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AD HOC COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL COMMITTEE

SUMMARY RECORD OF THE FOURTH MEETING

Held at Headquarters, New York,
on Friday, 29 May 1959, at 11.30 a.m.

CONTENTS

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PRESENT:

Chairman:	Mr. AMBROSINI	Italy
Members:	Mr. ORTIZ de ROZAS	Argentina
	Mr. HOOD	Australia
	Mr. GIBSON-BARBOZA	Brazil
	Mr. KINGSTON	Canada
	Mr. CHAYET	France
	Mr. ADAMIYAT	Iran
	Mr. KAKITSUBO	Japan
	Mr. CUEVAS CANCINO	Mexico
	Mr. PETREN	Sweden
	Mr. EVANS	United Kingdom of Great Britain and Northern Ireland
	Mr. MEEKER	United States of America
Representative of a specialized agency:		
	Mr. FITZGERALD	International Civil Aviation Organization
Secretariat:	Mr. SCHACHTER	Secretary of the Committee

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GENERAL DEBATE (continued)

Mr. ORTIZ de ROZAS (Argentina) agreed with those representatives who had said that the Committee should confine its work to a study of the problems raised by the peaceful uses of outer space, and should eschew all political considerations. He did not, however, believe that the Committee's terms of reference should be given a restrictive interpretation, or that its work should be limited to an analysis of the specific problems resulting from the exploration of space, since operative paragraph 1 (d) of General Assembly resolution 1348 (XIII), which referred to "the nature of legal problems which may arise in the carrying out of programmes to explore outer space", left the Committee a great deal of latitude.

A restrictive interpretation of the Committee's terms of reference would imply a distinction between general legal problems concerning outer space and specific problems relating to the exploration of outer space, yet all the legal problems concerning outer space were a consequence of its exploration, and it would be impossible to make a clear distinction between two such closely related aspects of the same problem.

The Argentine delegation therefore considered that the General Assembly had given the Committee very broad terms of reference.

A limit was, however, set to the Committee's work by the availability of scientific data; in the present situation of rapidly increasing knowledge, it would be premature to draw up a complete and detailed code. The Argentine delegation accordingly agreed to some extent with the view of several representatives that the Committee should consider specific cases that might arise either now or in the near future, and the proposals put forward by the United States and the United Kingdom representatives would provide a useful basis for its work.

It was, however, also important to draw up general principles governing man's exploration of space and in that connexion he referred to the statement made by the Argentine representative at the Ad Hoc Committee's third meeting (A/AC.98/SR.3). He noted with satisfaction the statements made by the Brazilian, Iranian and Mexican representatives, and agreed with the views expressed by the Chairman of the Legal Committee in his opening address. It was

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(Mr. Ortiz de Rozas, Argentina)

true, as the United States delegation had said in its working paper, that "advances in science and technology would continually pose new problems relevant to the international legal order and modify both the character and the relative importance of existing problems" (A/AC.98/L.7, page 2). However, there were certain immutable principles, such as the legal equality of all States with regard to the peaceful uses of outer space, of which specific mention should be made in the Ad Hoc Committee's report to the General Assembly. Thus far only two Powers had begun to explore outer space; other nations would be in a position to do so in the fairly near future, and it was necessary to ensure that prior claims of occupancy were not invoked against them. Moreover, the principle of res communis omnium, which complemented that of the legal equality of States and which was universally accepted in maritime law, was applicable to outer space.

In conclusion, he expressed his agreement with the representative of Brazil that United Nations programmes concerning the peaceful uses of outer space should be carried out for the benefit of all States, whatever their stage of economic or scientific development.

The CHAIRMAN said that three trends had emerged during the general debate. Firstly, some representatives considered that the Committee should confine itself to making a list of the legal problems arising from the exploitation of outer space. The representative of Australia, for example, considered that the actual study of those problems should be the responsibility of more competent bodies. He, himself, took the view, however, that there could be no question as to the Committee's competence.

