

A new impetus for space law making: The 1999 reform of UNCOPUOS and how it works

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Abstract

Following UNISPACE III 1999, the UN system will play an even more prominent role in shaping space applications, policies and regulations in the new century. This prospect was at risk, because activities in the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) had almost come to a standstill during the 90s. The agendas of the two subcommittees, the Scientific and Technical Subcommittee (STSC) and the Legal Subcommittee (LSC), had become frozen and only a few new items were selected for consideration. The reason for the delegations' reluctance was that agenda items - in particular in the LSC - only had two destinies: either to be finalized through a far reaching policy decision or a legal text or, if that did not happen, to remain on the agenda forever and become a political nuisance. Delegations therefore thought twice before accepting any new item.

In view of UNISPACE III 1999, however, Member States realized that through this conference a particular pressure would be created to take up new urgent issues in the two subcommittees. In this situation, Europe took the initiative during the 1999 session period of UNCOPUOS to reform the agendas as well as the agenda setting process, building on the previous introduction of workplans. Two respective initiatives led by Germany were immediately successful in giving the two subcommittees a new shape and providing them with the chance to take up new subjects more easily and work with them in a more flexible way.

This paper describes the new agenda structure and agenda setting process for the UNCOPUOS

subcommittees and how this worked during the 2000 session period. It evaluates whether UNCOPUOS is actually ready to play the envisaged prominent role in shaping space activities in the new century. It also points out, how IISL could play a new more creative role in UNCOPUOS. Since this is the primary forum for the development of space law, its efficient and responsive method of work is crucial for any approach to make space law adequate for the challenges of the 21st century.

1. The role of UNCOPUOS

The United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) is a central policy- and law-making forum on the global level. It can take up for consideration virtually every issue which is related to international space activities. This is due to its immensely broad mandate, provided by the UN General Assembly in 1959, when it received a permanent status after having started to operate as an ad hoc Committee in 1958¹. This mandate comprises:

- (1) to review, as appropriate, the area of international co-operation, and to study the practical and feasible means for giving effect to programs in the peaceful uses of outer space which could appropriately be undertaken under United Nations' auspices, including inter alia:
 - (a) assistance for the continuation on a permanent basis of the research of outer space carried out within the framework of the International Geophysical Year which had been announced by

¹ The two relevant UNGA Resolutions are 1348 (XVIII) of 13 December 1958 and 1472 (XIV) of 12 December 1959.

- the Council of Scientific Unions already in 1957/58;
 - (b) organization of the mutual exchange and dissemination of information on outer space research;
 - (c) encouragement of national research programs for the study of outer space, and the rendering of all possible assistance and help towards their realization;
- (2) to study the nature of legal problems which may arise from the exploration of outer space.

The mandate covers international cooperation in general, the initiation and supervision of any space-related activity of the UN in particular and also the regulatory part of space activities, the creation of space law. Based on that, UNCOPUOS since 1962 organized its work in two subcommittees, the Scientific and Technical Subcommittee (STSC) meeting in February and the Legal Subcommittee (LSC) meeting in March or April, which report to the Main Committee (COPUOS), which decides on proposals made by the two subcommittees and sets the work program for the following year.

Up to now every meeting of these organs covers two weeks, summing a UNCOPUOS session period to around six weeks. As an organ of the UN General Assembly, the Committee has to report to this highest body of the UN. The UNCOPUOS report is first discussed in a committee of the UNGA, today this is the Special Political and Decolonization Committee (Fourth Committee), before the UNGA, usually in December, decides on the report and adopts a resolution endorsing the work done by UNCOPUOS and setting its work plan for the next year. If UNCOPUOS has elaborated a legal text, this text is adopted separately as a UNGA Resolution.

2. The working methods

The most important working mechanism of UNCOPUOS is the application of the "consensus principle." This means that discussions are led until no delegation disagrees any more. If disagreement still exists, no further action and also no vote is taken. This prevented the dominance of majority voting over a consensual search for solutions. Such a method is particularly worthy for an area where abiding to regulations cannot be forced upon the "haves" by a great number of "have-nots." This leads to another important feature of UNCOPUOS. This Committee has no sanctioning power. If Member States do not abide by the rules which emanated from the Committee, this body cannot enact any sanctioning mechanisms. If international law is broken, the

way to the International Court of Justice of course is open to any State, but it has to be clear that UNCOPUOS does not embody a supranational institution. Although States are the members of UNCOPUOS, they can only try to achieve their decisions by accommodating every interest in order to make them work.

