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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Fifth Session

SUMMARY RECORD OF THE FIFTY-SEVENTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 July 1966, at 3 p.m.

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OPENING OF THE SESSION

The CHAIRMAN declared open the fifth session of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space. He observed that in the three years since the adoption of the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (General Assembly resolution 1962 (XVIII)) little progress had been made towards ensuring that outer space was used for man's advancement and not for his destruction. The choice to be made by man was clear, and in that choice the law-maker and the lawyer could not remain neutral.

STATEMENT BY THE LEGAL COUNSEL

Mr. STAVROPOULOS (Legal Counsel) (Representative of the Secretary-General) welcomed members on behalf of the Secretary-General and commented that space law had yet to catch up with space science and technology, which had made remarkable progress in recent years. Members of the Sub-Committee were pioneers in a new field of international law. The General Assembly had taken certain steps towards the development of space law in its resolutions 1721 (XVI) and 1962 (XVIII) and it was expected that another step forward would be made with the help of the draftsmanship of the Sub-Committee. At its last few sessions the Sub-Committee had devoted its attention to the preparation of draft documents on assistance to and the return of astronauts and space vehicles and on liability for damage caused by objects launched into outer space. It now had the additional task of preparing a treaty the two drafts of which had been reissued in documents A/AC.105/C.2/L.12 and A/AC.105/C.2/L.13. Despite the difficulties of treaty-making a great many international agreements had been concluded both inside and outside the United Nations - results which could not have been achieved without mutual understanding and genuine co-operation by all the States concerned. The Secretary-General had asked him to convey to members his sincere hope that the spirit of co-operation which had prevailed in many other organs of the United Nations and in the conference convened under the auspices of the Organization would also prevail today in the Sub-Committee. He would like to add his own wishes for the success of the Sub-Committee's work.

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STATEMENT BY THE CHAIRMAN OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

Mr. WALDHEIM (Chairman of the Committee on the Peaceful Uses of Outer Space) said that the present session was one of the most important and decisive gatherings in the field of outer space. Never before had man's landing on the moon been so close. But that scientific achievement could not yet be met by adequate legal provisions. Time was running out and every effort should be made to reach agreement on an international treaty governing man's activities in outer space. A measure of optimism was justified, since the basis for agreement and the will to agree appeared to exist, and he trusted that no opportunity for progress would be overlooked.

The similarity of the two draft treaties and the common ground in the General Assembly resolutions were so considerable that there was reason to believe that agreement was possible. It would be a major achievement indeed if a workable treaty could be devised before man set foot on the moon. Positive results in that matter would encourage the efforts of the scientists in the Scientific and Technical Sub-Committee and assist the work of the diplomats who sat in the main Committee itself. The early conclusion of an agreement that would rule out a possible arms race or territorial claim in space would be another long stride towards securing peace in space and could also be an important step towards consolidating peace on earth. It could pave the way to increased international co-operation in mankind's exploration of the universe and in earthly affairs as well. At the very least it would lessen suspicion and revive the faith of men everywhere in the possibility of negotiated solutions and harmonious action by nations in the attainment of their common ends.

ADOPTION OF THE AGENDA

The CHAIRMAN thanked the preceding speakers for their encouraging statements and invited members to adopt an agenda. The main subject which had prompted the convening of the present session was the proposal to conclude a treaty governing the exploration of space, the moon and other celestial bodies, but there were also two unfinished items relating to an agreement on assistance to and return of astronauts and space vehicles and an agreement on liability for damage caused by objects launched into outer space. He considered that in the interest of orderly proceedings all three items should figure on the agenda, and

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he suggested that such an agenda should be adopted as the basis for the Sub-Committee's deliberations. The first item on the agenda, having the widest scope, would be "Conclusion of a treaty governing the exploration of outer space, the moon and other celestial bodies".

The agenda was adopted.

