work and interaction between the Technical Subcommittee and the Legal Subcommittee, I am referring to the working groups here. The results of each of the working groups should be presented to the Subcommittee for its consideration. The Technical Subcommittee cannot say that we cannot legislate and not have binding rules because we have to do this in parallel and we have to work together.

Therefore, Mr. Chairman, we need to realize that there is a lot of work to do that we are not making progress but it's not a question of time. I have seen that other delegations have really been interested in changing the methodology of our work. I don't know if we have one more day, we lose two days, if we go to the garden, if we go two floors down, if things would change, we have to work according to our mandate which is to promote the creation and establishment of space law. That's what all our initiatives should be aimed at.

And to conclude, I will read the last paragraph of my statement which says as follows: My delegation believes it is necessary to review and update the five United Nations space treaties in order to strengthen the guiding principles that govern the space activities of States, especially its peaceful use, the access to outer space without discrimination on a basis of equality and in an equitable fashion. Strengthening international cooperation, making space technology available to all people and including the protection of the space environment from space debris. This is very important given the constant increase in activities in outer space and the greater participation of States, international organizations and non-governmental organizations in this activity. Thank you Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) I thank the distinguished delegate from Venezuela for his statement. Next on my list is the distinguished delegate from Mexico, you have the floor.

**Ms. T. Castillo** (Mexico) Mr. Chairman, on agenda item 6, Status and application of the five United Nations treaties on outer space. The United Nations treaties on outer space make up the legal framework of great usefulness for regulating space activities and it is important to call on States that haven't done so to accede to those treaties as soon as possible. Having said that, with a view to, inter alia, guaranteeing peaceful use of outer space, it remains relevant for the Legal Subcommittee to carry on its work with regard to a universal convention that would codify the principles underlying outer space activities and complement the existing legal framework so that international norms should meet the real and future needs of communities and States with regard to space activities, taking great care to ensure that the basic principles negotiated by States not be violated but in fact reaffirmed.

Issues pertaining to space debris require a mandatory legal framework, that would be binding, with a view to reducing space debris and making sure that the use and exploration of outer space can be pursued with safety. This was presented in great detail by Germany and Mexico shares Germany's concern.

We are grateful for the document entitled “Compendium space debris mitigation standards adopted by States and international organizations”, prepared by the Czech Republic and Canada, with support of the German Space Agency, contains references to useful information in addition to what was issued by the United Nations General Assembly and could be used as a basis for future work on a binding universal convention.

International United Nations treaties on space make up a consistent legal framework which is very useful for various activities, specifically the instruments in question form the cornerstone of international regime governing outer space activities. For that reason, the delegation of Mexico would like to invite member States that haven’t yet done so, to accede to this instrument and continue developing the legal framework, with the view to making progress and science and technology and that refers to space activities as carried out by Governments and the private sector.

In this context, we suggest that the Legal Subcommittee take measures to formalize and move forward the analysis of the various proposals put forward by States with regard to a future universal outer space convention governing space activities as would complement the existing United Nations treaties on outer space.

As part of the obligations assumed by Mexico in compliance with the registration convention, we have conveyed to the Secretary-General of the United Nations through OOSA, our request that our satellite Solidaridad 2 be struck from the registry. It was de-orbited two months ago. Also in compliance with our obligations under the registration convention we ask that the new satellite Satmex 8 be inscribed in the register. We hope to see it there soon. Thank you very much Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) I thank Ms. Teresa Castillo, distinguished representative from Mexico for her statement. I have the request from the floor from the United States.

**Mr. B. Israel** (United States of America) Thank you Mr. Chairman. I would just like to offer some brief thoughts following the views offered by the distinguished delegate from Venezuela.

I very much appreciate the views expressed by my colleague from Venezuela and appreciate his persistent passion for the progress of our work in the Legal Subcommittee and I would like to offer the view respectfully that we should not measure our progress simply by the making of new law, of new treaties. That our role as international lawyers is broader than the

negotiation of new treaties, or the application of treaties, but rather to help our Governments cooperate in the peaceful use and exploration of outer space and to that end we must be able to select the optimal mechanism to facilitate that cooperation in a given case and in doing so today, in 2014 in the 53rd session of the Legal Subcommittee, we are doing so in a different situation than in 1958 or even 1963 in that there is not a need to create a legal framework where none existed but we have the benefit of a mature and stable legal framework that has, and continues to facilitate the use and exploration of outer space by a variety of actors.

