

(Mr. Wegener, Federal Republic of Germany)

illustrates an important, indeed central, problem of the search for a modern outer space legal order: while the prohibition of other weapons by way of a comprehensive agreement is, and remains, highly desirable, the proliferation of weapon systems that are not initially directed against satellites -- for instance ICBM and ABM weapons -- and of other outer space systems -- space shuttles, platforms, space stations -- that have inherent ASAT capabilities, not to speak of the possibility that satellites could be destroyed inadvertently by collision with other space objects, make it exceedingly difficult, if not impossible, to solve the problem of an adequate protection of satellites merely or essentially by norms that would prohibit all relevant or even specific weapons configurations; and one arrives at this view even before the formidable problems of verification are taken into account.

Yet the problem cannot be left unattended in view of the essential stabilizing function of satellites and their contribution to the enhancement of modern civilian life on Earth, especially given the extreme vulnerability of satellites.

Under the existing legal system there is no basis for the view that the premeditated development of space-based ASAT weapons, or their components, or even their stationing would already, by itself, constitute a violation of law, especially a violation of the Outer Space Treaty. There are no explicit norms to support such a conclusion. If they did exist, there would have been no reason for the United States and the Soviet Union to have concluded specific agreements on non-interference with national technical means in the SALT context; nor would there have been any reason for the initiation of specific ASAT negotiations, nor for the repeated appeals by the Outer Space Committee of the United Nations to the space Powers to resume negotiations to this effect. All these regulatory efforts would have been superfluous, if in the perception of States involved the United Nations Charter and the Outer Space Treaty would by themselves prohibit ASAT weapons or their utilization.

The inference is clear: if we must assume that the existing outer space legal régime does not offer sufficient protection of satellites and if, on the other hand, the multitude of weapons systems or other outer space bodies that could directly or indirectly be given an ASAT function could not, -- or not sufficiently -- be tackled with prohibitory norms alone, then, in the spirit of the Final Document, one must look for "further measures". In this perspective it would appear logical that the solution to the problem lies not in the search for additional prohibitive norms -- ultimately unsuitable to deal with current and emerging threats -- but in the search for a special protection régime for satellites, designed to compensate for their vulnerability. This protection régime could conceivably consist in a combination of agreed restrictions on hardware -- predominantly to be negotiated in a bilateral format -- and the legal immunization of satellites -- predominantly under multilateral auspices.

The idea of a multilateral protection régime for outer space objects is not a new one. Introduced before this Conference originally by France in Working Paper CD/375 of 14 April 1983, the idea has been taken up and supplemented by several other delegations, including my own and the delegations of Australia and the United Kingdom; in addition, the concept of "rules of the road" for outer space has for some time been a subject of internal debate within the United States.