COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

SUMMARY OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
NINTH SESSION (8 JUNE – 3 JULY 1970) TO THE COMMITTEE
ON THE PEACEFUL USES OF OUTER SPACE

1. The Legal Sub-Committee opened its ninth session at the United Nations Office at Geneva on 8 June 1970 under the Chairmanship of Mr. Eugeniusz Wyzner (Poland).

2. The Chairman, in opening the session, stated that it was with great sorrow that he had to inform the members of the Sub-Committee of the death of Professor Cesare Beroszowski who had been the representative of Poland at several sessions of the Sub-Committee. A number of delegations made statements in tribute to the memory of Professor Beroszowski and the Sub-Committee observed a minute of silence in his memory.

3. The Chairman, continuing his statement, recalled that in its resolution 2601 B (XXIV) the General Assembly had urged that the Draft Convention on Liability for Damage Caused by Objects Launched into Outer Space should be completed in time for final consideration at its 25th session. Both before and after the adoption of that resolution, extensive consultations and negotiations had taken place on the main outstanding issues among members of the Committee on the Peaceful Uses of Outer Space in New York (September–December 1969) and Geneva (April 1970). A resumé of the results of the consultations held in Geneva had been circulated as an official document of the Sub-Committee (A/AC.105/0.2/8). Referring to the urgency of the completion of the draft liability convention, he further stated that the Sub-Committee could make no better contribution to the celebration of the 25th anniversary of the United Nations than a finalized liability convention which the Organisation could claim as an additional achievement. Therefore, he felt that the Sub-Committee would no doubt wish to accord the highest priority to the completion of the liability convention.

4. A statement was also made by Mr. Stavropoulos, the Representative of the Secretary-General, who began by associating the secretariat with the tribute paid to Professor Beroszowski. The present session of the Sub-Committee, Mr. Stavropoulos observed, was of great importance in view of GA resolution 2601B (XXIV) calling for the urgent completion of a draft liability convention. He recalled, in this connexion, that the General Assembly in another resolution (2499 (XXIV)) on the celebration of the 25th anniversary of the United Nations, had
With respect to the question of time limits for presentation of claims, a working paper, which proposed an amendment of certain provisions in the text agreed at the eighth session of the Sub-Committee, was submitted by Japan (POUS/C.2/70/WL.1/CRP.6).

On the question of the form of compensation, a working paper was submitted by Bulgaria and Hungary (POUS/C.2/70/WL.1/CRP.3).

19. The Working Group, at its meetings from 10 June to 7 July 1970, reaffirmed with certain modifications the texts on which agreement was reached at the eighth session of the Sub-Committee pertaining to the following questions: definitions (A/AC.105/C.2/6(WI)(X)/L.2); the presentation of claims (A/AC.105/C.2/6(WI)(X)/L.4); and pursuit of remedies available in the launching State or under other international agreements (A/AC.105/C.2/6(WI)(X)/L.5). The Working Group also reaffirmed the decision of the Sub-Committee at its eighth session to the effect that there would be no general provision in the text of the convention relating to joiner of claims.

20. The Working Group also examined other texts approved at the eighth session of the Sub-Committee and all relevant new proposals made at the present session. After substantive reformulation of the provisions, further agreement was reached and the Working Group approved the texts of articles on the following questions: field of application of the Convention (A/AC.105/C.2/6(WI)(X)/L.1 and A/AC.105/C.2/6(WI)(X)/L.8); the question of joint liability (A/AC.105/C.2/6(WI)(X)/L.6/Rev.1); form of compensation (A/AC.105/C.2/6(WI)(X)/L.7/Rev.1); and time-limits for presentation of claims (A/AC.105/C.2/6(WI)(X)/L.9). The decision on the proposals concerning the question of international intergovernmental organizations was postponed and will be examined again when the two main issues referred to in paragraph 17 above have been solved.

21. The texts approved by the Working Group were referred, thereafter, to the Drafting Group for consideration. The Drafting Group, in the first instance, reached agreement on the subdivision of certain provisions into separate Articles and on the order in which the texts should be arranged in a draft Convention. At the request of the Drafting Group a working paper setting out the texts in such order was prepared by the Secretariat (POUS/C.2/6(WI)(X)/1). It was understood in the Drafting Group that this order would be provisional pending agreement on the placing of certain issues on the agenda.

22. The texts of the draft articles were examined by the Drafting Group in the course of two readings. The provisions of the texts as modified by the Drafting Group on its first reading are set out in documents POUS/C.2/6(WI)(X)/R.1 to R.5. The texts as approved by the Drafting Group on its second reading are set out in document A/AC.105/C.2/6(WI)(X)/L.10.

23. The Drafting Group had also before it two Working Papers on the preamble to the Draft Convention, one submitted by Hungary (POUS/C.2/6(WI)(X)/W.1) and one by the United Kingdom (POUS/C.2/6(WI)(X)/W.2). The text of the preamble and the wording of the title of the Draft Convention as approved by the Drafting Group are set out in document A/AC.105/C.2/6(WI)(X)/L.10.2.

/1/ See A/AC.105/C.2/81, 134, 146, 147, 148 and 149.

/2/ The documents mentioned in paragraphs 15 to 23 above are reproduced in Annex I to the present report.
24. It was the view of the Drafting Group that there should be no titles for individual articles of the Convention, nor was it necessary to take up the final clauses.

25. A number of the texts referred to the Drafting Group were subject to extensive drafting changes, for the purpose of ensuring precision in wording and consistency in the use of terminology throughout the articles of the Convention. It was the view of the Drafting Group that

(a) in view of the fact that the term "State" used in the draft Convention necessarily means a State Party to the Convention, it would be sufficient to use the term "State" in substitution for the terms "State Party to the Convention" and "Contracting Party";

(b) whenever a term used in the draft Convention is identical with that in the Outer Space Treaty, the latter should be followed in all languages;

(c) throughout the draft Convention the terms "State presenting a claim" should be used in substitution for the terms "claimant State", "claimant" or "presenting State", and the term "Launching State" in substitution for the term "respondent" or "respondent State".