CONCLUSION OF A TREATY GOVERNING THE EXPLORATION OF OUTER SPACE, THE MOON AND OTHER CELESTIAL BODIES

Mr. GOLDBERG (United States of America) said that the General Assembly had adopted its first resolution on outer space in 1958 (resolution 1348 (XIII)), setting up an Ad Hoc Committee on the Peaceful Uses of Outer Space. In 1961 the Assembly had adopted a resolution of historic significance (resolution 1721 (XVI)) proclaiming the principle that outer space and celestial bodies were freely available for exploration and use by all States in accordance with international law, and that they were not subject to national appropriation by any State. That resolution had been initiated by the United States and adopted unanimously. It had established the existing Committee on the Peaceful Uses of Outer Space. The Committee's two Sub-Committees had met first in 1962, the Legal Sub-Committee beginning work on three topics: an agreement on liability for damage caused by outer space activities, an agreement on assistance to and return of astronauts and space vehicles, and a text on general principles relating to the activities of States in outer space. In 1963, a long series of negotiations and consultations had been held in New York aimed at the development of an agreed text on general principles. As a result of those negotiations, in which the Sub-Committee had played an important part, the General Assembly had been able to adopt unanimously the historic Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (resolution 1962 (XVIII)). The United States had taken the position that those principles constituted international law as it was accepted by the Members of the United Nations, and it was a source of great satisfaction that in the two and a half years since the adoption of the Declaration there had not been any disputes about the nine principles it contained. Also in 1963 the Assembly had adopted, as the result of a United States initiative, resolution 1884 (XVIII) noting the intention of the United States and the Soviet

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Union not to orbit around the earth or otherwise station in outer space any nuclear or other weapons of mass destruction, and calling upon all other States to refrain from such activities.

That brief history of common progress and agreement augured well for the negotiations now being begun - negotiations which, it was to be hoped, would lead to an agreed treaty. The Sub-Committee's present mandate was stated in part I of General Assembly resolution 2130 (XX). He hoped that the Sub-Committee, in accordance with that mandate, could proceed to build on the work already done by the General Assembly and embody in appropriate treaty commitments the principles laid down earlier by the Assembly. It was a matter of the utmost necessity that the space age should continue to evolve in an environment of peace, law and co-operation. The old political problems of the earth were not entrenched anywhere else. Political conflicts on earth need not inhibit the development of a meaningful legal regime governing the activities of men and States elsewhere.

The negotiations now beginning were most timely. With the planets already being explored by space vehicles and the day not too far off when men would walk on the moon, an agreement on celestial bodies was of real and urgent importance. The President of the United States had stated on 7 May that the United States wanted to do what it could to ensure that explorations of the moon and other celestial bodies would be for peaceful purposes only; that astronauts of any nation could freely conduct scientific investigations on the moon; and that the results of those activities would be available for all mankind. President Johnson's main proposal had begun the current stage of activity which had seen the introduction of treaty proposals by the United States and the Soviet Union. While the proposed treaties were different in scope, they should to a large extent be reconcilable, if there was goodwill and a common purpose to reach an agreement. He could assure members that the United States for its part would do its utmost in seeking an agreement acceptable to all.

In developing its draft treaty (A/AC.105/C.2/L.12), his Government had considered it most constructive and realistic to take as antecedents the principles established by the General Assembly resolutions and by the Antarctic Treaty of 1959. The central objective was to ensure that outer space and celestial bodies were reserved exclusively for peaceful activities. That objective had been the basis of his Government's position from the beginning of the space age and had led it to

