The drafting and history of the Rescue and Return Agreement

Elina Morozova
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Intersputnik International Organization of Space Communications
The drafting and history of the Rescue and Return Agreement

Commended by Resolution 2345 (XXII), 19 December 1967, Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space

Opened for signature on 22 April 1968 in London, Moscow, and Washington

Entered into force on 3 December 1968, with the fifth instrument of ratification

<table>
<thead>
<tr>
<th>Total number</th>
<th>Outer Space Treaty</th>
<th>Rescue Agreement</th>
<th>Liability Convention</th>
<th>Registration Convention</th>
<th>Moon Agreement</th>
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<tr>
<td>Ratification</td>
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</table>
The drafting and history of the Rescue and Return Agreement

Legal Problems Susceptible of Priority Treatment

Ad hoc Committee on the Peaceful Uses of Outer Space, Report of the Legal Committee, 1959
<table>
<thead>
<tr>
<th>Session</th>
<th>Dates</th>
<th>Venue</th>
</tr>
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<tbody>
<tr>
<td>1st session</td>
<td>28 May – 20 June 1962</td>
<td>Geneva</td>
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<tr>
<td>2nd session</td>
<td>16 April – 3 May 1963</td>
<td>New York</td>
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<td>3rd session</td>
<td>9 – 26 March 1964</td>
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<td>5 – 23 October 1964</td>
<td>New York</td>
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<td>20 September – 1 October 1965</td>
<td>New York</td>
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<td>12 July – 4 August 1966</td>
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<td></td>
<td>12 – 16 September 1966</td>
<td>New York</td>
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<td>19 June – 14 July 1967</td>
<td>Geneva</td>
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<td>Special session</td>
<td>14 – 15 December 1967</td>
<td>New York</td>
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Outer space should not become a theater of cold war.
The drafting and history of the Rescue and Return Agreement

Yuri Gagarin
12 April 1961

Spacecraft: Vostok I
Spaceflight time: 1:48:00
Altitude: 175-302 km
Circles around the Earth: 1
Distance: 41 000 km

Alan Shepard
5 May 1961

Spacecraft: Freedom 7
Spaceflight time: 0:15:22
Altitude: 186.4 km
Distance: 483 km

Virgil Grissom
21 July 1961

Spacecraft: Liberty Bell 7
Spaceflight time: 0:15:37
Altitude: 189 km
Distance: 483 km
John Glenn
20 February 1962

Spacecraft: Friendship 7
Spaceflight time: 4:55:23
Altitude: 159-265 km
Circles around the Earth: 3
Distance: 121,000 km

Moscow, 21 February 1962
Letter From Chairman Khrushchev to President Kennedy
The drafting and history of the Rescue and Return Agreement

The two "mutually totally unacceptable" drafts, 1962

"UNION OF SOVIET SOCIALIST REPUBLICS: DRAFT INTERNATIONAL AGREEMENT ON THE RESCUE OF ASTRONAUTS AND SPACESHIPS MAKING EMERGENCY LANDINGS"

"UNITED STATES OF AMERICA: DRAFT PROPOSAL ON ASSISTANCE AND RETURN OF SPACE VEHICLES AND PERSONNEL"
The drafting and history of the Rescue and Return Agreement

International agreement
- Binding force
- Similar form of rescue agreements on aviation and at sea
- Specific and detailed standards of international conduct
- Non-controversial substance should not cause undue delay

General Assembly resolution
- The clear principles of assistance and return did not need a separate international agreement
- Resolution could be adopted in the shortest possible time
+ A proof that useful progress was being made by the Subcommittee
Resolution 1962 (XVIII), 13 December 1963, Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space stated:

“7. ... Such objects [objects launched into outer space] or component parts found beyond the limits of the State of registry shall be returned to that State, which shall furnish identifying data upon request prior to return.

9. States shall regard astronauts as envoys of mankind in outer space, and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of a foreign State or on the high seas. Astronauts who make such a landing shall be safely and promptly returned to the State of registry of their space vehicle.”

In Resolution 1963 (XVIII), 13 December 1963, International Co-operation in the Peaceful Uses of Outer Space, the General Assembly requested the Committee “to arrange for the prompt preparation of draft international agreements on liability for damage caused by objects launched into outer space and on assistance to and return of astronauts and space vehicles”.

The drafting and history of the Rescue and Return Agreement
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Return of spacecraft and astronauts

“The key to the success or failure of the Agreement as a whole”

Criteria of the “peaceful purpose”? 

Espionage or collecting data from outer space?

