

The 1998 European initiative in the UNCOPUOS Legal Subcommittee to improve the Registration Convention

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1. The current agenda of the Legal Subcommittee

After the finalization of the „Space Benefits Declaration“ and its adoption by the UN General Assembly as UNGA Res. 51/122 on 13 December 1996¹, the Legal Subcommittee (LSC) of the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) instantly found a new focus for its work. In 1997 it agreed on a new agenda item „Review of the Status of the Five International Legal Instruments Governing Outer Space“ („review item“), which was dealt with for the first time during the 1998 session and immediately became the central point of discussion.

Besides this new subject, the LSC had two other substantive items on its agenda: the „Question of Review and Possible Revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space“, which has not been discussed during the past years and the related working group has been suspended² and the combined consideration of the definition and delimitation of outer space and the status of the Geostationary Satellite Orbit (GSO). While discussions on the definition/delimitation part, which had recently been focused on „Aerospace Objects“ have virtually dried out, the deliberations on the status of the GSO received only a brief push by an unsuccessful initiative in 1997 to finalize this part of the agenda item by drafting a request to the International Telecommunication Union (ITU).

¹ See Marietta Benkö and Kai-Uwe Schrogl, *The UN Committee on the Peaceful Uses of Outer Space: Adoption of a Declaration on „Space Benefits“ and Other Recent Developments*, in: ZLW (64,2) 1997, pp. 228-248.

² The deliberations on this agenda item are suspended in the respective working group pending the results of the work in the Scientific and Technical Subcommittee of UNCOPUOS. Following a common initiative by the Russian Federation, the United Kingdom and the United States, this Subcommittee will establish a process and framework for developing information and data that will facilitate future discussions on nuclear power source safety processes and standards. The schedule of work covers the timeframe from 2000 to 2003. See the Report of the Scientific and Technical Subcommittee on the work of its thirty-fifth session, UN Doc. A/AC.105/697 of 25 February 1998, Annex III.

2. The „review item“

2.1. The scope of the „review item“

Out of the 185 Member States of the United Nations, 93 States, including all major space powers, have ratified or acceded to the Outer Space Treaty of 1967. Another 27 States have signed this legal instrument. The other four space treaties received less acceptance, although the Liability Convention of 1972 and the Registration Convention of 1975 have also been ratified or acceded to by all major space powers.

In 1997, Mexico, one of the developing countries having ratified all five treaties, made a proposal to discuss the problems of States preventing them from ratifying the treaties. In a working paper (UN Doc. A/AC.105/C.2/L.206 Rev. 1 of 4 April 1997), Mexico outlined its intention for discussing that subject and drafted a three-year workplan for a structured discussion in the LSC. The LSC adopted this proposal at its session in 1997 and consequently began discussions in 1998. While the treaties themselves should not be reopened or amended, the LSC should, at the end of the workplan, be in a position to propose mechanisms towards achieving the fullest adherence to the five outer space treaties.

Although this initiative does not aim at producing any new regulation, it takes up a very sensitive point since there are numerous States already conducting space activities, which did not have ratified the Outer Space Treaty of 1967 (this concerns i.a. Indonesia, Iran, Kazakstan and Luxembourg)³ and therefore have not accepted the basic „rules of the road“ in outer space. The fullest adherence to this treaty, and also to the Liability Convention of 1972 and the Registration Convention of 1975 in particular, must therefore be regarded as a major task in a world characterized by a constantly growing number of space-faring States.

³ With the exception of Kazakstan, the other States have, at least, ratified the Liability Convention of 1972.

