

(Mr. Wegener, Federal Republic of Germany)

At the present time there are about 10 bilateral and multilateral treaties which, in their entirety or partially, deal with the military uses -- or abuses -- of outer space.

One basic norm needs to be highlighted at the outset. The Outer Space Treaty of 26 January 1967 extends the validity of the Charter of the United Nations, including its interdiction of the threat or use of force, and the principle of the peaceful settlement of conflicts also to the new environment of outer space. However, one important definitional element is missing here. So far, the international community has not succeeded in delineating, with every necessary precision, air space which is subject to national sovereignty, and outer space which is open for utilization by all States; and it is at present unclear whether the limit between the two would be at the 100 kilometres or 111 kilometres mark -- or perhaps elsewhere. More important: the general acknowledgement of the validity of the Charter has so far not been effective enough to eliminate the use of threat or force and military abuse from outer space. The mere fact that several components of outer space armaments, and especially ASAT capabilities, have already in the past been made the subject of specific treaty negotiations shows that there is an additional regulatory need in terms of concretizing the provisions of the Charter, as it applies to outer space.

The Outer Space Treaty has undertaken to ban a whole category of weapons -- weapons of mass destruction -- from outer space and to declare part of the cosmos -- the celestial bodies -- as weapon-free zones. However, these norms are manifestly incomplete since they do not contain any concrete definition for some of the central concepts contained in the Treaty. Apart from the concept of outer space itself, a definition of weapons of mass destruction -- for the purposes of the Treaty -- or of peaceful use has not been undertaken. I am only recalling past queries of my own delegation -- but which other delegations have also raised -- when reminding delegates that the Outer Space Treaty and the Moon Treaty do not prohibit all military activities per se, and that most military means of which one could think in this context are of an ambivalent nature. This demonstrates that the Conference should address, in terms of clarifying the existing outer space legal régime, the following issues:

Which forms of the utilization of outer space are compatible with the principle of peaceful uses of outer space in conformity with Article 3 of the Outer Space Treaty?

What is the extent of the protection which satellites of a clearly stabilizing nature enjoy against premeditated destruction or impingement on their functions?

In what category of cases would the general protective effect of Article 2, paragraphs 4 and 51 of the United Nations Charter be sufficient, and in what other category of cases would more specific regulation be necessary, given current and future technological developments?

To what extent could or should the provisions of Article 4, paragraph 1, of the Outer Space Treaty, by virtue of which the stationing of nuclear and other mass-destruction weapons in full orbit is prohibited, also be extended to other destructive means or their components?