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propose precise treaty provisions on the subject. His Government recognized, of course, the right of States to use all facilities and personnel at their disposal, military as well as civilian, for scientific research and other peaceful purposes in the exploration of space. At the same time, it proposed, in addition to a specific prohibition against the stationing of weapons of mass destruction, to build on the limited test ban treaty and General Assembly resolutions 1884 (XVIII) and 1962 (XVIII) and prohibit any weapon test on a celestial body whether or not it involved a weapon of mass destruction. A prohibition of that nature was to be found in article I of the Antarctic Treaty. The draft treaty also prohibited the conducting of military manoeuvres, which at the moment might seem a very remote prospect; but that was the very reason for reaching agreement now to prohibit such activities. The proposed treaty embodied the concept of the availability of outer space and celestial bodies to all nations on a basis of equality and openness. The availability of outer space and celestial bodies for exploration should be governed only by technology and the priority each State or group of States established in the use of its own resources. No State should be permitted to say that a portion of a celestial body was subject exclusively to its national control. No State should be allowed to station on a celestial body any facility or device not open for observation by all. The draft treaty included an explicit guarantee of open access to all areas of celestial bodies, a provision which flowed naturally and logically from the prohibition of claims to territorial sovereignty. That principle, as applied to land surfaces on the earth, had been established in the Antarctic Treaty and was being successfully implemented in practice. In the interest of scientific investigation, the draft treaty provided for the dissemination of knowledge about celestial bodies and for full and timely reports on the results of missions. It was particularly important that States which discovered the existence of conditions likely to affect the well-being of astronauts should make such information available to all. Similarly, the draft treaty would have astronauts render necessary assistance to other astronauts; that provision would implement the objectives behind principle 9 of the Declaration (resolution 1962 (XVIII)).

His delegation was most anxious to hear other members' views on the United States draft treaty. It would give them careful attention, recognizing that the

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treaty was a common effort and of concern not only to the principal space Powers of today but to all Members of the United Nations. The draft did not deal with the problem of liability for damage caused by space launchings, partly because its complexity seemed to make it an appropriate subject for a separate agreement; however, his delegation was prepared to see a suitable provision on liability included in the proposed treaty, on the lines of the Declaration text. It was also prepared to discuss at any time all the unfinished business before the Sub-Committee, including the separate agreement on liability.

He was personally convinced that the United Nations had an opportunity in the present enterprise to strengthen the role of law in man's newest venture - the exploration of outer space - in the interest of world peace. Sceptics had doubted whether the world's political institutions could keep pace with the amazing progress of the scientists and engineers. To the extent that the Sub-Committee could prove the contrary it would contribute to the solution of man's problems on earth and to the building of a healthier, happier and more peaceful world.

Mr. MOROZOV (Union of Soviet Socialist Republics) reminded the Sub-Committee that the Soviet Union had launched the first artificial earth satellite on 4 October 1957, that a Soviet citizen had been the first man launched into outer space on 12 April 1961, and that the first woman astronaut was also a Soviet citizen. In 1966, one Soviet automatic station had made the first soft landing on the moon and another had become the first artificial lunar satellite. United States scientists were to be congratulated on the landing of the Surveyor automatic station on the moon. The strides thus made towards mastery of outer space demonstrated that it was feasible for man to conquer the moon in the near future, while closer to earth manned and unmanned satellites were enriching the fund of human knowledge. The progress of rocketry and astronautics had made possible new systems of communication and of television transmission and improvements in weather services and geodetic techniques.

Man's penetration of outer space and the activity of States in exploring its peaceful uses confronted the United Nations with serious problems. The question arose whether outer space, the moon and other planets were to become an area of peace and international co-operation or were to be used by the forces of aggression for purposes inimical to the interests of peace-loving peoples. All men of goodwill expected constructive steps to be taken to lay down rules of

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international law for the regulation of State activity in the exploration and use of outer space, of the moon and of other celestial bodies. The United States representative had attempted to review the past history of the efforts made to establish such rules; in the interests of accuracy, he felt bound to supplement that attempt with one of his own, in order to make good certain omissions.

Over a period of many years, the Soviet Union had consistently and untiringly striven for broad international agreement on the activities of States in the exploration and use of outer space. His Government had first brought the matter before the United Nations in 1958; when the USSR flag had been planted on the moon in September 1959, his Government had proposed that the skies should be open to all States and to all mankind; and in 1961, after the first manned space flight, his country had again taken the initiative in instituting and developing co-operation with other countries in the exploration of outer space. At the Sub-Committee's first session in 1962, the Soviet Union had proposed a Declaration of the Basic Principles governing the Activities of States pertaining to the Exploration and Use of Outer Space (A/AC.105/C.2/L.1). That document had been conceived as a draft international agreement on the subject, not as a General Assembly resolution having the force only of a recommendation; it had included a clause in which the Governments of the States signatories to the Declaration called upon all the States of the world to accede to it. In its operative paragraph 2, the proposed Declaration had provided that:

"Outer space and celestial bodies are free for exploration and use by all States; no State may claim sovereignty over outer space and celestial bodies."