I think this Subcommittee has been very successful over the years in selecting the optimal mechanism for cooperation in a given case and I think that we have on our agenda and in a work plan that is very well suited to the drilling down into this, into identifying when should we be thinking about treaties or other international legal mechanisms, to facilitate our cooperation, but also taking account of the full range of tools we have in our toolbox. Thank you Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) I thank the distinguished delegate from United States. Are there any other delegations that wish to speak? Yes, Mexico.

**Ms. R. M. Ramirez de Arellano** (Mexico) Thank you Chairman. My Government isn’t trying to change the current legal framework regarding space law, we have five treaties which are the essential basis for regulating space activities. There can be many proposals to compile them, to have one single convention bringing them all together. But I don’t think the form is important, but what is relevant Mr. Chairman is that we strengthen legally binding rules and provisions. We hear about non-binding rules and that brings to mind the international code of conduct, Unidroit etc. We have other rules which are principles which have been issued by the United Nations General Assembly and adopted by this Subcommittee or we have the guidelines on space debris where we didn’t even get the chance to give it a legal framework. It will be studied.

So, we actually have a lot of work ahead, and not to move existing treaties, they were drawn up in different circumstances and conditions as pointed out by the distinguished delegate of the United States. Or if I consider Venezuela’s comments, our work is to draft and present international space law and we have the huge amount of work ahead, not just with space debris. We have another delicate issue and that is the information that we should be providing each other with. Then what about the principles covering nuclear power sources, we can talk about principles, guidelines, but these are not binding. There is a

principle and a source of law which is custom or habit and we are getting used to principles and guidelines being complied with although they are not treaties, and this means that the international space community should be consistent on a daily basis in its daily work.

Considering the future, we don't want to go backwards. If we want new treaties or if we don't want to move the framework of existing treaties, I wouldn't be in favour of that. There is too much risk. But we actually have a lot of work anyway, as Venezuela pointed out and it's included in a United Nations resolution is that we are obliged to create binding rules, treaties, agreements and conventions according to the Vienna Convention, thank you.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you Mexico, next on my list are the Netherlands. You have the floor.

**Mr. H. Van den Oosterkamp** (Netherlands) Thank you Chair. First I would like to adhere all the delegations who have already said that we regret very much the passing of Professor Kopal, he was a very distinguished scholar in this group. So we regret very much and also like to welcome you very much as president of this group, we like that very much.

On this special point of agenda we would like to adhere the visions by the United States on this specific point because we think the well-functioning of the space treaty is determined by the participation of it and at this moment we are not in favour of a new treaty on space law but on a longer term it would be helpful to think about it, but at this moment we think it is more wise to, if there are irregularities in the function of the treaty we would like to have more interpretive declarations instead of making new law. Thank you.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you the Netherlands, next on my list is Brazil.

**Mr. A. J. Rypl** (Brazil) Thank you Mr. Chairman. As this is the first time I'm addressing this Subcommittee I would like to greet you and welcome and congratulate you on your election as Chair.

Well, I believe that the interest aroused by this point in the agenda, you know we've had some very interesting statements, is a clear sign of the need for discussing new binding instruments and I believe that it's perhaps misleading to try to divide this issue in a clear cut division of binding and non-binding instruments.

What we see is that the Committee, and I understand that the comment of our delegate of Venezuela in this light, the Committee has been making a lot of progress in the discussion of

non-legally binding instruments. For instance, principles and guidelines and this kind of framework. But we have shied away in a sense from discussing treaties and binding instruments and the truth of the matter is that it doesn't have to be so.

As the delegate of the United States so apply pointed out, the five treaties were created and developed in a time when there was a need for such instruments because there was nothing like that before. But at the same time, as we see it, space applications and space technology, the use of space, has undergone many changes in the last thirty or forty years since the last instrument, the Moon Treaty was negotiated. So we believe there is a case yes, to look into the need for such instruments and this is better illustrated by negotiations that are starting to take place outside of framework of the United Nations, which is something that worries my delegation.