The fact that States are the members of UNCOPUOS, and not scientists or non-governmental institutions (which can become observers), does give prominence to this Committee, but also limits its interpidity in taking up issues and discussing them absolutely openly. When States act and negotiate, this is done with particular caution, since these States will then be bound to their decisions in a profound way which does not exist when, for example, a Memorandum of Understanding between two space agencies is signed, but later might have to be renounced by one party. This responsibility of the States, members to UNCOPUOS – currently there are 61, a fairly good representation from space powers and developing countries, elected by the UNGA with equitable regional representation - makes this Committee the single standing body to develop global regulations. But responsibility can also turn into shyness and fear of taking responsibility, particularly in times of basic political conflict.

3. Stagnation during the 90s

This happened particularly during the late 70s and all of the 80s. It was a time when global conflicts raged between North and South, which only came to an end with the "Space Benefits Declaration" of 1996. Whereas during only ten years the basic treaties constituting so far the core of space law, the Outer Space Treaty of 1967, the Rescue Agreement of 1968, the Liability Convention of 1972 and the Registration Convention of 1976 had been worked out by the LSC, the following years were characterized by the failure of the Moon Agreement and the DBS Principles, and only the adoption of the Remote Sensing Principles in 1986 and of the Principles on the Use of Nuclear Power Sources (NPS) in 1992 stand out as successes.

Even worse than the law-making process, which was slow to take up newly emerging issues, work in the STSC almost stopped during that phase. In the cases of the Remote Sensing and the NPS Principles the two subcommittees worked together fairly well, with the STSC providing the scientific and technical background and input for the deliberations in the LSC, which took more and more time to reach a solution – far more than a decade in the case of the NPS principles. But

almost no single initiative on international cooperation or the shaping of the UN Programme on Space Applications (UNPSA) came from STSC.

One of the working mechanisms of UNCOPUOS increased the reluctance of the Member States to be more active in UNCOPUOS, and also was a tool to prevent UNCOPUOS from being more active. It was the agenda structure and the agenda-setting process. In the STSC, the agenda had been remodeled following UNISPACE II. It comprised more than ten items covering the most important fields of space activities. Such topics as space transportation, remote sensing, astronomy and planetary research were introduced as agenda items with the hope of discussing there the ideas and recommendations emanating from UNISPACE II.

But it turned out that these items became a rather dull forum for the presentations of national achievements by Member States, where pre-prepared statements were simply read out and virtually no dialogue occurred. The disinterest in dialogue was additionally supported by the way meetings of the Committee were conducted. In the cases of these items, it was advance inscription in a list of speakers, which was followed precisely. So, if a question or a discussion was considered to be necessary or desirable, it could only be addressed after all the presentations had been given. Only in the rarest cases were working groups established in the STSC for particular subjects, which provided a chance for more open dialogue.

In that way the agenda of the STSC became an impediment for real interaction, but during the difficult years of political conflict this was not seen as such a disadvantage by numerous States. The agenda of the LSC was however faced with a different but even more dire fate. The Member States simply did not dare any more to accept new items for the agenda. This happened out of fear that such items could produce such a dynamism that even the consensus principle would not be an ultimate tool for restriction, and a regulation detrimental to the respective interests of Member States would be enacted. The Moon Agreement and the DBS Principles always loomed high in the back of everybody's mind.

So it turned out that, following the adoption of the NPS Principles in 1992, the LSC continued to have on its agenda an item which had been discussed without any success since the 60s, the question of delimitation of air space and outer space, combined with a discussion on the status of the GSO. And another item, a discussion on "Space Benefits" - a political rather than a legal question - was conducted at that time without any idea of where to

lead it. Such was the agenda for a two to three weeks session of LSC. Later a new agenda item on the status of the outer space treaties was accepted. But this item simply tried to find out why many States have not yet ratified the outer space treaties. This subject was not a really forward looking one either, lacking creative law-making perspectives. So, the agenda of the LSC virtually dried out, with nothing substantial to discuss.