26. The texts approved by the Drafting Group, which comprised the title of the draft Convention, the preamble and twelve Articles, were considered by the Working Group at its meeting on 1 July 1970. After certain changes had been made, the Working Group approved these texts. A proposal by Belgium contained in document A/AC.105/6.C.2/L.72 on the relation between the Convention and other international agreements was also approved by the Working Group as an additional Article. The Working Group thereafter submitted the texts to the Sub-Committee in document A/AC.105/C.2/L.77.

27. The Sub-Committee, at its 150th meeting on 1 July 1970, approved all the texts which are set out below. However, certain delegations approved these texts subject to conditions or reservations.1/

Draft Convention on International Liability for Damage Caused by Space Objects

The States Parties to this Convention,

Recognizing the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes,

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

Taking into consideration that, notwithstanding the precautionary measures to be taken by States and international intergovernmental organizations involved in the launching of space objects, damage may on occasion be caused by such objects,

1/ See A/AC.105/C.2/31.150 and 151.

Recognizing the need to elaborate international rules and procedures concerning liability for damage caused by space objects and to ensure, in particular, prompt and equitable compensation for victims of such damage,

Believing that the establishment of such rules and procedures will contribute to the strengthening of international cooperation in the field of the exploration and use of outer space for peaceful purposes,

Have agreed on the following:

Article I

For the purposes of this Convention:

(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international intergovernmental organizations;

(b) the term "launching" includes attempted launching;

(c) the term "Launching State" means:

1) a State which launches or procures the launching of a space object;

2) a State from whose territory or facility a space object is launched;

(d) the term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

Article II

A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft in flight.

Article III

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

Article IV

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:
(a) if the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability to the third State shall be absolute;

(b) if the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1, the burden of compensation for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

Article VII

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

(a) nationals of that launching State;

(b) foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article VIII

Unless the State presenting the claim and the State from which compensation is due under this Convention agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or, if that State so requests, in the currency of the State from which compensation is due.

Article IX

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim, another State may, in respect of damage sustained in its territory by any natural or juridical person, present a claim to a launching State.

3. If neither the State of nationality nor the State in whose territory the damage was sustained has presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained by its permanent residents, present a claim to a launching State.

4. No claim may be presented under this Convention to a launching State in respect of nationals of that State.

Article X

A claim for compensation for damage shall be presented to a launching State through diplomatic channels. If a State does not maintain diplomatic relations with the launching State concerned, it may request another State to present its claim to that launching State or otherwise represent its interests under this Convention.

Article XI

A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State that is liable.
2. If, however, a State does not know of the occurrence of the damage or has not been able to identify the launching State that is liable, it may present a claim within one year following the date on which it learned of the aforementioned facts; however, one year following the date on which the State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 shall apply even if the full extent of the damage may not be known. In this event, however, the State presenting the claim shall be entitled to revise the claim and submit additional documentation after the expiration of such time-limits until one year after the full extent of the damage is known.

Article XIII

1. Presentation of a claim to a launching State for compensation for damage under this Convention shall not require the prior exhaustion of any local remedies that may be available to a State presenting a claim or to natural or juridical persons it represents.

2. Nothing in this Convention shall prevent a State, or natural or juridical persons it might represent, from pursuing a claim in the courts or administrative tribunals or agencies of a launching State. A State shall not, however, be entitled to present a claim under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a launching State or under another international agreement which is binding on the States concerned.

Article XIII

1. The provisions of this Convention shall not affect other international agreements in force between the States parties to such agreements or having relations with them.

2. No provision of this Convention shall prevent States from concluding international agreements reaffirming, supplementing or extending its provisions.

II. STUDY OF QUESTIONS RELATIVE TO (a) THE DEFINITION OF OUTER SPACE, (b) THE UTILISATION OF OUTER SPACE AND CELESTIAL BODIES, INCLUDING THE VARIOUS INSTRUCTIONS OF SPACE COMMUNICATIONS (agenda item 3)

28. The Sub-Committee had before it a background paper on the questions of the definition and/or delimitation of outer space prepared by the Secretariat at the request of the Sub-Committee at its eighth session (A/AC.105/6.2/2/7) as well as the report of the Working Group on Direct Broadcast Satellites at its third session (A/AC.105/83).

There were also two proposals submitted by Argentina at the present session, namely, a draft agreement on the principles governing activities in the use of the natural resources of the Moon and other celestial bodies (A/AC.105/6.2/4.73) and a draft international agreement on activities carried out through remote-sensing satellite surveys on earth resources (A/AC.105/6.2/4.73).§

§/ These two proposals are reproduced in Annex II to the present report.
ANNEX I

PROPOSALS AND OTHER DOCUMENTS RELATING TO LIABILITY FOR DAMAGE CAUSED BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE
(Agenda item 2)


I have the honour to transmit for your convenience a résumé of the results of the consultations and negotiations which took place in Geneva in April 1970 on the question of a draft Convention on Liability for Damage Caused by Objects Launched into Outer Space.

As you are aware, this résumé, which I read out to all participating members of the Committee on the last day of our informal discussions, met with no objections.

You may wish to consider the possibility of circulating this letter and the résumé as an official document to the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space at its next session.

(Signed) Heinrich HABERLE
Chairman
Committee on the Peaceful Uses of Outer Space
Belgium: Proposal (A/41,105/C.2/L.72)

Relation between this Convention and other International Agreements

1. The provisions of this Convention shall not affect other international agreements in force in so far as no relations between the States parties to such agreements are concerned.