Initiatives as the code of conduct while we consider they are welcome because they raise a number of important issues, they are not really truly representative of a multilateral system and we wish, Brazil wishes to see a strengthening of COPUOS and its two Committees. When we see instruments like that, well they are developing because countries perceive the reason to negotiate issues that are addressed in instruments such as the code of conduct. Why not bring them to COPUOS, and the answer usually is well, it is too complicated, we make no progress in COPUOS. That's the catch-22, and the only way to get out of this catch-22, this little trap is really by making progress here in COPUOS and then we cannot really consider making progress in binding instruments and negotiating binding instruments, at least the possibility of negotiating binding instruments as a kind of no-go area. Thank you Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you distinguished delegate from Brazil, are there any other delegations wishing to speak? Yes, Republic of Korea.

**Mr. Y. Lee** (Republic of Korea) Thank you Mr. Chairman for giving me the floor and good morning everybody and distinguished colleagues. On this matter of the status of application of outer space treaties, some delegations are suggesting the need of making new conventions or make more international agreements.

Yes, this is the Legal Subcommittee, the word legal is not supposed to make out so much it's non-legal documents. So, Mr. Chairman, day-by-day, some growing demand and technical development is required also in order to be more cautious of how to make out some delimited space, outer space, regulated as appropriate.

Once again, I would like to put some reservations on the making new comprehensive conventions. However, we have some many principles and the guidelines, standards which need to be some kind of legal impact to be adjourned by the Member States concerned.

Fortunately we have some very important basic international treaties, a kind of constitution on outer space which is your OSTs, outer space treaties. If you would like to include such as some many principles and standards or some guidelines into having harbour some legal impact, legal binding, we should like to examine the possibilities of amendment of the OSTs by way of which we include such some technical documents into our OSTs, an integral part of the important treaties. We shouldn't be so ambitious to make one very big one single convention, however we should be very practical. This is my small observations. Thank you Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you very much Korea, are there any other speakers wishing to take the floor? Venezuela.

**Mr. R. Becerra** (Venezuela) Thank you for giving me the floor once again. The first thing I would like to say is thank you. Thank you to my colleagues from the United States, Mexico, Brazil and Korea because that is my aim, for us to discuss things, to debate things and not just say no, we can't have binding rules and that means we can't talk. We just have to find the way to do things. I don't know if it is a new treaty or a new convention.

What is important is for us to be able to talk here at the level of the Subcommittee and do our work and in parallel, work with the Technical Subcommittee and make our legal comments and suggestions on their work. We shouldn't forget that any technical activity needs a regulatory framework to be effective. However, they just won't listen. I think they're worried about changing a comma or a full stop. But guidelines need to be brought here, we need to discuss them.

The European Code of Conduct is something that needs to be analysed, we need to be able to give our opinions. Why don't we work together? Do we need more days? Do we need less days? Do we need new working groups? No. Let's bring the work here, let's discuss it. Why can we not talk about it? Why can we not defend our own ideas? We need to be able to do that and then we can see what direction we should be following. A new treaty, a new convention, no further legislation. But we can't just sit here with our arms folded and just ignore the fact that the Technical Subcommittee is doing what they like in the best

possible way. We have legal opinions and legal input. Why are we so scared of working together?

That is what I think. The work of this Subcommittee is important and we should not overlook our main mandate which is to consider and examine all these legal viewpoints. Let's not throw in the towel. We have to discuss all the ongoing initiatives. We need to become aware of them. We need to give our opinion. Hopefully more delegations will continue to take the floor and give their opinions. We shouldn't just sit here and not say anything. Thank you Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you Venezuela, you have indeed managed to initiate the debate. The first during this meeting of the Subcommittee. We will have ample opportunity however to continue such debate, now in the working group on this item, but also in plenary again and I encourage delegations to do so. Now Japan would also like to engage in this debate and I give the floor to Japan.

**Mr. K. Kobata** (Japan) Thank you Mr. Chairman. Mr. Chairman, I would like to appreciate the many passionate sentiments by Venezuela and, Mr. Chairman, Japan is of the view that in comparison with other basic international agreements, United Nations treaties on outer space do not have enough contacting parties at this moment and our delegation believe that it is more important, at this stage to ask more States to adhere to the existing space treaties and enhance the full application of them. Thank you Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you Japan, I see no more requests for the floor so will suspended our consideration of agenda item 6, Status and application of the five United Nations treaties, pending the discussions in the Working Group on this item.