4. Opening the door: the introduction of "work plans"

In that situation, which left even those Member States uneasy which had the least interest in a well working UNCOPUOS, a small step was taken which turned out to become a major door-opener. First in the STSC, later in the LSC, so called work plans were introduced. For UNCOPUOS this meant that issues would only be accepted as agenda items if they were structured into (normally) three-year steps, with a clear indication of what was to be discussed at each session and what the result should look like. The main idea behind this new working method was, however, not to stimulate the work in UNCOPUOS, but rather to control the discussion process of issues and their possible outcome.

This becomes clear when the subject is named for which this working method was modeled and first applied. It was the discussion on space debris. Having been requested as an official agenda item in the STSC by European as well as developing countries, the US resisted for many years, because they feared future regulation detrimental to its interests. But when even the US was no longer able to refuse, the agreement was to clearly define a work plan as well as the prospective result, in order not to exceed what might be acceptable. The first case in the LSC concerned an item on the review of the status of the outer space treaties, a rather innocent subject. These two items have been the only ones during the past five years to have become new agenda items in the two subcommittees and be executed more or less successfully. Although the space debris work plan was finalized with an excellent report in 1999,² the subject is still retained on the agenda of the STSC on a year-by-year basis, while a treatment in the LSC still has to wait. The work plan on the status of the treaties will be finalized in 2000, and aside from stimulating another agenda item, the question of the legal concept of "launching State," which will

² Technical Report on Space Debris, UN Doc. A/AC.105/720 of 1999.

start to be discussed in 2000, it will not have great effects.

Even if the first result of applying the concept of work plans was not immediately a breakthrough, it showed that UNCOPUOS would not be destined to become superfluous and wither away due to the inability of its Member States to find the courage to take up new issues as agenda items. There was just one additional factor missing in order to set UNCOPUOS on a completely new footing. And this factor was, not surprisingly, UNISPACE III.

5. The new agenda structure

UNISPACE III was expected to identify numerous subjects which would require further discussion. And holding a conference like UNISPACE III and then remaining inactive would have been a most serious sign, not of smart political tactics but of complete incapacity to do the promised and diplomatic job handed to the Member States in the mandate of UNCOPUOS. But holding UNISPACE III alone was not enough to let a solution automatically appear. It required creative leadership. And surprisingly the initiative originated with the US delegation, which had until then been forced by national policies of anti-UN-ism to very reluctantly act in UNCOPUOS, quite contrary to its status of dominating space power. Just before the 1999 session period the US distributed a nonpaper concerning the working methods of LSC. There they cautiously indicated that they would possibly overcome their strict stance.

What they did not expect was that Germany would seize that shy hint and produce a complete renovation of the agendas and the agenda-setting process of the two subcommittees in one single session period. Supported by different groups of countries, Germany presented during the 1999 sessions of the STSC and the LSC proposals to completely reshape their agendas.³ It was a small wonder, but these proposals were adopted at the Main Committee meeting of UNCOPUOS which took place during a three-day period preceding

³ For the STSC see the working paper presented by Germany on behalf of Austria, Canada, China, the Czech Republic, France, Greece, Hungary, Italy, Japan, Morocco, Romania, the Russian Federation, Spain, Sweden, Turkey, the United Kingdom and the United States, UN Doc. A/AC.105/C.1/L.227 of 25 February 1999. For the LSC see the working paper presented by Germany on behalf of Austria, Canada, France, Greece, India, the Netherlands, Sweden and the United States, UN Doc. A/AC.105/C.2/L.217 and Corr.1 of 3 March 1999.

UNISPACE III. Thus, UNCOPUOS was able, with a tremendous exertion, to make itself ready to deal appropriately with the results of this conference.