Other representatives took the middle view that the Committee could consider the substance of the legal questions and submit comments on all of them, but that it should confine itself to an examination of a few specific problems without reference to general principles. That pragmatic view was taken by the United Kingdom and United States representatives.

Lastly, the Argentine, Brazilian, French and Iranian delegations had taken another position believing that in considering such problems the Committee should refer to and proceed from certain general principles.

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(The Chairman)

There did not however seem to be any basic contradiction between the different schools of thought; the United Kingdom representative, for example had given a detailed analysis of the subject, discussing the legal status of outer space - the essential problem - and indicating various possible solutions. Moreover, the advocates of a restrictive interpretation of the Committee's terms of reference also considered that some attention would have to be given to fundamental questions. In those circumstances, it was to be hoped that it would not be difficult to reach general agreement.

Speaking as the representative of Italy, he said that, in the view of his delegation, it was not desirable at the present stage of human knowledge to draw up a detailed space code. Nevertheless, it was necessary to draft a body of technical and legal rules forthwith in order to obviate the anarchy and confusion which would inevitably result if each State was left free to act as it pleased. The Italian delegation also considered that the Committee should bear in mind certain basic legal principles; for instance, a problem such as that of the occupation and ownership of the moon could not be dealt with without first taking a decision on the principle of the sovereign equality of States and the legal status (res communis omnium, res nullius or subject to State suvereignty) of outer space and celestial bodies.

The general principles on which the Committee's work should be based were the general principles of international law universally accepted by civilized nations and, in particular, the guiding principles of international air law, which already included rules that could be applied to space law, e.g. on the identification of vehicles, radio communications and compensation for damage caused by vehicles, etc.

The Argentine representative had rightly expressed the view that the Committee's report should make specific mention of the principle of the legal equality of all States, and the Italian delegation fully agreed; that principle, which derived from the United Nations Charter itself, was not open to question. In addition, outer space must be regarded in general as res communis omnium.

He considered that the Committee should act with initiative and boldness. Referring to the history of air law, he said that in the early stages of aviation the principle of the freedom of air space had appeared to be accepted, and if the Conference of 1910 had been able to reach agreement that principle would certainly have been adopted. However, after the First World War the Paris Convention of 1919

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(The Chairman)

had adopted the principle of State sovereignty. The latter principle had undeniably caused very serious difficulties in the operation of air lines, since States could at any time prohibit flights over their territory and withdraw commercial concessions. The same situation could arise in respect of outer space if decisions were not taken without delay. It was unlikely that there would ever be any commercial traffic in outer space, but the scientific exploration and exploitation of space raised problems which should be brought within the scope of legal rules without further delay, even if some States did not participate in drafting them. Experience showed that in the end States always acceded to international instruments, if the rules they embodied were just and satisfactory. That was true of the United States, which had not ratified the Paris Convention of 1919 on air navigation, and also of the USSR, which, although it had not acceded to the Paris or Chicago Conventions, had adopted the same rules of law as contained in those Conventions.

Mr. HOOD (Australia) said that he wished to make it clear that he had not intended to dissociate himself from the supporters of the so-called pragmatic view of the Committee's terms of reference. He believed that although the Committee was fully competent to examine the legal problems raised by the exploratio of outer space, its terms of reference did not permit it to undertake an actual codification at the present time, that being a task that would devolve later on other bodies such as the International Law Commission.

The CHAIRMAN declared the general debate closed.

Recalling that at its previous meeting the Committee had set up a small working group, he said it was understood that any member of the Committee could attend the group's meetings and submit documents to it.

The meeting rose at 12.15 p.m.

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AD HOC COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL COMMITTEE

SUMMARY RECORD OF THE THIRD MEETING

Held at Headquarters, New York,
on Thursday, 29 May 1959, at 3.20 p.m.

CONTENTS