2. No provision of this Convention shall prevent States from concluding international agreements reaffirming, supplementing or extending its provisions.

Argentina, Australia, Belgium, Canada, Italy, Japan, Sweden, United Kingdom: Proposal (A/41,105/C.2/L.74 and Add: 1 and 2)

Measure of Compensation and Competence of the Claims Commission

Article: Measure of Compensation

The compensation which aLaunching State shall be liable to pay for damage under this Convention shall be based on the rule that each person, natural or juridical, State or international organization on whose behalf a claim is presented be restored in full to the condition equivalent to that which would have existed if the damage had not occurred. In giving effect to this rule account shall be taken of the law of the place where the damage occurred and of relevant principles of international law.

Article: Competence of the Claims Commission

The Claims Commission shall act forth, in writing, its decision and reasons thereon and shall deliver a copy of its decision to each of the parties. It shall concurrently transmit a certified copy thereof to the Secretary-General of the United Nations for publication. The decisions of the Claims Commission shall be final and binding.

*Explanatory Note:

This text presupposes that there will be other provisions in the Convention which will provide:

(i) that a Claims Commission shall be established at the request of any State party to a dispute;

(ii) that each party must nominate one representative to the Claims Commission;

(iii) that if the parties or their representatives cannot agree on a third member who shall be the chairman of the Claims Commission, that third member shall be appointed by an independent third party such as the Secretary-General of the United Nations;

(iv) that the Claims Commission shall apply the provisions of this Convention and shall decide on the merits of the claim and any compensation due;

(v) that all decisions of the Claims Commission shall be by majority vote.
Taking into consideration that, notwithstanding the precautionary measures to be taken by States and international governmental organizations involved in the launching of space objects, damage may on occasion be caused by such objects,

Recognising the need to elaborate international rules and procedures concerning liability for damage caused by space objects and to ensure, in particular, prompt and equitable compensation for victims of such damage,

Believing that the establishment of such rules and procedures will contribute to the strengthening of international cooperation in the field of the exploration and use of outer space for peaceful purposes,

Have agreed on the following:

Article I

For the purposes of this Convention:

(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international governmental organizations;

(b) the term "launching" includes attempted launching;

(c) the term "launching State" means:

(1) a State which launches or procures the launching of a space object;

(2) a State from whose territory or facility a space object is launched;

(d) the term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

Article II

A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft in flight.

Article III

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter State shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

Article IV

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby
being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:

(a) if the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability to the third State shall be absolute;

(b) if the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1, the burden of proof for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

Article V

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. A launching State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportionment among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of a State to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

3. A State from whose territory or facility a space object is launched shall be regarded as a participant in a joint launching.

Article VI

1. Subject to the provisions of paragraph 2, exonerations from absolute liability shall be granted to the extent that a launching State establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of a State presenting a claim or of natural or juridical persons it represents.

2. No exonerations whatever shall be granted in cases where the damage has resulted from activities conducted by a launching State which are not in conformity with international law, including, in particular, the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

Article VII

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

(a) nationals of that launching State;

(b) foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article VIII

Unless the State presenting the claim and the State from which compensation is due under this Convention agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or, if that State so requests, in the currency of the State from which compensation is due.

Article IX

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim, another State may, in respect of damage sustained in its territory by any natural or juridical person, present a claim to a launching State.

3. If neither the State of nationality nor the State in whose territory the damage was sustained has presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained by its permanent residents, present a claim to a launching State.

4. No claim may be presented under this Convention to a launching State in respect of nationals of that State.

Article X

A claim for compensation for damage shall be presented to a launching State through diplomatic channels. If a State does not maintain diplomatic relations with the launching State concerned, it may request another State to present its claim to that launching State or otherwise represent its interests under this Convention.
Article II

1. A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State that is liable.

2. If, however, a State does not know of the occurrence of the damage or has not been able to identify the launching State that is liable, it may present a claim within one year following the date on which it learned of the circumstances referred to in paragraph 1, provided that it could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 shall apply even if the full extent of the damage may not be known. In this event, however, the State presenting the claim shall be entitled to revise the claim and submit additional documentation after the expiration of such time-limits until one year after the full extent of the damage is known.

Article XIII

1. The provisions of this Convention shall not affect other international agreements in force in so far as relations between the States parties to such agreements are concerned.

2. No provision of this Convention shall prevent States from concluding international agreements reaffirming, supplementing or extending its provisions.


In the second paragraph on page 19 of the English text of LAC.105/3.2/Rev.5, under "Texts Agreed", replace the sentence which reads:

"Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object."

by the following sentence:

"Such agreement shall be without prejudice to the right of the State sustaining damage to seek full compensation from any or all of the States that are joint and severally liable."
Alternatively, the first part of the new paragraph 2 could read:

"2. If damage to the space object of one launching State by the space object of another launching State results in damage on the surface of the earth or to aircraft (by one or more space objects) in flight, the launching State ............"

Union of Soviet Socialist Republics: Working Paper (PUDS/C.2/70/WG.1/CMP.5)

Structure of the Convention

Preamble

Article I

Definitions

Article II

Nature of liability and exonerations from liability

Article III

State liable for damage

Article IV

State which has the right to claim compensation

Article V

Measure of compensation

Article VI

Presentation of claims

Article VII

Time-limits for presentation of claims

Article VIII

Form of compensation

Article IX

Settlement of disputes

Article X

International intergovernmental organizations

Final clauses

Japan: Working Paper (PUDS/C.2/70/WG.1/CMP.6)

In the second paragraph on page 37 of the English text of A/AC.105/C.2/4.2/Rev.5, under "Texts Agreed:"

Replace the sentence which reads:

"If the claimant State does not know of the facts giving rise to the claim within the aforesaid one year period, it may present a claim within one year following the date on which it learned of the facts;"

by the following sentence:

"If the claimant State does not know of the facts giving rise to the claim at the time of the occurrence of the accident or the identification by the party that is liable, it may present a claim within one year following the date on which it learned of the facts;"

Italy: Working Paper (PUDS/C.2/70/WG.1/CMP.7)

In the agreed text on the field of application of the Convention (A/AC.105/C.2/4.2/Rev.5, page 11), add the following words after the words "Nationals of that launching State" in paragraph 1(a):

"unless they reside permanently in another State and have their principal domicile in that State."