So, distinguished delegates, we now begin our consideration of agenda item 7, which is Matters relating to (a) The definition and delimitation of outer space, and (b) The character and utilization of the geostationary orbit.

I would like to remind delegations that item 7 (a), which is Matters relating to the definition and delimitation of outer space, is also being considered by the Working Group on this item under the chairmanship of Mr. José Monserrat Filho of Brazil, and this Working Group will hold its first meeting this afternoon.

The first speaker on my list on this item 7 (a) as well as 7 (b) is the United States, Mr. Brian Israel.

**Mr. B. Israel** (United States of America) Thank you Mr. Chairman. The United States appreciates the

opportunity to present its views on matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of the ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

With respect to matters relating to the definition and delimitation of outer space, the United States is of the view that there is no need to seek a legal definition or delimitation for outer space. The current framework has presented no practical difficulties, and indeed, activities in outer space are flourishing. Given this situation, an attempt to define or delimit outer space would be an unnecessary theoretical exercise that could unintentionally complicate existing activities and that might not be able to adapt to continuing technological developments. The current framework has served everyone well, and we should continue to operate under it until there is a demonstrated need and a practical basis for developing a definition or delimitation. The Legal Subcommittee can operate most effectively and make its most significant contributions when it focuses its attention on practical problems, which are not apparent here.

With respect to the geostationary orbit, or GSO, the United States continues its commitment to equitable access to the GSO for all States, including satisfaction of the requirements of developing countries for GSO use and satellite telecommunications generally. From the legal point-of-view, it is clear that the GSO is part of outer space and that its use is governed by the Outer Space Treaty as well as by the International Telecommunication Union's treaties. As set forth in Article I of the Outer Space Treaty, outer space shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law. Article II of the Treaty further provides that outer space is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means. These articles make clear that a party to the Outer Space Treaty cannot appropriate a position in outer space, such as an orbital location in the GSO, either by claim of sovereignty or by means of use, or even by repeated use, of such an orbital position.

As previously stated, the United States is committed to equitable access to the GSO and has taken numerous actions to further the use of the GSO, and other uniquely situated orbits, as part of the province of all mankind. These actions include: free provision of its Global Positioning System; free provision of a variety of weather and warning data from its meteorological satellites; provision of

information from the National Oceanic and Atmospheric Administration's polar meteorological satellites; and provision of data from the Geostationary Operational Environmental Satellites, including information about hurricanes, volcanic eruptions and effluent flooding, droughts and related environmental matters, and storm tracking data. Additionally, in cooperation with Russia, France, and Canada, the United States participates in the international satellite-aided search and rescue programme known as COSPAS-SARSAT, as a means for ships, aircraft, and others in distress to signal their need for help and their locations. Thank you, Mr. Chairman.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you. Next on my list is Belgium.

**Mr. J. F. Mayence** (Belgium) Thank you Chairman. Very briefly, I would like to make the most of the fact that we are considering this issue and inform the plenary that we can provide an update on Belgium's stance regarding CRP.7 and I will be able to do that more substantially within the Working Group. Thank you.

**Mr. Kai-Uwe Schrogl** (Chair) Thank you for this information. Are there any other delegations wishing to speak? I see none.

We will therefore continue our consideration of agenda item 7, Matters relating to the definition and delimitation of outer space, and the character and utilization of the geostationary orbit, this afternoon.

I will shortly adjourn this meeting of the Subcommittee, so that the Working Group on the Status and Application of the Five United Nations Treaties can hold its second meeting. Before doing so, I would like to inform delegates of our schedule of work for this afternoon.

We will meet promptly at 3.00 p.m. At that time, we will continue our consideration of agenda item 4, General exchange of views, and agenda item 7, Matters relating to the definition and delimitation of outer space, and the character and utilization of the geostationary orbit, and we will begin our consideration of agenda item 8, National legislation relevant to the peaceful exploration and use of outer space. The Working Group on Matters Relating to the Definition and Delimitation of Outer Space will then hold its first meeting. Are there any questions or comments on this proposed schedule? I see none.

Finally, I wish to remind delegations that during lunch time, informal consultations of States Parties to the Moon Agreement will be held in meeting room C0727, from 1:15 to 2:30 p.m.

The meeting is adjourned until 3.00 p.m.