2.2. Results of the deliberations in 1998

In preparation of this first treatment of the „review item“, the UN Secretary General invited Member States to communicate their views regarding the obstacles impeding the ratification of the five international legal instruments governing outer space.⁴ The Secretariat received written replies by Argentina, Belgium, Canada, Colombia, Germany, Indonesia, Italy, Malaysia, Mexico and Netherlands.⁵ These replies turned out to be of rather little help. Most of the respondents have ratified most of the treaties and where this is not the case (e.g. with Colombia and Indonesia) it is either stated that these States currently study the texts or that national law prevents them from signing or ratifying them. Since the LSC has a culture of not pointing at any single State's activities or forcing it to explain these activities, any initiative to achieve the goal of wider adherence to the treaties must primarily come from the States having not yet ratified the texts themselves. And since the texts will not be reopened, the States being not yet party to the treaties will have no other choice than bringing in line their national legislation or policy, when they do not want to stand aside. This might be the most visible effect of the Mexican initiative: States receive the impetus and therefore the chance to discuss on the national level their views on the treaties, possibly gaining from different new political landscapes than those which existed, when decisions were taken not to accede to a treaty.

One important initiative resulting from the discussion exactly presents this category of „another chance“. Austria suggested not only to aim at increasing the number of ratifications and/or accessions to the Liability Convention of 1972 but also to strengthen its scope of application (UN Doc. A/AC.105/C.2/L.210/Add.1 of 13 May 1998, p.4). In this connection, Austria highlighted the eminent importance of the Liability Convention which has to be in fact regarded as a cornerstone for the safety and credibility of international space-flight. Its concept of absolute and unlimited State liability for damage caused by space objects on the surface of the Earth or to aircraft in flight is exemplary in international law. Although many States share this view in general, as proven by the relatively high rate of ratifications, the Convention has one weak point with respect to the settlement of disputes:

Art. XIV of the Liability Convention stipulates that „if no settlement of a claim is arrived at through diplomatic negotiations as provided for in Art. IX, within one year from the date on which the claimant State notifies the launching State that it has submitted the documentation of its claims, the parties concerned shall establish a *Claims Commission* at the request of either party“. According to Article XIX of the Convention „the decision of the Commission shall be final and binding *if the parties have so agreed*; otherwise the Commission shall render a final and recommendatory award, which the parties shall consider in good faith“. (*emphasis added*)

In plain words this means that the Claims Commission's decision is not automatically binding. The reason for this lies in the fact that at the time when the Liability Convention was agreed upon, i.e. during the Cold War era, UNCOPUOS could not reach agreement on making the Claims Commission's decision binding. This was due to the position of the Group of Eastern European States and especially of the former Soviet Union. Therefore, UNCOPUOS had to find a solution for this problem. In order to make the adoption of the Convention possible, the Committee agreed on Art. XIX as quoted above. However, operative paragraph 3 of Resolution 2777 (XXVI) which was adopted by the UN General Assembly on 29 November 1971 provides with regard to the Liability Convention that any State may, on becoming a party to this instrument, declare that it will recognize as binding, *in relation to any other State accepting the same obligation*, the decision of the Claims Commission concerning any dispute to which it may become a party.

Austria, Canada, Denmark, Greece, Ireland, New Zealand, Norway, Sweden and The Netherlands have made such a declaration. Due to the fundamental changes in international relations and the end of the Cold War the question of the binding character of the Claims Commission's decision should now also be seriously considered by other States. This would significantly enhance the effectiveness and credibility of the Liability Convention without the necessity of amending it. Moreover, making the Claims Commission's decisions binding on a reciprocal basis would also be keeping in line with more recent developments in international law doctrine and particularly in international environmental law.⁶

In the present political and economic situation it should certainly be possible to reach this goal since Russia for example, succeeding the Soviet

⁴ Note verbale by the UN Secretary General dated of 14 July 1997.

⁵ These answers are compiled in UN Doc. A/AC.105/C.2/L.210 of 2 March 1998 and Add. 1 of 13 May 1998 and introduced by a historical overview of the five legal instruments and an analysis of the replies received by the Secretariat.

⁶ See the Statement of the International Law Association (ILA) representative *Karl-Heinz Böckstiegel* before the COPUOS Main Committee in June 1998 under agenda item 3 „General exchange of views“, reprinted in: ZLW (47,3) 1998.