The text had contained detailed provisions to regulate the activities of States in outer space as a whole and on celestial bodies, and in submitting it his country had emphasized that the principles in question should be adopted in such a form as to have binding legal force for States. Unhappily the representatives of some States members of the Sub-Committee, including the United States, had opposed the idea; and the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space which had been adopted by the General Assembly in 1963 as its resolution 1962 (XVIII), although a

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significant step forward, made no provision for accession by all States and was not binding on States. Many delegations - including those of Poland, Czechoslovakia, France and Austria - had pointed out at the General Assembly's eighteenth session that the adoption of that Declaration was only a first step towards the development of basic rules of space law. There had been an almost universal consensus of opinion that the principles of the Declaration should be embodied in an international agreement or convention. The vast majority of States had come to realize that their mutual relations should now be governed by international law and, first and foremost, by the Charter. It had been pointed out that, without rules of international law to govern the space activities of States, a situation dangerous to peace and security might arise. In its resolution 1963 (XVIII), the General Assembly had recognized the need for international agreements on the subject and had requested the Committee on the Peaceful Uses of Outer Space to go into the matter. At the first and second parts of the Sub-Committee's third session in 1964, and at the fourth session in 1965, the Soviet Union had proposed that an immediate start should be made to draw up a broad international agreement on the principles governing the activities of States in outer space and on celestial bodies. The Soviet thesis that those principles should be embodied in binding provisions of international law had found many supporters; but the United States delegation and certain other delegations had not wished the Sub-Committee to take up the task entrusted to it by the General Assembly.

He had indulged in that historical review in order to remove the impression left by the United States representative's statement that all previous efforts made to advance the Sub-Committee's work, including those of the Soviet Union, bore the label "Made in the United States", and that the current stage of activity had been begun by a United States Government statement in May 1966. The draft Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, the Moon and Other Celestial Bodies which his Government had submitted for consideration by the General Assembly at its twenty-first session (A/6352), and which had been circulated to the Sub-Committee (A/AC.105/C.2/L.13), was by no means a mere reaction to the move made by the United States in May 1966, but a logical step in the series of efforts which the Soviet Union had begun in 1958 in the interests of universal peace and security.

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In his letter requesting the inclusion in the agenda of the twenty-first session of the General Assembly of an item entitled "Conclusion of an international agreement on legal principles governing the activities of States in the exploration and conquest of the moon and other celestial bodies" (A/6341), the Minister for Foreign Affairs of the USSR had pointed out that the conquest of the moon and other celestial bodies raised not only technical and scientific problems but also the question in what direction and on what basis States would conduct their activities in that sphere. The Soviet Government, the Minister had continued, considered that the conquest of the moon and other celestial bodies should be carried out in the interest of peace and progress exclusively, for the benefit of all mankind. No one State had the right to regard its achievements in that sphere as a basis for claims to dominion over the moon and other celestial bodies or to use those achievements for activities directed against other States. It was quite obvious that plans for the military use of the moon and other celestial bodies could not in any way be justified by reference to the national security interests of States and were intended merely to serve the purposes of aggression, the purposes of preparing for global war.

The draft Treaty submitted by the Soviet Union was based on the knowledge and experience already gained through the activities of States in outer space and, as any objective observer could see, it went much further than any previous proposal. It was designed to solve a wide range of legal problems connected with outer space and took into account the principles embodied in General Assembly resolution 1962 (XVIII) and operative paragraph 2, sub-paragraph (a), of resolution 1884 (XVIII). What the Soviet Union had in mind was that a number of important principles concerning the space activities of States should be embodied in rules of international law giving equal rights in space matters to all States and affording a firm guarantee that the exploration and use of outer space would be carried on for the benefit of all peoples and would help to strengthen understanding among States in the interests of peace and progress.