The main features of the two agendas of the subcommittees are the following. Both will have three categories of items. The standing items deal with basic work to be done by the subcommittees. In the case of STSC this is the UNPSA together with the relevant activities in the specialized agencies of the UN system following UNISPACE III. In the case of the LSC these are the status of the outer space treaties and a look at what other international organizations do in that field. The second category will be the work plans as they had already been introduced. They will constitute the core of the work in the subcommittees, hopefully producing the expected result-oriented work. The third category will be single issues/items for discussion. They should ease the fear of delegations that an item on the agenda might remain there forever, even if no progress is possible. They will constitute the forum for exploratory debates and constitute a fund of future items to be covered under a result-oriented work plan. And in order to keep expectations for fuller and richer agendas continuously high, every session will close with a discussion of future items for these two categories.

In 1999 UNCOPUOS adopted the new agenda structure for STSC for the two year period of 2000 - 2001. The implementation of the new concept was laid down in the following way:⁴

"Items to be included in the draft provisional agenda of the Scientific and Technical Subcommittee at its thirty-seventh session, in 2000:

1. General exchange of views and introduction to reports submitted on national activities.

2. The United Nations Programme on Space Applications and the coordination of space activities within the United Nations system following the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III).

3. Matters relating to remote sensing of the Earth by satellites, including applications for developing countries and monitoring of the Earth's environment.

4. Agenda items considered under work plans:

Use of nuclear power sources in outer space:

First year of the work plan: identification of terrestrial processes and technical standards that may be relevant to nuclear power sources, including factors that distinguish nuclear power sources in outer space from terrestrial nuclear applications.

5. Single issues/items for discussion:

(a) International cooperation in human spaceflight;

(b) Presentations on new launch systems and ventures;

⁴ See the Report of the Committee on the Peaceful Uses of Outer Space 1999, UN Doc. A/54/20, Annex I A.

(c) Space debris:

Subject for 2000: review of international application of the International Telecommunication Union (ITU) standards and recommendations of the Inter-Agency Space Debris Coordination Committee concerning the disposal of satellites in geosynchronous orbit at the end of their useful life. The area of focus should be expanded to include the disposal of upper stages used to achieve geosynchronous orbits and debris issues associated with geosynchronous transfer orbits;

(d) Examination of the physical nature and technical attributes of the geostationary orbit and of its utilization and applications, including in the field of space communications, as well as other questions relating to developments in space communications, taking particular account of the needs and interests of developing countries.

6. Draft provisional agenda of the Scientific and Technical Subcommittee at its thirty-eighth session, in 2001, including identification of subjects to be dealt with as single issues/items for discussion or under multi-year work plans (based primarily on the results of UNISPACE III).

7. Report to the Committee on Peaceful Uses of Outer Space.

"Items to be included in the draft provisional agenda of the Scientific and Technical Subcommittee at its thirty-eighth session, in 2001:

1. General exchange of views and introduction to reports submitted on national activities.

2. The United Nations Programme on Space Applications and the coordination of space activities within the United Nations system following the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III).

3. Matters relating to remote sensing of the Earth by satellites, including applications for developing countries and monitoring of the Earth's environment.

4. Agenda items considered under work plans:

(a) Use of nuclear power sources in outer space:

Second year of the work plan: review of national and international processes, proposals and standards and national working papers relevant to the launch and peaceful use of nuclear power sources in outer space;

(b) Subjects to be agreed upon in 2000 (first year of the work plans).

5. Single issues/items for discussion:

(a) Space debris: Subject for 2001 to be agreed upon;

(b) Examination of the physical nature and technical attributes of the geostationary orbit and its utilization and applications, including in the field of space communications, as well as other questions relating to developments in space communications, taking particular account of the needs and interests of developing countries;

(c) Other issues to be agreed upon in 2000.

6. Draft provisional agenda of the Scientific and Technical Subcommittee at its thirty-ninth session, in 2002, including identification of subjects to be

dealt with as single issues/items for discussion or under multi-year work plans.

7. Report of the Committee on the Peaceful Uses of Outer Space."

The new agenda of the LSC⁵ was introduced by an explanatory note, which reads:

"2. Following the discussions on revising the agenda of the Scientific and Technical Subcommittee, with the presentation of a working paper on the subject (A/AC.105/C.1/L.227), the decision that follows on a revised agenda is intended to revitalize discussion in the Legal Subcommittee by providing the opportunity for expanded substantive discussions of legal issues affecting the conduct of space activities. Those discussions would be for the purpose of exploring the nature and scope of such issues, without any implication that the outcome of the discussion would necessarily lead to the development of legal principles or standards. Consistent with that approach, the revised agenda also affirms and revitalizes the role of the Committee on the Peaceful Uses of Outer Space in directing the work of its Legal Subcommittee, by providing a clear mechanism for the Committee to instruct the Legal Subcommittee and by creating a structured agenda.