Union, should no longer categorically object to accept the binding character of the Claims Commission's decision. Especially in the context of international cooperation with regard to the International Space Station it has to be taken into account that Russia will be cooperating with the USA and ESA Member States as well as Canada and Japan and such cooperation demands a considerable degree of legal security in case of disputes and dispute settlement not only for possible victims but for all partners involved. The importance of such a declaration by Russia also becomes clear when one keeps in mind that it is very likely that in the near future Russia will be responsible for a probably grave incident in the field of international space flight and debris production: The life-span of the Russian space station MIR has almost run out, and on the background of present technical knowledge there are no convincing plans as to its safe disposal or controlled re-entry into the Earth's atmosphere. In this light the binding character of the Claims Commission's decision becomes an even more relevant and urgent issue.

To accept the binding force of the Claims Commission's decision should also be considered by developing countries which might not even be involved in space activities but could be potential victims of accidents caused by space objects. If they possess huge territories the danger of becoming such a victim might be considerable, such as it is the case for e.g. Indonesia, Columbia, Chile, Argentina, or for large African States. With a declaration accepting the binding force of the Claims Commission's decision they would enhance their chance to be in a good negotiating position in case of an accident caused by another State in their country.

Since the „review item“ will *de facto* be on the agenda of the UNISPACE III Conference it would also in this context be a significant step to strengthen the Liability Convention in the above mentioned way without having to renegotiate or amend it. Even if no other improvements in the field of international space law could be reached during the time period until or during the Conference, it would already be a remarkable step forward in the development of international space law, if the Austrian initiative to strengthen the outer space liability regime could find a positive echo.

A second initiative with respect to the „review item“ was taken by twenty European States. For the first time in the history of the LSC, the Member States of the European Space Agency (ESA) presented a common working paper. They were completed by States from Southern and Central Eastern Europe, which have signed cooperation agreements with ESA (UN Doc. A/AC.105/C.2/L.211/Rev.1 of 30 March 1998; reproduced in the Annex to this paper). The

first part of this paper contains the status of the legal instruments concerning the States submitting the working paper in response to the request by the Secretary General. The second part suggests the set-up of an inventory of relevant legal texts for space activities, comprising numerous other sources of space law in addition to the five treaties and the five UNGA Resolutions. The LSC decided that such an inventory (not a collection of texts but a enumeration of relevant texts with information on where to find them) will be produced by the Secretariat with the assistance from delegations and also under consideration of already existing text collections. Such an inventory will help Member States of UNCOPUOS in particular in identifying areas of future work for the LSC.

3. The European Proposal for an Agenda Item „Improving the Registration Convention“

3.1. The content of the proposal

The European working paper contained a third part, which was introduced under the „review item“ but then transferred to the „Informal consultations on new items for the agenda“, since it made such a proposal for a new item. These informal consultations led in 1997 to seven proposals⁷, which were reviewed in 1998 with the following results: the Mexican proposal on the review of the status of the five outer space treaties had been implemented, the Argentine proposal on commercial aspects of space activities was not substantiated by a precise workplan, the Czech proposal on a review of existing norms of international law applicable to space debris was suspended in view of the work conducted in the Scientific and Technical Subcommittee, the Brazilian-Czech proposal on legal aspects of space debris was withdrawn, the Chilean proposal on a comparative review of the principles of international space law and international environmental law was not substantiated by a workplan, the Spanish proposal on a comparative study of the provisions of the law of the sea and international space law was withdrawn and the Greek proposal on a review of the sets of principles on direct broadcasting and remote sensing with the view to possibly transforming those texts into treaties in the future was suspended.

Therefore, the European proposal for a new agenda item „Improving the Registration Convention“ remained the only substantiated proposal for a new agenda item for the LSC since it contains a clearly defined goal (para. 10 of the working paper), precise objectives

⁷ See the Report of the Legal Subcommittee on the work of its thirty-sixth session (1-8 April 1997), UN Doc. A/AC.105/674 of 14 April 1997, paras.39 and 40.