Grounds: Italy, like other States, has a large number, in fact many millions, of its nationals in various foreign countries, often far from their native land. In these countries they have lived for a long time, raised families, become property-owners and established their businesses. Their only remaining connexion with their native country is a conceptual one.

In that situation, it seems neither equitable nor practical to deny these nationals the right to avail themselves of the benefits of the operation of the Convention in cases in which they have suffered damage owing to an accident resulting from a rocket launched by Italy; for they would have to incur considerable expense and overcome substantial difficulties to be able to take proceedings in the Italian courts.

It therefore seems more reasonable to allow them the benefits of the Convention and to have them represented by the State in which they are habitually resident, particularly where the damage has been caused in the territory of that State.

Mexico: Working Paper (PUDS/C.2/70/WG.1/CMP.8)

International organizations

1. Any international organization that conducts space activities shall be liable under the Convention for damage caused by such activities if it declares that it accepts the rights and obligations provided for in the present Convention and if a majority of the States members of the organization are Contracting Parties to the present Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. Those States members of the said organization which are Contracting Parties to the present Convention shall take the necessary steps to ensure that the organization makes the declaration referred to in the previous paragraph.

3. If an international organization is liable for damage by virtue of the Convention, any claims for compensation shall be presented first to the organization.

4. Only when the organization has failed, within six months, to pay compensation for damage, may the Presenting State present a claim to one or more States members of the organization which are Contracting Parties to the Convention.

5. Where a space object causes damage to an international organization, the claim shall be presented by the competent organ of the international organization or by a State member of the organization which is a party to the present Convention.
The Italian delegation considers that the structure of the Convention on the international liability of States and international organizations might be roughly as follows:

- Preamble
- Purpose of the Convention
- Definitions
- Field of application of the Convention
- Nature and grounds for liability in the various cases of damage to the surface of the earth (and of other celestial bodies), in the earth’s atmosphere and in outer space
- Liability for damage:
  (a) States
  (b) International organizations
- Extinction of or reduction of liability in the event of an illegal act or omission on the part of the victim
- Applicable law for determining compensation
- Settlement of disputes; rules of procedure:
  (a) Claim for compensation through the diplomatic channel
  (b) Advisory committee
  (c) Arbitral Commission
- Rules of procedure in the case of international organizations
- Reservation and effect of procedures under the ordinary law
- Final clauses

The Italian delegation proposes the following definition:

"Space object means any object which is designed to reach outer space and move there.

"For the purposes of this Convention, not only the launching device and the capsule, but also their component parts which become detached or are torn off during transit, and objects which have fallen or are launched from space objects, shall be deemed to be space objects."

The Italian delegation considers it necessary to have a general definition of a space object, which should be a man-made object with a specific destination. This is for various reasons: applicability of the Convention, delimitation of outer space and the very concept of the space activity, on which the Convention is based. Moreover, it is necessary to assimilate to the space object its component parts and objects on board which detach themselves or are jettisoned in transit; this is for purposes of liability in the event that they cause damage. Consequently, they must be identifiable.

Belgium, France, Italy, Sweden and United Kingdom proposal: (FUCS/C.2/70/WG.1/CRP.11)

International Organizations

Article 1...

1. The provisions of the present Convention, with the exception of Articles — to —, shall apply, in the same manner as they apply to a State, to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are Contracting Parties to this Convention shall support in the organization the making of a declaration in accordance with the preceding paragraph.

3. If an international intergovernmental organization is liable for damage by virtue of the provisions of this Convention, that organization and those of its members which are Contracting Parties to this Convention shall be jointly and severally liable; provided, however, that:

   (a) any claim for compensation in respect of such damage shall be first presented to the organization; and

   (b) only where the organization has not paid, within a period of six months, any sum agreed or determined to be due as compensation for such damage,
may the claimant invoke the liability of the members which are Contracting Parties to this Convention for the payment of that sum.

4. Any claim, pursuant to the provisions of this Convention, for compensation in respect of damage caused to an organization which has made a declaration in accordance with paragraph 1 of this Article shall be presented by a State member of the organization which is a Contracting Party to this Convention.

The Italian delegation proposes that, in paragraph 1 on page 11 of document A/AC.105/C.2/W.2/Rev.5, the words "or of celestial bodies" should be added after the words "on the surface of the earth".

The Italian delegation is in agreement with the substance of the article relating to the field of application of the Convention (see page 11 of the table).

It considers, however, that it should be formulated in a clearer and more comprehensive fashion.

1. In the first place, the Italian delegation wonders whether paragraph 1 should not refer, in addition to damage caused on the surface of the earth, to damage which might be caused on the surface of other celestial bodies, such as the moon, where man has already trod and where there might be space objects not in transit or persons.

The question has not so far been raised, but the Italian delegation believes that the time has come to take it into consideration.

2. Paragraph 3 refers to the damage caused by the space object of one State to a space object of another State. Except for the case where the innocent space object suffering the damage is stationary on the surface of a celestial body (the moon), to which the question raised in paragraph 1 above would apply, it is obvious that the two space objects can cause damage to each other only by collision. It is difficult, if not impossible, to conceive of another cause.