3. The Committee on the Peaceful Uses of Outer Space decides as follows:

(a) The agenda of the Legal Subcommittee shall have the following structure:

(i) *Regular items*, including General exchange of views, Status of the outer space treaties (to provide an opportunity for reports on any additional signature or ratification as well as application of the treaties), Information on space law-related activities of international organizations and the item related to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit;

(ii) *Single issues/items for discussion*, which are decided upon the preceding year and which are discussed only for one year in the plenary unless renewed;

(iii) *Agenda items considered under a multi-year work plan and discussed in working groups*. The items under such work plans should have been discussed as single issues before;

(iv) *Future issues to be dealt with in the Legal Subcommittee*. Under this item issues can be proposed for consideration either as single issues/items for discussion or as items considered under a work plan: the main Committee will then decide on the inclusion of such new items in the agenda of the Legal Subcommittee;"

Building on that, the agenda for the year 2000 was set as follows:

"(i) Regular items

1. General exchange of views.

2. Status of the outer space treaties.

⁵ See the Report of the Committee on the Peaceful Uses of Outer Space 1999, UN Doc. A/54/20, Annex I B.

3. Information on space law-related activities of international organizations.

4. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

(ii) Single issues/items for discussion

5. Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

(iii) Agenda items considered under work plans

6. Review of the status of the five international legal instruments governing outer space (third year of the work plan).

7. Review of the concept of the "launching State": First year of the work plan: special presentations on new launch systems and ventures.

(iv) New items

8. Proposals by the Legal Subcommittee to the Committee on the Peaceful Uses of Outer Space for new items as single issues/items for discussion or to be considered under work plans."

The instruments for a revitalization of UNCOPUOS have been provided through these new agenda structures of the two subcommittees. But the question was asked: will it work? One crucial factor will be the coordination of work done in UNCOPUOS with other international organizations, be they governmental or nongovernmental. These organizations, like CEOS, IADC, SAF, ISU or IISL, having been created to deal with single issues like remote sensing, space debris, education or space law should gain influence in shaping the work of UNCOPUOS. IADC already did so in the case of space debris, as can be seen by the high quality of the result achieved. These organizations should not only actively participate in the scientific-technical preparation of issues. They should also be taken into account when it comes to the implementation of regulations or the refinement of broader framework regulations adopted in the LSC. UNCOPUOS does not have the resources to permanently follow-up the issues it has tackled and brought to some conclusion. Specialized international organizations are the right place to do that in an efficient and effective way.

In the end, it will completely depend on the will of the Member States to accept the opportunities provided by the new agenda structures of the subcommittees for tackling new important issues. UNISPACE III has produced a wealth of those, fit to be discussed among the representatives of States (and not only among scientific experts). They wait to be dealt with.

6. Possible new issues for UNCOPUOS emanating from UNISPACE III

Issues, which could be taken up under the new agenda regime in the two subcommittees of UNCOPUOS are abundant. UNISPACE III has identified a comprehensive list of issues, from which numerous are fit to be dealt with as single issues or work plans (others will be dealt with in other international organizations like CEOS or WMO or by Member States). In particular the Vienna Declaration does not only contain an abstract "nucleus of a strategy to address global challenges in the future." It contains, if read with a view to who should do what and where should that be done, a whole work program for UNCOPUOS for at least the next decade. This mainly concerns issues for the STSC, i.a. disaster management, public health, tele-education, training, basic space science the identification of new funding sources or the observation of near-earth objects.

Possible issues for the LSC are not expressly contained in the "Vienna Declaration" but mainly in the UNISPACE III Report under paras. 366 to 376 referring strongly to the results of the "Conclusions and proposals of the Workshop on Space Law in the Twenty-First Century, organized by the IISL"⁶, which took place at the UNISPACE III Technical Forum.