(paras. 11 and 12) and a workplan (paras. 13 and 14). The intention of the European States to improve the Registration Convention is clearly spelled out in the five subparagraphs of para. 11 of the working paper: Taking into account the negligent practice of numerous States to register their space objects⁸, a time limit for furnishing required information (Art. IV.1 of the Registration Convention reads „as soon as practicable“) should be introduced. In addition to that, new elements of information should be introduced (in particular on the mass of a space object, which is an important factor in the case of re-entry prediction). Furthermore, the opportunity should be taken, while improving certain provisions of the Registration Convention to seek a clarification, whether the term „launching State“ still adequately covers all launching activities, including the latest developments in the field of launching technology and the privatization of this sector.⁹ In addition to that the agenda item should investigate questions related to international organizations when implementing the Registration Convention. Finally, three relevant Principles out of the set of Principles Relevant to the Use of Nuclear Power Sources in Outer Space of 1992 should be included into the envisaged supplement to the Registration Convention. This supplement would be the product of the deliberations in the three-year workplan, which would start in the year 2000 and foresees the participation of the Scientific and Technical Subcommittee as well in order to base any decisions of the LSC on firm ground.

The European proposal was generally well received. Not only the sheer number of co-sponsors – 20 States out of the membership of UNCOPUOS comprising 61 States – but also the precisely and clearly drafted text led to a positive and convincing presentation. Basic disagreement, however, was voiced by the Russian Federation, which countered with a „holistic approach“. This meant that not single treaties should be discussed because of interlinks between some of them but all the treaties should be discussed either in parallel or consecutively and only then changes or supplements could be adopted. The European working paper in para. 10 had already acknowledged that e.g. the clarification of the definition of „launching State“ would have an impact on the same definition in the Liability Convention and that a supplement to the Registration Convention in this respect should then expressly cover the definition of

„launching State“ wherever it appears again as well. The European States, however, explicitly did not want to discuss other treaties than the Registration Convention in such a way (with precise objectives for improvement and with a workplan) as laid down in the working paper. In particular the Outer Space Treaty and the Liability Convention should in their view not be examined in such a way, since the danger of softening these texts could then be high. In addition, such a „holistic approach“¹⁰ would lead to unfocused and time-consuming debates (possibly five consecutive three-year workplans) before any decision could be taken. The Russian Federation did not voice any objections against the objectives of the European proposal but remained on its conflicting position regarding methodology.

Since it was not possible to reach an agreement in the LSC (in addition to the Russian resistance, the United States had at that time not yet concluded their internal evaluation of the proposal), the discussion on the European proposal was taken up again in the session of the Main Committee in June 1998, „with a view to possibly reaching consensus“ as the LSC has determined.¹¹

Building on this mandate, Germany decisively led the negotiations at the Main Committee meeting in June 1998. It became, however, very soon clear that neither Russia nor the United States would accept the European proposal as it was. Russia insisted on its holistic approach and the United States delegation informed that it would in no case be able to agree on a new agenda item which would or could lead to the change or amendment of an international treaty. The reason for this negative attitude was that any result of the deliberations would then have to be put before the United States Senate - with hardly any chance for a positive consideration regardless the result of deliberations in UNCOPUOS.

3.2. The outcome of the negotiations

In order to achieve a compromise, the European package of proposals how to improve the Registration Convention was opened and the question of the adequacy of the concept of „launching State“ was singled out as the point to possibly agree upon. Further discussion on the other points (new elements of information for notification and incorporation of relevant parts of the NPS-Principles) was, for the time

⁸ See the detailed analysis by *Lubos Perek*, The 1976 Registration Convention, in: ZLW (47,3) 1998.

⁹ For an analysis of this question see *Armel Kerrest*, The Launch of Spacecraft From the Sea, in: *Gabriel Lafferrandier and Daphné Crowther (eds.): Outlook on Space Law over the Next 30 Years*, The Hague/London/Boston (Kluwer Law International) 1997, pp.217-233.