3. Consequently, the Italian delegation wonders whether in this case there should not be specific mention of collision (needless to say, either in the air or in outer space) as there was in a proposal by the United States delegation at the Sub-Committee's last session. This would make paragraph 3 clearer, with all the attendant consequences.

It is well known that collision is the most complex case of liability, since account must be taken not only of the negligence of one of the space objects involved in the collision, but also of the negligence of the other. Specific provisions should be laid down for these cases, as general law, and more particularly maritime law in particular, teaches us; and as the eminent American jurist, Professor P.O. Dembick, quite rightly points out in the study he presented to the United Nations Conference on Outer Space at Vienna (*Inter-liability for damage caused by the launching of objects into outer space - Theory and applications*), and as we ourselves have tried to do in our draft (document A/AC.105/C.2/W.2/Rev.5, p. 19, article 4).

In submitting this working paper, the Italian delegation's only concern is to help a drafting group, which it believes should be appointed in due course, to put the last touches to the text of the draft Convention, which it would be desirable to complete at this session of the Sub-Committee.


Field of application of the Convention

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, and of damage being caused to a third State Party to this Convention or to its natural or juridical persons, the first two States shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under the Convention from any or all of the States that are jointly and severally liable.


Definition of space object

The term "space object" means any physical body, manufactured or natural, including the launch vehicle, its components and accessories, which may launch or attempt to launch into outer space.

India: Amendments (PIONS/C.2/70/W.1/CRP.15) to the proposal by Belgium, France, Italy, Sweden and United Kingdom on International Organizations (PIONS/C.2/70/W.1/CRP.11)

1. In paragraph 1, 3rd line: Replace the words "conducts space activities" by the words "engages in the launching of space objects".

2. In paragraph 2, 2nd line: Replace the words "support in the organization the making of" by the words "take all appropriate steps to ensure that the organization makes".

3. Replace paragraph 3(b) by the following text:

(b) only where the organization has failed to settle the claim, within a period of six months, may the claimant present the claim to one or more States Members of the organization which are Contracting Parties to this Convention.
Argentina, Belgium, France: Working Paper (PU(70/370/41.1/3P.16)

**Definition of "Space object"**

"Space object" means any object made and intended for space activities.

For the purposes of this Convention, the term "space object" also includes a launch vehicle and parts thereof, as well as all component parts on board, detached from or torn from the space object.

Union of Soviet Socialist Republics: Working Paper (PU(70/370/41.1/3P.17)

**The Liability of the State from whose territory or facility the space object was launched**

The State from whose territory or facility the space object was launched and the other participants in a joint launching shall be jointly and severally liable. If it has paid compensation for damage, that State shall have the right to present a claim for indemnification to other participants in the joint launching. The State from whose territory or facility the space object was launched may conclude, with other participating States, agreements regarding the apportionment of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object.

Argentina, Belgium, France, Italy, Mexico: Working Paper (PU(70/370/41.1/3P.18/Rev.1)

**Scope of the expression "damage caused by a space object"**

The expression "damage caused by a space object" means damage caused:

(a) by any space object;

(b) by any person on board a space object;

(c) by any component part of a space object, parts on board, detached or torn from the space object, or the launch vehicle or parts thereof.

Argentina: Working Paper (PU(70/370/41.1/3P.19/Rev.1)

**Question of joint liability**

Add the following to the text approved by the Working Group at its meeting on 12 June 1970 (A/AC.105/6/24/10(IX)/L.6):

"Agreements regarding the apportioning of the burden of compensation among States which are jointly and severally liable shall be communicated to the Secretary-General of United Nations for publication and to the States depositaries of the Convention for the information of the States Parties thereto."

**Text approved by the Working Group at its meeting on 10 June 1970 (A/AC.105/6/24/11(II)/L.1)**

**Article**

**Field of application of the Convention**

1. The launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface on the earth and to aircraft in flight.

2. Unless otherwise provided in the Convention, exemption from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents. No exemption whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies.

3. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

4. The provisions of this Convention shall not apply to damage caused by the space object of a launching State to:

(a) Nationals of that launching State;

(b) Foreign nationals during such time as they are participating in the operation of such a space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

**Text approved by the Working Group at its meeting on 31 June 1970 (A/AC.105/6/24/17(II)/L.2)**

**Article**

**Definitions**

For the purpose of this Convention:

(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organisations;

(b) the term "launching" includes attempted launching;

(c) the term "launching State" means:

1. The State which launches or procures the launching of the space object;
2. the State from whose territory or facility the space object was launched;

(d) the term "space object" includes component parts of the space object as well as its launch vehicle and parts thereof.
Article .......

Presentation of claims

1. A Contracting Party which suffers damage, or whose natural or juridical persons suffer damage, may present a claim for compensation to a respondent.

2. Subject to the provision of paragraph 1, a Contracting Party may also present to a respondent a claim in respect of damage sustained by any natural or juridical person in its territory.

3. A Contracting Party may also present a claim for damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.

4. No claim may be presented under this Convention in respect of the nationals of the respondent.

Text approved by the Working Group at its meeting on 11 June 1970 (A/AC.105/C.2/461/Add.1/Rev.1)

Article .......

Presentation of claims through diplomatic channels

A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.

Text approved by the Working Group at its meeting on 11 June 1970 (A/AC.105/C.2/461/Rev.1)

Article .......

Pursuit of remedies available in Respondent State or under other international agreements

Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claim represents.

Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent.

Text approved by the Working Group at its meetings on 12 and 22 June 1970 (A/AC.105/C.2/461/Rev.1)

Article .......

Question of Joint Liability

Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of the State sustaining damage to seek the entire compensation due under the Convention from any or all of the States that are jointly and severally liable.