Article I of the draft Treaty provided that "The exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and shall be the province of all mankind." The Soviet Union, in charting man's course into outer space, had always regarded its achievements in

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that field of endeavour as belonging to mankind as a whole. There must be no discrimination or inequality in that enterprise; that principle was embodied in the second paragraph of article I. Article II repeated the terms of operative paragraph 3 of the Declaration adopted by the General Assembly in resolution 1962 (XVIII); the Soviet Union had been the first to proclaim that principle and was firmly abiding by it. Article V dealt with jurisdiction over objects launched into outer space and the return of such objects to the State of registry. Article III provided that space activities should be carried on in accordance with international law - including the Charter - in the interest of maintaining international peace and security and promoting international co-operation and understanding. In that connexion, the Soviet Union and France had signed on 30 June 1966 an agreement concerning co-operation in the study and conquest of outer space for peaceful purposes; that agreement served to show what avenues were open for international co-operation in that field of activity.

The Soviet draft Treaty was not, however, a mere statement of the rights of States and the opportunities open to them in the exploration and use of outer space; it also contained provisions designed to guarantee that the interests, not only of individual States, but of all countries and of the international community as a whole, would be protected. To that end the Treaty would impose upon the Parties a number of specific international obligations. The purpose of article I was to convert into a rule of international law the provisions of operative paragraph 2, sub-paragraph (a), of General Assembly resolution 1884 (XVIII), with the addition of a provision that the moon and other celestial bodies should be used exclusively for peaceful purposes and that the establishment of military bases and installations, the testing of weapons and the conduct of military manoeuvres on celestial bodies should be forbidden. The entire draft Treaty was based on the idea of co-operation among all States. That meant, inter alia, that States must refrain from any experiment likely to interfere with the space activities of other States; article VIII covered that contingency by establishing machinery for consultation, and also provided that States should avoid harmful contamination.

The seventh preambular paragraph mentioned General Assembly resolution 110 (II) and made the principle of that resolution - the condemnation of war propaganda - applicable to outer space; that was consistent with Soviet law, which

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treated war propaganda as a serious crime against humanity. When the same provision had been included in the General Assembly Declaration of 1963 (resolution 1962 (XVIII)), communication satellites had been at an early stage of development. Now many countries were receiving television programmes transmitted, and using telephonic and telegraphic links operated, through USSR and United States satellites. It would soon be possible for conventional television sets to receive broadcasts direct from satellites. Hence legal measures were urgently needed to prevent a great technical achievement from being used against the interests of peace.

Article VI of the draft Treaty dealt with the international responsibility of the Parties for national activities, whether governmental or non-governmental. The Sub-Committee had already been into that subject in detail, and he wished merely to draw attention to the provision that, when activities were carried on in outer space by an international organization, responsibility for compliance with the Treaty should be borne both by the international organization and by the States Parties to the Treaty participating in such organization. Article VII dealt with liability for damage and article IX with assistance to astronauts. Those two articles dealt with the topics in question in broad outline and were not intended to prejudice the efforts already being made in the Sub-Committee to conclude a special agreement on those matters; but they enlarged, in a significant manner, on operative paragraphs 8 and 9 of General Assembly resolution 1962 (XVIII). Article IX, in particular, contained a new provision that, in carrying on activities in outer space and on celestial bodies, the astronauts of one State Party should render all possible assistance to the astronauts of other States Parties.

With regard to article XI, paragraph 1, the Soviet Union had always supported the principle of universality for all important multilateral international treaties. That principle was particularly vital in the case of a Treaty designed to regulate activity which affected the interests of all States.