¹⁰ The Russian Federation presented its view in a working paper, UN Doc. A/AC.105/C.2/L.213 of 30 March 1998, which was published only after the formal consultations and therefore was not discussed in the LSC.

¹¹ See the Report of the Legal Subcommittee on the work of its thirty-seventh session (23-31 March 1998), UN Doc. A/AC.105/698 of 6 April 1998, para.72.

being, postponed. Having received the support of Russia, the European States had to go through intensive negotiations with the United States before a final agreement could be reached. While Europe suggested to immediately decide on a new agenda item with a three-year workplan (containing Analysis of the present situation, Consequences for existing space law and Recommendations) the United States were only ready to accept that in 2000 the two Subcommittees of UNCOPUOS will invite presentations of new launching systems and ventures. In addition to that it committed itself to participate in intersessional consultations before the 1999 session of the Legal Subcommittee with view of possibly reaching a consensus then on the introduction of a new agenda item in the Legal Subcommittee on that matter from 2000/2001. The German government will invite to such intersessional consultations in autumn 1998. Since this method of preparing decisions for UNCOPUOS and its Subcommittees is extremely rarely applied, this case demonstrates the sincere determination of the interested States to find a positive conclusion for that question.

For inclusion into the Report of UNCOPUOS of its 1998 session, this compromise received the following wording:

„Some delegations noted that there is a need to consider the adequacy of the concept of „launching State“ as contained in the Registration Convention and the Liability Convention. They proposed that the Legal Subcommittee consider this topic beginning in 2000 under a three-year workplan in a working group.

The view was expressed that more analysis in this area was required before agreement could be reached on a new item for the Legal Subcommittee dealing with this matter.

The Committee noted that intersessional consultations among these interested delegations would be welcome before the Legal Subcommittee session in 1999 in order to seek a consensus on this matter.

The Committee agreed that the Scientific and Technical Subcommittee and the Legal Subcommittee would invite special presentations on new launch systems and ventures at their sessions in 2000 with a view

to better understanding these launch activities.“¹²

With this compromise the prerequisites were set for the Legal Subcommittee to take up a specific legal problem for the first time since the adoption of the NPS-Principles in 1992. Regarding „Space Benefits“ as a mainly political question and the „review item“ as an approach for broadening the acceptance of the existing treaties, the presentations on new launching systems and ventures and the – as can be expected – subsequent establishment of an according agenda item will finally provide the Legal Subcommittee with a new significant focus for its activities.

Annex

Working paper submitted by Germany on behalf of Austria, Belgium, Czech Republic, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland (UN Doc. A/AC.105/C.2/L.211/Rev.1 of 30 March 1998)

Introduction

1. The States submitting the present working paper, i.e. the member States of the European Space Agency (ESA) and States having signed cooperation agreements with ESA, welcome the introduction of the agenda item entitled „Review of the status of the five international legal instruments governing outer space“. In the first part of this working paper, the signatories inform the Legal Subcommittee of the status of their accession to those legal instruments, pursuant to a request by the Secretary-General in his note verbale dated 14 July 1997. In the second part of this working paper, a proposal for drawing up an inventory of relevant legal texts by the Secretariat is made. In the third part of this working paper, the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, of 12 November 1974), which was opened for signature on 14 January 1975 and which entered into force on 15 September 1976, is identified as the legal instrument that could be improved further. To that end, a work plan on that subject is set out.

¹² This text will be included in Part D of the Report of the 41st session of COPUOS 1998.