This kind of official action list contained in the UNISPACE III Report comprises proposals which have already been made in the LSC and others, which have been developed during UNISPACE III itself. To name some of the most prominent: various aspects of space debris, legal issues regarding low-earth orbits, dispute settlement, legal aspects of global navigation services, commercial aspects of space activities, review of the DBS and remote sensing principles, public private partnership and national space legislation.

LSC has now the task to identify and agree on issues, which would be dealt with under the new agenda regime as either single issues or work plans. An important role in this process could be played by IISL. With a newly shaped mission to directly improve the quality of the law-making process in international fora it could use its IISL/ECSL annual Symposia to focus on subjects, which should be dealt with in the LSC and already lead the discussion to a full-fledged proposal for the content and shape of an agenda item. In the case of its implementation, IISL could furthermore promote the process of negotiating the issue by

⁶ See the Report of UNISPACE III, UN Doc. A/CONF.184/6, Annex III, No. XI.

issuing a position paper, prepared by a group of interested IISL members and endorsed by the IISL Colloquium and Board. This would be a most welcome input to the work of the LSC and, at the same time, would perfectly fit into the overall policy of UNCOPUOS to stronger rely on the expertise of international governmental or non-governmental organizations.

7. The 2000 session period of UNCOPUOS: First experiences - mixed results

The implementation of the new agenda structure during the 2000 session period of UNCOPUOS worked very well for the two subcommittees. Meeting time in particular in the STSC was focused on discussions and not so much spent on long pre-prepared information statements by delegations. In the LSC, where the work plan model has already been tested successfully, the first round of the work plan on "Review of the concept of the 'launching State'" was implemented as foreseen.

Decisive, however, was how the agenda setting process would work. And here, the STSC was extremely courageous in taking up the possibilities given by the new agenda structure. Two three-year work plans were adopted for the period of 2001-2003, the one dealing with "Means and mechanisms for strengthening inter-agency cooperation and increasing the use of space applications within the UN system and among UN specialized agencies", the other on "Implementation of an integrated, space-based global natural disaster management system". In addition to that, a single issue item on "Government and private activities to promote education in space science and engineering" was introduced rising the number of single issue to three (besides the GSO and space debris).⁷

The LSC was more reluctant in embracing the chances posed by the new agenda structure.⁸ During its session it was only able to streamline the topic on delimitation/GSO in that the status of the GSO should furtheron not be discussed in a working group any more. The introduction of the new standing item on space law related activities of

international organization saw some interesting presentations by such organizations.⁹ Although no immediate action resulted from this, the idea behind that item - to avoid law-making on the status of outer space disregarding the competence of UNCOPUOS like the ITU did, when in 1998 modifying Art. 44 of its Constitution by attaching not only to the GSO but to all orbits the status of limited natural resource - was demonstrated.

But the LSC failed to introduce new work plans or single issues. It, however, proposed to COPUOS to decide on the question of whether or not to put the "UNIDROIT draft convention on international interests with its draft protocol on space thereto on matters specific to space property" as a single issue on the 2001 agenda. In addition to that the proposal to discuss legal aspects of commercial space activities as a single issue was regarded to be too broad.

This last point made clear the overall problem the LSC has with the shift in the main focus of future space law making. The rise of commercial, private space activities characterizes the advent of a new, third era of space law making following the build-up of the basis of space law through the treaties and the second phase of developing sets of principles for certain space applications (this phase will further be developed i.a. through dealing with the topic of space debris). How to deal with the multi-faceted subject of commercialization and privatization is not yet clear. Composed of numerous single questions, different approaches from a comprehensive tackling to a set of single topics is possible. Therefore, the LSC is currently reluctant in taking one specific path in order to avoid a wrong start. In fact, the subject of the "Review of the legal concept of the 'launching State'" has already to be regarded as a first single topic out of the set of problems surfacing in the context of privatization.