The Soviet Union's purpose in submitting its draft Treaty for consideration under a separate agenda item at the General Assembly's twenty-first session, and in laying the text of the draft Treaty before the Sub-Committee, was to further the attainment of conditions favourable to the peaceful exploration and use of

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outer space, the moon and other celestial bodies; to prevent that sphere of activity from becoming a source of international disagreement; and to lay a firm foundation for a future body of international law on the space activities of States. He had described the main provisions of the Soviet draft Treaty in sufficient detail to show that it was broader and more comprehensive than any previous text. He proposed that the Sub-Committee should adopt it as a basis on which to draft an international treaty on the subject and he appealed to all members of the Sub-Committee to support that proposal.

The United States representative had sought to depict the position taken by the United States and its delegation as one calculated to strengthen international law and to secure the observance of the principles of the United Nations Charter. That representative would have done better to eschew propaganda, to which others were bound to react. He would have preferred not to have heard the United States representative speak of his country's attachment to the principles of international law and to their primacy in international relations, at any rate while the United States continued to wage a shameful aggressive war in Viet-Nam.

Mr. GOLDBERG (United States of America) said that there were other United Nations bodies in which events in Viet-Nam could appropriately be discussed. His Government would welcome such a discussion in the Security Council; it would welcome - and would invite - the participation of the Soviet Union in the quest for a peaceful solution to the problem of Viet-Nam.

The USSR representative could rest assured that the United States delegation had no desire to put a United States label on the draft Treaty under discussion. Whatever treaty was worked out should bear a United Nations label. The United States merely submitted its draft Treaty as a basis for discussion; it recognized that the Soviet Union had also submitted a draft Treaty and that all members of the Committee on the Peaceful Uses of Outer Space had contributed greatly to the development of the legal principles which should govern activities in outer space on the moon and on other celestial bodies.

The USSR representative had rightly pointed out that there had been some omissions in the historical survey which he - the United States representative - had made at the beginning of the meeting. He had not mentioned the fact that in 1959 the meetings of the Ad Hoc Committee on the Peaceful Uses of Outer Space had been boycotted by the Soviet Union. That Committee had developed the original

(Mr. Goldberg, United States)

principles concerning freedom of space and concerning the applicability of international law and of the United Nations Charter to celestial bodies. Since shortly thereafter, fortunately, all members of the present Committee, including the USSR and the United States, had made a contribution to the work in hand.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the United States representative's remarks merely demonstrated that there was nothing to add to the hypocritical assertions made by the United States delegation in the Security Council, and no justification for the shameful aggressive war still being waged by the United States in Viet-Nam. The way to a peaceful solution of the problem was known: it lay through a programme consisting of the well-known four points designed to settle the matter on the basis of the Geneva Agreements.

The United States representative had disclaimed any intention to put a United States label on the treaty which the Sub-Committee was endeavouring to prepare. That disclaimer seemed to him at variance with the facts, and he would prefer it to be left out of the Sub-Committee's official records.

Mr. SEYDOUX (France) recalled his delegation's observation, at an earlier session, that the mandate of the Legal Sub-Committee concerned the earthly consequences of space activities rather than their effects in space and on celestial bodies. In the first case, it was largely a matter of transposing legal rules which already existed; it was the second case that brought into play the law of space proper, which would give rise to new legal rules to meet new situations. His delegation was glad to note that the agenda of the present session opened the way to the development of space law as such. While that was a new and ambitious undertaking, the extraordinarily rapid advance of space science required that it should be broached without delay.

There was little existing material on which to base the development of space law: a number of resolutions by the General Assembly, and the draft Treaties put forward by the United States of America and the USSR respectively. Since Assembly resolutions were declarations of intent, even when adopted unanimously, and could give rise to no legal obligations, the legal principles governing the activities of States in the exploration and use of outer space adopted in Assembly resolution 1962 (XVIII) would become binding only when incorporated in international agreement. Those principles could therefore serve only as a guide. Moreover, they should be reviewed in the light of the many developments in the years since their adoption.