Suggestions

Conditions of the return of spacecraft and astronauts

1) Spacecraft identification
2) Official announcement
3) Peaceful purposes

Return of all spacecraft and astronauts unconditionally

That did not affect provisions for the rescue of astronauts that were to apply unconditionally
German Titov
6 August 1961
Spacecraft: Vostok II
Spaceflight time 25:18:00
Circles around the Earth: 17
Distance: 703100 km

The first cameraman in space
The drafting and history of the Rescue and Return Agreement

The 1963 Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space

The 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

States shall regard astronauts as envoys of mankind in outer space

peaceful purposes
The drafting and history of the Rescue and Return Agreement

No one could agree that the fate of an astronaut would hang on lawyers’ debate
The drafting and history of the Rescue and Return Agreement

The scope of the Agreement

Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space

Suggestions

The USSR suggested to withdraw from the discussion of and delete the “return” provisions from the Agreement:

Agreement on the rescue of astronauts, return of space objects and astronauts

A number of states considered the “return” provisions essential.

The Committee was requested to draft an agreement specifically on assistance to and return of astronauts and space vehicles.
Finding a balance between the principle of humanity and the principle of sovereignty.
The drafting and history of the Rescue and Return Agreement
Article 2, the Rescue and Return Agreement

“... If assistance by the launching authority would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue operations, the launching authority shall cooperate with the Contracting Party ... Such operations shall be subject to the direction and control of the Contracting Party, which shall act in close and continuing consultation with the launching authority”.

Article 5, the Rescue and Return Agreement

“Contracting Party which has reason to believe that a space object or its component parts ... is of a hazardous or deleterious nature may so notify the launching authority, which shall immediately take effective steps, under the direction and control of the said Contracting Party, to eliminate possible danger of harm”.
International organizations’ participation in the Agreement

“Launching authority”

Suggestions

Space activities should be carried out exclusively by states

States and IGOs should not be placed on an equal footing

IGOs have neither territory, nor nationals, nor sovereignty

States can choose how they should conduct their space activities

IGOs should be treated in the same manner as states
The exploration and use of outer space are expensive and complex activities.

Smaller nations are willing to participate in space activities by pooling financial resources, techniques, and knowledge.
International organizations’ participation in the Agreement

International organizations should be regarded as “launching authorities” on certain conditions

Already engaged

Article 6, the Rescue and Return Agreement

Where an international intergovernmental organization is responsible for launching, the term “launching authority” shall refer to that organization, provided that

(1) that organization declares its acceptance of the rights and obligations provided for in the Rescue and Return Agreement and

(2) a majority of the States members of that organization are Contracting Parties to the Rescue and Return Agreement and to the Outer Space Treaty.
The drafting and history of the Rescue and Return Agreement

Dispute Settlement

There are no dispute settlement rules in the Rescue and Return Agreement

Free to choose among the peaceful means of dispute settlement

Suggestions

The US draft provided for the compulsory jurisdiction of the International Court of Justice

Number of States considered this only possible on the basis of mutual consent of the parties

Only 38 of 115 states parties to the statute of the International Court of Justice regarded its decisions as having binding force
The drafting and history of the Rescue and Return Agreement

States Parties to the Agreement

A humanitarian nature and a noble character of the Agreement

A spacecraft in distress would not be able to select the territory of its emergency landing

Recognition of a state?

Suggestions

Provided for participation by states within the United Nations

The Agreement should be open to all states in the world
States Parties to the Agreement

Recognition of a state is a result of a deliberate decision

Such recognition could not be inferred from participation in a treaty

Article 7, the Rescue and Return Agreement

This Agreement shall be open to all States for signature. Any State which does not sign this Agreement before its entry into force ... may accede to it at any time.
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Interrelation between the Rescue and Return Agreement and the Liability Convention

Possible conflicts of the absolute obligation to return astronauts with national laws

Final say in the search and rescue operations

Entry into force and amendments

... and some others
The drafting and history of the Rescue and Return Agreement

In mid-December 1967, a Special Session of the Legal Subcommittee was convened at the request of the USSR and the USA delegations, which presented a single revised draft Agreement. The draft Agreement was approved.

<table>
<thead>
<tr>
<th>Meeting No.</th>
<th>Dates</th>
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<td>86th meeting</td>
<td>14 December 1967</td>
<td>3:20pm – 6:55pm</td>
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<td>87th meeting</td>
<td>15 December 1967</td>
<td>11:00am – 12:30pm</td>
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<td>88th meeting</td>
<td>15 December 1967</td>
<td>3:40pm – 5:40pm</td>
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<td>89th meeting</td>
<td>15 December 1967</td>
<td>8:30pm – 10:10pm</td>
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On 16 December 1967, the Committee approved the draft Agreement and submitted it to the General Assembly.

On 19 December 1967, the General Assembly endorsed the Agreement by a unanimous vote of 115 States.
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27 January 1967
Ed White, Virgil Grissom, Roger Chaffee

24 April 1967
Vladimir Komarov

All possible efforts were to be made to protect astronauts from unknown and unforeseeable dangers
The drafting and history:


The two initially "mutually totally unacceptable" drafts submitted by the USSR and the USA and their further efforts to discuss the drafts

Hard work of the Legal Subcommittee and contributions of its member states – it was them who helped overcome deadlocks and opened the way to further progress in agreeing upon and adopting the Rescue and Return Agreement
The drafting and history of the Rescue and Return Agreement

Congratulations on the 50th anniversary of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space!
Thank you!

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