For the purposes of this Article, a State from whose territory or facility the space object is launched shall be regarded as a participant in a joint launching.

Text approved by the Working Group at its meeting on 12 and 13 June 1970 (A/AC.105/C.2/461/Rev.1)

Article .......

Form of Compensation

Unless the parties agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or if that State so requests, in the currency of the State from which compensation is due under the Convention.

Text approved by the Working Group at its meeting on 17 June 1970 (A/AC.105/C.2/461/Rev.1)

Article .......

Field of application of the Convention

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, and of damage thereby being caused to a third State Party to this Convention or to its natural or juridical persons, the first two States shall be jointly and severally liable to that third State.

2. If the damage for which the first two States are jointly and severally liable has occurred on the surface of the earth or to aircraft in flight, their liability
shall be absolute as provided in paragraph 1 of Article 2. If the damage has occurred elsewhere their liability shall be determined as provided in paragraph 3 of Article 2.

3. In all cases the burden of compensation for such damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under the Convention from any or all of the States that are jointly and severally liable.

Text approved by the Working Group at its meeting on 18 June 1970 (A/AC.105/C.2/464/Add.1/7/L.72)

Article 3

Time-limits for presentation of claims

1. A claim may be presented not later than one year following the date of the occurrence of the damage or the identification of the party that is liable.

2. If, however, the claimant State does not know of the occurrence of the damage or the identification of the party that is liable, it may present a claim within one year following the date on which it learned of the aforesaid facts; however, this period shall in no event exceed one year following the date on which the claimant State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The above-mentioned time-limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time-limits until one year after the full extent of such damage is known.

Text approved by the Drafting Group (A/AC.105/C.2/464/IX/L.10)

Draft Convention on international liability for damage caused by space objects

The States Parties to this Convention,

Recognizing the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, signed on 27 January 1967,

Taking into consideration that, notwithstanding the precautionary measures to be taken by States and international intergovernmental organizations involved in the launching of space objects, damage may on occasion be caused by such objects,

Recognizing the need to elaborate international rules and procedures concerning liability for damage caused by space objects and to ensure, in particular, prompt and equitable compensation for victims of such damage,

Believing that the establishment of such rules and procedures would contribute to the strengthening of international co-operation in the field of the exploration and use of outer space for peaceful purposes,

Have agreed on the following:

Article I

For the purposes of this Convention:

(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations;

(b) the term "launching" includes attempted launching;

(c) the term "launching State" means:

(1) a State which launches or procures the launching of a space object;

(2) a State from whose territory or facility a space object is launched;

(d) the term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

Article II

A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft in flight.

Article III

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.
Article IV

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:

(a) if the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability to the third State shall be absolute;

(b) if the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1, the burden of compensation for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of those States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

Article V

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. A launching State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint undertaking. The participants in a joint launching may conclude agreements regarding the apportioning of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of a State sustaining damage to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

3. A State from whose territory or facility a space object is launched shall be regarded as a participant in a joint launching.

Article VI

1. Unless otherwise provided in this Convention, expropriation from absolute liability shall be governed by the extent that a launching State establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of a State presenting a claim or of natural or juridical persons it represents.

2. No expropriation whatever shall be granted in cases where the damage has resulted from activities conducted by a launching State which are not in conformity with international law including, in particular, the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

Article VII

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

(a) nationals of that launching State;

(b) foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article VIII

Unless the State presenting the claim and the State from which compensation is due under this Convention agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or, if that State so requests, in the currency of the State from which compensation is due.

Article IX

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained in its territory by any natural or juridical person, present a claim to a launching State.

3. If neither the State of nationality nor the State in whose territory the damage was sustained has presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained by its permanent residents, present a claim to a launching State.

4. A claim may be presented under this Convention to a launching State in respect of nationals of that State.

Article X

A claim for compensation for damage shall be presented to a launching State through diplomatic channels. If a State does not maintain diplomatic relations with the launching State concerned, it may request another State to present its claim to that launching State or otherwise represent its interests under this Convention.
Article XI

1. A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State.

2. If, however, a State does not know of the occurrence of the damage or the identity of the launching State, it may present a claim within one year following the date on which it learned of the aforementioned facts; however, this period shall in no event exceed one year following the date on which the State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 shall apply even if the full extent of the damage may not be known. In this event, however, the State presenting the claim shall be entitled to revise the claim and submit additional documentation after the expiration of the time-limits until one year after the full extent of the damage is known.

Article XII

1. Presentation of a claim to a launching State for compensation for damage under this Convention shall not require the prior exhaustion of any local remedies that may be available to a State presenting a claim to a natural or juridical persons it represents.

2. Nothing in this Convention shall prevent a State, a natural or juridical persons it might represent, from pursuing a claim in the courts and administrative tribunals or agencies of a launching State. A State shall not, however, be entitled to present a claim under this Convention in respect of the same damage for which a claim is being pursued in the courts and administrative tribunals or agencies of a launching State or under another international agreement which is binding on the States concerned.

Working Paper (Wgs/6.2/86/III/1)
(prepared by the Secretariat in accordance with the tentative agreement reached by the Drafting Group on 23 June 1970)

Article III

Definitions

For the purpose of this Convention,

(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations;

(b) the term "launching" includes attempted launching;

(c) the term "Launching State" means:

1. The State which launches or procures the launching of the space object;

2. the State from whose territory or facility the space object was launched;

(d) the term "space object" includes component parts of the space object as well as its launch vehicle and parts thereof.

Article IV

Third Party Damage

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, and of damage thereby being caused to a third State Party to this Convention or to its natural or juridical persons, the first two States shall be jointly and severally liable to that third State.