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(Mr. Seydoux, France)

Traditional international law was based on the concepts of sovereignty and continental appropriation. No State had yet attempted to apply those concepts in space, and the draft treaties submitted on the subject rightly established the rule of non-appropriation. Thus, it was not so much general international law that was applicable to space as the law of the high seas and it, too, could hardly be applied without modification. Similarly, the United Nations Charter could not be extended to space without mature reflection. Moreover, the Sub-Committee would have to decide how far the principle of non-appropriation was compatible with effective exploration and exploitation, for the same resolutions that forbade the appropriation of celestial bodies encouraged their use.

Turning to the draft treaties, he noted that the Soviet draft, unlike the United States draft, applied to space as well as to the moon and other celestial bodies. It seemed a priori difficult not to elaborate simultaneously rules applicable to celestial bodies and rules concerning the space in which they moved, to the extent that they were different. Again, the Soviet draft, unlike the United States draft, dealt with use as well as exploration. It was surely desirable to control exploitation from the outset, for it could doubtless give rise to more numerous and greater difficulties than exploration alone. On the other hand, the United States draft contained an article on the exchange of information, which seemed to his delegation one of the best ways of ensuring international space co-operation.

The Soviet draft attempted to deal with a number of difficult questions, such as the registration of vehicles, liability for damage caused by space objects, the principle of assistance to and return of astronauts, and the situation of international organizations undertaking space activities, which had already been studied at length by the Legal Sub-Committee but on which no agreement had yet been reached. In general, he wondered whether both drafts did not deal somewhat summarily with the principles concerned. For instance, an attempt should surely be made to define the conditions and limits of the freedom of exploration and exploitation, in addition to merely establishing the principle.

The final provisions of the two drafts concerning the settlement of disputes, accession to the treaty and the choice of depositary, presented a number of difficulties arising from familiar differences of opinion not peculiar to draft

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treaties on space. To save time, he proposed that those provisions be held over for a special debate at the end of the session or be referred to the plenary Committee.

Outer space offered a promising field for international co-operation, and his own country was already engaged in a number of joint space ventures with other States. There was every reason to hope that it would prove possible to agree on a draft treaty for submission to the Committees, then to the General Assembly and, finally, to Governments.

Lord CARADON (United Kingdom) said that he would speak briefly on the subject of procedure. Since there were texts to be considered in great detail, he would propose that the Sub-Committee should omit a general debate and proceed as quickly as possible with the long-awaited detailed negotiations. A single criterion should be applied to the statements made: would they contribute to co-operation and agreement, or would they widen the existing differences? The United States and the USSR were to be congratulated, not only on their dazzling achievements in the conquest of space, but also on having come forward with proposals for international co-operation. The representative of the Soviet Union had spoken with justifiable pride of his country's advances and proposals, and it was to be hoped that that pride would be matched by a corresponding eagerness to reach agreement. Ambassador Goldberg's statement that the concept of the availability of outer space and celestial bodies should be applied on a basis of equality and openness was likewise welcome.

The Sub-Committee was meeting under very encouraging auspices. First, the choice of a chairman so skilled in international law gave every hope of success. In addition, Mr. Waldheim had been active in seeking success in his Committee, and indeed, it was no doubt largely due to his influence and impartiality that the present session was now taking place. Secondly, the two texts under consideration were notable for their similarities. They had common purposes and covered common ground, and the Sub-Committee would be very much to blame if agreement were not reached. Thirdly, the Sub-Committee's work was based on principles that had been unanimously accepted by the United Nations General Assembly. The 1963 resolution had been a landmark in international endeavour, and the Sub-Committee now had to rise to the challenge it presented. Since then there had been new technical

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(Lord Caradon, United Kingdom)

developments and advances in space exploration, both at the national level and through international organizations, and the joint ventures undertaken showed the imperative need for co-operation in work of such great international importance.

However, the Sub-Committee could not be expected, in the course of a few weeks, to elaborate a complete legal regime before the need arose and while the knowledge of the subject was still far from perfect. Yet, technical progress must not run too far ahead of legal developments if misunderstandings and disputes were to be avoided. The Sub-Committee's task should be to set the pace, as the United States representative had pointed out.

The fourth encouraging factor was the spirit of constructive agreement and confidence that prevailed, and the recognition that the meeting provided an opportunity to show the potentialities of international co-operation.