I. Status of the Legal Instruments Concerning the States Submitting the Present Working Paper

2. The table below outlines the status of the legal instruments concerning the States submitting this working paper:

Status of the legal instruments concerning the States submitting the working paper:

Country	Outer Space Treaty ^a (1967)	Rescue Agreement ^b (1968)	Liability Convention ^c (1972)	Registration Convention ^d (1975)	Moon Agreement ^e (1979)
Austria	Ratified	Ratified	Ratified	Ratified	Ratified
Belgium	Ratified	Ratified	Ratified	Ratified	..
Czech Republic	Ratified	Ratified	Ratified	Ratified	..
Denmark	Ratified	Ratified	Ratified	Ratified	..
Finland	Ratified	Ratified	Ratified
France	Ratified	Ratified	Ratified	Ratified	Signed
Germany	Ratified	Ratified	Ratified	Ratified	..
Greece	Ratified	Ratified	Ratified	Signed	Signed
Hungary	Ratified	Ratified	Ratified	Ratified	..
Ireland	Ratified	Ratified	Ratified	Ratified	..
Italy	Ratified	Ratified	Ratified	f	..
Netherlands	Ratified	Ratified	Ratified	Ratified	Ratified
Norway	Ratified	Ratified	Ratified	Ratified	..
Poland	Ratified	Ratified	Ratified	Ratified	..
Portugal	..	Ratified
Romania	Ratified	Ratified	Ratified	..	Signed
Spain	Ratified	..	Ratified	Ratified	..
Sweden	Ratified	Ratified	Ratified	Ratified	..
Switzerland	Ratified	Ratified	Ratified	Ratified	..
United Kingdom	Ratified	Ratified	Ratified	Ratified	..

3. ESA has accepted the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex, of 19 December 1967), the Convention on International Liability for Damage Caused by Space Objects (Assembly Resolution 2777 (XXVI), annex, of 29

^a 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, of 19 December 1966).

^b Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex, of 19 December 1967).

^c Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex, of 29 November 1971).

^d Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, of 12 November 1974).

^e Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex, of 5 December 1979).

^f Procedure in progress.

November 1971) and the Registration Convention.

II. Inventory of Relevant Legal Texts

4. Since the entry into force of the Outer Space Treaty on 10 October 1967, the body of law governing space and space activities has considerably developed, to a great extent outside the Committee on the Peaceful Uses of Outer Space and without its Legal Subcommittee being involved. In consequence, space law as a whole has become fragmented, difficult to grasp and, in some areas, of doubtful coherence. -Are the new developments consistent with the United Nations treaty law? Has the primary law been taken into account and, if so, how?

5. These new developments demonstrate the necessity and vitality of space law in general and the efforts it is making to produce imaginative practical solutions corresponding as closely as possible to evolving realities. The Committee, supported by its Legal Subcommittee in particular, is in a manner of speaking the custodian of this primary law, the roots of the tree, while remaining attentive to potential needs arising as space activities evolve.

6. The sources of space law have multiplied:

- Texts are adopted or considered under the auspices of other universal international organizations, such as the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the International Civil Aviation Organization, the International Telecommunication Union, the World Meteorological Organization and the World Intellectual Property Organization;
- In the context of the Conference on Disarmament;
- Specific international organizations that have been set up also draw up texts (the International Telecommunications Satellite Organization (INTELSAT), the International Mobile Satellite Organization (Inmarsat), ESA, the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), the European Telecommunications Satellite Organization (EUTELSAT), the Arab Satellite Communications Organization (ARABSAT), the International Organization of Space Communications (INTERSPUTNIK) etc.);
- Non-governmental organizations (the Committee on Space Research (COSPAR) etc.);
- International cooperation, a very significant factor, also generates bilateral or multilateral legal texts that are of interest (e.g. the intergovernmental agreement on the international space station and the memoranda of understanding for its implementation; the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques; access to and use of Earth observation satellites, scientific satellites etc.);
- The International Institute for the Unification of Private Law (Unidroit) conference and its draft for a future convention on international guarantees, with provisions relevant to satellites.

7. Also to be borne in mind are the legislation (directives and regulations) adopted by the European Union (on telecommunications, patents and copyright), national legislation, and contracts on various relevant subjects (launch services, insurance etc.).

8. An overview of the law in existence has become difficult, but is nevertheless essential. It is accordingly proposed that the Secretariat be instructed, at the thirty-seventh session of the Legal Subcommittee, in 1998, to draw up an inventory, a list of the texts in existence and where to find them, as a working document for the Member States. Such a document would be most useful to the Legal Subcommittee in its work.