2. If the damage for which the first two States are jointly and severally liable has occurred on the surface of the earth or to aircraft in flight, their liability shall be absolute as provided in Article II. If the damage has occurred elsewhere their liability shall be determined as provided in Article III.

3. In all cases the burden of compensation for such damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under the Convention from any or all of the States that are jointly and severally liable.
Article V
Joint Launch

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of the State sustaining damage to seek the entire compensation due under the Convention from any or all of the States that are jointly and severally liable.

3. For the purposes of this Article, a State from whose territory or facility the space object is launched shall be regarded as a participant in a joint launching.

Article VI
Exoneration

1. Unless otherwise provided in the Convention, exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents.

2. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies.

Article VII
Exclusions

The provisions of this Convention shall not apply to damage caused by the space object of a launching State to:

(a) Nationals of that launching State;

(b) Foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article VIII
Form of Compensation

Unless the parties agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or if that State so requests, in the currency of the State from which compensation is due under the Convention.

Article IX
Presentation of claims

1. A Contracting Party which suffers damage, or whose natural or juridical persons suffer damage, may present a claim for compensation to a respondent.

2. Subject to the provision of paragraph 1, a Contracting Party may also present to a respondent a claim in respect of damage sustained by any natural or juridical person in its territory.

3. A Contracting Party may also present a claim for damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.

4. No claim may be presented under this Convention in respect of the nationals of the respondent.

Article X
Presentation of claims through diplomatic channels

A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.

Article XI
Time-limits for presentation of claims

1. A claim may be presented not later than one year following the date of the occurrence of the damage or the identification of the party that is liable.

2. If, however, the claimant State does not know of the occurrence of the damage or the identification of the party that is liable, it may present a claim within one year following the date on which it learned of the aforementioned facts; however, this period shall in no event exceed one year following the date on which the claimant State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The above-mentioned time-limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time-limits until one year after the full extent of such damage is known.
Article III

Exhaustion of Local Remedies

Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claimant represents.

Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent.

Text approved by the Drafting Group (PDO/0.2/DX(IX)/2)

Article I

Definitions

For the purposes of this Convention:
(a) the term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations;
(b) the term "launching" includes attempted launching;
(c) the term "launching State" means:
(1) The State which launches or procures the launching of a space object;
(2) the State from whose territory or facility a space object is launched;
(d) the term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

Text as modified by the Drafting Group (PDO/0.2/DX(IX)/R.1)

Article II

Absolute Liability

The launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft in flight.

Article III

Fault Liability

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

Text as modified by the Drafting Group (PDO/0.2/DX(IX)/R.2)

Article V

Joint Launch

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. A launching State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning
among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of a State sustaining damage to seek the entire compensation due under this Convention from any or all of the launching States that are jointly and severally liable.

3. A State from whose territory or facility a space object is launched shall be regarded as a participant in a joint launching.

Article VI

Exoneration

1. Unless otherwise provided in this Convention, exoneration from absolute liability shall be granted to the extent that a launching State establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of a State presenting a claim or of natural or juridical persons it represents.

2. No exoneration whatever shall be granted in cases where the damage has resulted from activities conducted by the launching State which are not in conformity with international law including, in particular, the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

Article VII

Exclusions

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

(a) nationals of that launching State;

(b) foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article VIII

Form of Compensation

Unless the State presenting the claim and the State from which compensation is due under this Convention agree on another form of compensation, the compensation shall be paid in the currency of the State presenting the claim or, if that State so requests, in the currency of the State from which compensation is due under this Convention.

Article IX

Presentation of Claims

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim or notified its intention of presenting a claim, a State may also present a claim to a launching State in respect of damage sustained in the territory of the State presenting the claim by any natural or juridical person.

3. A State may also present a claim in respect of damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.

4. No claim may be presented under this Convention to a launching State in respect of nationals of that State.

Text as modified by the Drafting Group (WCG/62/02/IX/114)

Article IV

Third Party Damage

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object, by the space object of another State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to that third State, to the extent indicated by the following:

(a) If the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability shall be absolute.

(b) If the damage has occurred to a space object of a third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be apportioned equally between them, such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the States that are jointly and severally liable.
Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the General Assembly on 13 December 1963 as resolution 1962 (XVIII), and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, signed on 27 January 1967,

Taking into consideration that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recognising the need for establishing international rules governing liability for such damage,

Believing that the establishment of such rules would contribute to the strengthening of international co-operation in the field of the exploration and use of outer space for peaceful purposes,

Have decided to conclude this Convention:

United Kingdom: Working Paper for the Drafting Group (F/AC.105/2/06/IX/WP.2)

Preamble

The Contracting Parties,

Recognising the common interest of mankind in furthering the exploration and use of outer space for peaceful purposes,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, signed on 27 January 1967, and particularly its Article VII concerning liability for damage by space objects,

Recognising that, notwithstanding the precautionary measures to be taken by States and international organisations involved in the launching of space objects, damage may on occasion be caused by such objects,

Resolved accordingly to establish detailed international rules and procedures concerning liability for damage caused by space objects and to ensure, in particular, prompt and equitable compensation for victims of such damage,

Believing that agreed provisions to that end will contribute to the development of friendly relations and co-operation among nations,

Have agreed on the following:

Text as modified by the Drafting Group (F/AC.105/2/06/IX/WP.5)

Article V

Presentation of claims through diplomatic channels

A claim for compensation for damage shall be presented to a launching State through its diplomatic channels. If a State does not maintain diplomatic relations with a launching State, it may request another State to present its claim or otherwise represent its interests under this Convention.

Article VI

Time-limits for presentation of claims

1. A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State that is liable.

2. If, however, a State does not know of the occurrence of the damage or the identity of the launching State that is liable, it may present a claim within one year following the date on which it learned of the aforesaid facts; however, this period shall not exceed one year following the date on which the State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 shall apply even if the full extent of the damage may not be known. In this event, however, the State presenting the claim shall be entitled to revise the claim and submit additional documentation beyond such time-limits until one year after the full extent of the damage is known.