The United Kingdom Government would certainly do its utmost to contribute to the success of the undertaking.

Mr. Krishna RAO (India), recalling that the non-aligned countries had already stated their view that the Legal Sub-Committee's ultimate objective should be the conclusion of a convention aimed at the exclusively peaceful utilization of outer space for the benefit of mankind (A/AC.105/C.2/SR.2, p. 4), said that he was glad to note that the two space Powers appeared to agree on the urgent necessity of adopting such a convention. The non-aligned countries had also stated that while they recognized that agreement between the United States and the USSR was a prerequisite for progress towards appropriate solutions, the interests and welfare of all States, especially the developing countries, should not be ignored. It was therefore a matter for regret that the two conventions on assistance and liability, which were of far-reaching importance for the developing countries, had not yet been drafted in final form by the Sub-Committee. Nevertheless, he had been encouraged by the statements made at the present meeting by the representatives of the United States and the USSR on that subject and he hoped that the three proposed treaties would be ready for signature and ratification at the same time.

The fact that the two space Powers had now put forward specific proposals suggested that in the near future the appropriate laws regarding human activities

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(Mr. Krishna Rao, India)



on celestial bodies might have to be applied and interpreted. The question for immediate consideration was the basic principle of law which should be applied to such activities. It might be asked whether concepts of terrestrial law could be applied to outer space or whether radically new concepts would have to be devised. Professor Schwarzenberger's warning, with reference to terrestrial international law, against "the temptation of pressing the available juridical and diplomatic material into apparently ready-made moulds of private law analogies" should be heeded. The exploration of outer space might also involve contact with extra-terrestrial forms of life, as had been suggested in the work "Law and Public Order in Space" published in 1963 by Professor McDougal and his associates. Mr. Andrew Haley, in his book "Space Law and Government", had urged that the limits of terrestrial jurisdiction should be defined and that beyond them the rule of res communes must prevail in cosmic space.

The possibility that the future of mankind might be jeopardized by a single act of negligence on the part of a State launching an extra-terrestrial probe or an orbital vehicle underlined the urgent need for the world community to ensure the application of appropriate standards to regulate the activities of individual States in outer space. He hoped that the United States and the USSR would be guided, in their outer space activities, by considerations of the welfare of humanity. In that connexion, the desirability of ensuring that all precautions were taken against the contamination or pollution of not only the earth's environment but also that of the celestial bodies was only too obvious. A provision to that effect had been included in the draft code of rules on the exploration and uses of outer space prepared by the David Davies Memorial Institute on International Studies in London in 1962. Likewise, a provision to prevent the contamination of the moon was to be found in operative paragraph 6 of the COSPAR Executive Council's resolution of 20 May 1964 (A/5785, annex II). In the light of the COSPAR recommendations, he considered that any treaty regarding the exploration of outer space and celestial bodies should ensure that the necessary precautions, based on appropriate scientific standards, were taken so that there would be no harmful effects on the celestial bodies explored.

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Furthermore, safety standards should be constantly improved, and nothing should be done to jeopardize life anywhere. In such important matters, it was not enough for the world community to obtain assurances from the space Powers.

It was in the interest of the international community that WHO and COSPAR should be associated with the launching of inter-planetary probes and space vehicles. The present difficulties in the way of such an association underlined the urgent necessity of achieving the effective regulation of outer space activities for exclusively peaceful purposes. His delegation would be glad to see the establishment of an international agency which would have exclusive jurisdiction and control over all activities in outer space. The matter was the more urgent in view of the imminence of a manned exploration of the moon.

He was aware of the connexion between that question and progress toward the achievement of general and complete disarmament. General Assembly resolution 1884 (XVIII) incorporated the basic agreement of the two space Powers not to station in outer space or on celestial bodies any objects carrying nuclear weapons or other kinds of weapons of mass destruction. He was glad to see that the provisions of that resolution had been reaffirmed in the United States and Soviet Union drafts.

The meeting rose at 6 p.m.