In this situation, COPUOS decided in its 2000 session only to add the consideration of the UNIDROIT draft convention as a single issue for 2001 with the aim of checking, whether its provisions are in line with the space law developed in UNCOPUOS. COPUOS also saw a renewed debate on a proposal, which had not succeeded during the session of the LSC. It was the proposal of the Russian Federation to think about drafting one comprehensive space convention (like the law of the sea) encompassing the existing space law as contained in different agreements. This proposal,

⁷ See the Report of the Scientific and Technical Subcommittee on its thirty-seventh session, UN Doc. A/AC.105/736 of 25 February 2000, Annex II B. In particular the issue on disaster management could also have legal implications when it comes to questions of data provision etc.

⁸ See the Report of the Legal Subcommittee on its thirty-ninth session, UN Doc. A/AC.105/738 of 20 April 2000, paras. 91-114

⁹ They are contained in UN Doc. A/AC.105/C.2/2000/CRP.4 of 22 March 2000.

co-sponsored by Bulgaria and China¹⁰ aimed at setting a single issue item for LSC entitled "Discussion of the appropriateness and desirability of drafting a universal comprehensive convention on international space law". It was supported by many other delegations but failed due to the resistance of the US.

With this proposal, which was inspired by the debate on the European proposal to improve the Registration Convention two years ago, when the Russian delegation argued for a "holistic approach" when envisaging changes in single treaties, of course might not be implemented in a short timeframe. Drafting such a new comprehensive convention would take possibly a decade, and the process would certainly put high pressure on principles the non-appropriation or unlimited liability. But at least a discussion on the pros and cons of such a proposal should be possible in the LSC.

The new agenda structure does provide the necessary means for that. The topic could be dealt with as a single issue and would only be followed-up under a consensus. Negating the chance to have at least a non-committing look on this subject shows that confidence in the new agenda structure is still low with some delegations. Future practice will however eventually demonstrate its merits.

8. A future role of industry in UNCOPUOS

UNISPACE III was also intended to proclaim a new partnership of the UN system with industry. During the conference, industry was represented in some Member States' delegations, organized workshops and contributed most of the exhibition. In the Vienna Declaration industry is addressed and asked to participate in UNPSA (I.e.ii). Industry will not thereby become a development aid organization, but might, through its contribution to workshops or training courses, gain hold of a good marketing instrument. Carefully applied, such cooperation could benefit all parties involved. In order to discuss the prospects, industry will in the future be invited to one-day round tables during the STSC.

Industry will and should, however, not become an actor on its own in UNCOPUOS (like it already is with great success in ITU), even if Member States discuss regulations directly affecting commercial activities, as will certainly be more and more often the case in the future. The deadlock over the regulation of space debris has its roots in exactly

that problem, in that any rules would change the launch market structure.

On the other hand, industry has already begun to get involved on an ad hoc basis in the work of the committee. In the legal field, this happened for the first time during this year's first phase of the work plan on the "Review of the concept of the 'launching State'", when companies participated in the special presentations on low launch systems and ventures (such presentations had also been scheduled for the STSC). Of course, their appearance happened under the supervision of the respective Member State, but they spoke in an open and transparent way about their interests and concerns. This could be regarded as a model for interaction with industry also in the legal field.

UNOOSA and the Member States in UNCOPUOS have realized that ignoring the now bigger part of space activities, i.e., the commercial and private domain, would be detrimental to the aim of utilizing space technologies for sustainable development. Industry should be integrated in the respective strategies.¹¹ Enlightened self-interest should guide industry, when it receives the chance to develop future markets. UNOOSA and the Member States will certainly be attentive and careful to provide fair chances to every interested company. But as it is the case with all areas newly opened up: the pioneer, ready to invest early in a mutually fruitful way, might have the highest benefit in the long term.

¹¹ In its Plan of Action on UNISPACE III implementation contained in UN Doc. A/AC.105/L.224, para. 28 of 18 May 2000, UNOOSA makes various proposals for establishing and strengthening the partnership with industry. During the COPUOS session, Canada and the United States proposed to integrate non-governmental entities (i.e. specialized NGOs like IAF and AIAA as well as industry) in the follow-up and implementation process of UNISPACE III. This proposal, contained in UN Doc. A/AC.105/L.226 of 8 June 2000 was generally welcomed but still reservations by delegations exist, whether such a move would change the status and mission of UNCOPUOS as an inter-governmental decision-making body.

¹⁰ UN Doc. A/AC.105/L.228 of 13 June 2000.