9. In order to carry out this task, the Secretariat would need active assistance from delegations, also under consideration of already existing text collections. The resulting inventory could be put on CD-ROM and incorporated into the existing databases on space law, so that it would also be useful for research. It would of course be updated regularly.

III. Improving the Registration Convention

10. The States submitting the present working paper regard the Registration Convention as an important legal instrument and recognize its close relation with the Outer Space Treaty and the Liability Convention. They do not seek in any way to change the text of the Registration Convention itself but to clarify and possibly supplement the Registration Convention with texts reflecting experience with the Convention and new technological and legal developments.

11. Five topics should be discussed in the context of an improvement of the Registration Convention:

- (a) Article IV, paragraph 1, of the Registration Convention requires States of registry to furnish information to the Secretary-General of the United Nations concerning each space object carried on its registry "as soon as practicable". The aim should be to introduce a time limit for furnishing the required information;
- (b) Article IV, paragraph 1, of the Registration Convention sets out the single pieces of information concerning the space objects launched. This information should be extended, to include, for example, information on the mass of the space object;
- (c) Article I of the Registration Convention defines the term "launching State" following article I of the Liability Convention. New developments in the field of launching technology and the privatization of this sector could lead to the conclusion that this definition is not sufficient. Therefore, on the basis of a technical review in the Scientific and Technical Subcommittee—which should also be conducted for the topic listed in subparagraph (b) above, before a discussion begins in the Legal Subcommittee—it should be investigated whether the definition of the term "launching State" still adequately covers all launching activities;

(d) In order to explore each entity linked with the launching activities, it is suggested that the Legal Subcommittee should proceed with an analysis of potential questions related to international organizations when implementing the Registration Convention;

(e) In order to strengthen the status of certain parts of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, adopted by the General Assembly in its resolution 47/68 of 14 December 1992, which are related to the Registration Convention in the sense that they enable States to obtain relevant information in the event that a space object is malfunctioning with the risk of re-entry of radioactive materials to Earth or in case of an accident, the following principles should be included into the supplement to the Registration Convention: principles 5 (Notification of re-entry), 6 (Consultations) and 7 (Assistance to States).

12. All results, which would be agreed upon in the Committee on the Peaceful Uses of Outer Space, should be adopted by the General Assembly in resolutions and eventually be transformed into international law as a supplementary international legal instrument to the Registration Convention, ratified by all States.

13. As for a work plan on that subject, the following three-year plan is proposed:

First year:

- Scientific and Technical Subcommittee
 - New elements of information for notification
 - New technical concepts for launching (e.g. from platforms on the high sea)
- Legal Subcommittee
 - Article IV, paragraph 1, time limit for "as soon as practicable"

Second year:

- Scientific and Technical Subcommittee
 - Finalizing discussion on the two technical points
- Legal Subcommittee
 - Incorporation of the relevant parts of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space
 - Status of international organizations

Third year:

- Legal Subcommittee
 - New elements of information for notification
 - New technical concepts for launching (clarification of "launching State")
 - Finalization of a draft supplementary international legal instrument

14. The work plan should start at the thirty-ninth session of the Legal Subcommittee, in the year 2000, under a separate agenda item dealt with through a working group. In the Scientific and Technical Subcommittee, the work should accordingly start at the thirty-seventh session, in the year 2000.

* In particular, Stephen Gorove, ed., *United States Space Law: National and International Regulation* (New York: Oceana Publishers, 1982) and Karl-Heinz Böckstiegel and Marietta Benkő, eds., *Space Law: Basic Legal Documents* (Dordrecht/Boston/London: Martinus Nijhoff Publishers, 1988).

* ESA will undertake, at the invitation of its member States and in liaison with other interested organizations, an analysis of the rights and obligations of international organizations conducting space activities with respect to the five international legal instruments governing outer space.