Article VII

Exhaustion of Local Remedies

1. Presentation of a claim to a launching State for compensation for damage under this Convention shall not require the prior exhaustion of any local remedies that may be available to a State presenting a claim or to natural or juridical persons it represents.

2. Nothing in this Convention shall prevent a State, or natural or juridical person it might represent, from pursuing a claim in the courts or administrative tribunals of an international or national jurisdiction, or in the courts or administrative tribunals or agencies of a launching State; if it has under another international agreement which is binding on the States concerned.

Hungary: Working Paper (F/AC.105/2/06/IX/WP.1)

Preamble

The Contracting Parties,

Recognising the common interest of all mankind in the peaceful exploration and use of outer space,
ANNEX II

PROPOSALS CONCERNING QUESTIONS RELATIVE TO THE DEFINITION OF OUTER SPACE AND THE UTILIZATION OF OUTER SPACE AND CELESTIAL BODIES, INCLUDING THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS

Argentina: draft agreement on the principles governing activities in the use of the natural resources of the moon and other celestial bodies (A/AC.105/6.2/6.71 and Corr.1)

The States Parties to this Agreement,

Bearing in mind that activities in the use of the natural resources of the Moon have begun,

Reaffirming that mankind has a common interest in promoting the use of outer space, including the Moon and other celestial bodies, for peaceful purposes,

Considering that the Treaty of 27 January 1967 does not establish regulations specifically for activities in the use of the natural resources of the Moon and other celestial bodies,

Believing that it is necessary to complete the provisions of that Treaty with respect to the legal system for activities in the use of such resources,

Bearing in mind the benefits to be obtained from the prompt establishment of principles for the use of the natural resources of the Moon and other celestial bodies by means of a general agreement within the framework of the 1967 Treaty,

Recalling that the use of outer space must be for the benefit and in the interests of all countries, and shall be the province of all mankind,

Have agreed on the following:

Article 1

The natural resources of the Moon and other celestial bodies shall be the common heritage of all mankind.

Article 2

All substances originating in the Moon or other celestial bodies shall be regarded as natural resources.

Article 3

The legal system applicable to natural resources used in their place of origin shall be distinct from that applicable to those brought to the Earth for use.
**Article 1**

The benefits obtained from the use of the natural resources of the Moon and other celestial bodies shall be made available to all peoples without discrimination of any kind.

**Article 5**

In distributing such benefits, account shall be taken of the need to promote the attainment of higher standards of living and conditions of economic and social progress and development, pursuant to article 55a of the Charter of the United Nations, in the light of the interests and requirements of the developing countries and the rights of those undertaking these activities. (Followed by the formal provisions or final clauses on the lines of those of the Treaty of 1967 and the Agreement of 1968).

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**Argentina: draft international agreement on activities carried out through remote-sensing satellite surveys of earth resources (A/AC.105/6/2/4.73)**

The States Parties to the present Agreement:

Considering that there is an urgent need for overall surveys of earth resources by means of remote sensors installed in satellites and that the expected benefits will only be obtained through a general international convention and agreements on collaboration,

Further considering that the principal economic assets of any country are human and natural resources, provided that these are identified and used,

Convinced that the promise of such benefits raises legal problems which must be solved without delay,

Reaffirming that these new techniques will act as an effective stimulus to economic and social development, and materially contribute to the welfare of all mankind by enabling the inventory, planning, development, exploitation and conservation of natural resources to be undertaken on the basis of international co-operation.

**Article 2**

Until such time as some other appropriate body is available, the United Nations Secretariat shall be responsible for the functions of planning, consultation, information, inventorying and co-ordination of such activities in the initial stage to meet immediate needs, with a view to internationalizing overall surveys of resources.

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A data bank shall be established for that purpose, to which all States shall have access. When appropriate, the data bank shall disseminate on a worldwide basis the findings and practical results in respect of the use of such techniques to inventory and survey earth resources, with special reference to the interests and needs of the developing countries.

**Article 3**

The programmes for worldwide remote sensing will prevent the exploitation of natural resources from causing the spoliation or destruction of the environment, and will make for the preservation of a satisfactory balance through the increase of renewable resources in those areas which are best able to help maintain it.

**Article 4**

Until remote-sensing satellite surveys of earth resources have been placed on an international footing, the activities of the States which undertake such surveys must be based on the principle of equality between States and of the honourable fulfilment of international commitments, as well as the other principles of international law regarding friendly relations and co-operation between States.
Article 6

Surveys of natural resources and their findings with respect to the sea beyond State jurisdiction or of the ocean floor and subsoil beyond the limits of national jurisdiction shall be transmitted to the data bank. If the surveys involve the national territory and jurisdictional waters of one or more States, the facts and findings shall be promptly communicated to the State or States concerned and transmitted to the data bank.

Article 7

The principle of equality of rights and the self-determination of peoples embraces not only the right to internal sovereignty and independence, but also the economic aspect of the freedom to use and distribute their wealth, whereby the peoples may exercise their legitimate and exclusive rights over their natural resources. By virtue of this principle, the States shall exchange information among themselves on the discovery of new areas or of improved methods of exploiting natural resources, and shall transmit such information to the data bank.

Article 8

The exploitation of the natural resources of each State in its territory and in its jurisdictional waters shall be governed solely by national laws and regulations. Efforts shall be made by means of international agreements to improve the distribution of the resources and to plan concerted action to meet collective consumption requirements, with respect to the basic elements for subsistence essential raw materials and natural processes the knowledge of which, would raise mankind's level of living. (The final articles follow.)
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