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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
LEGAL SUB-COMMITTEE
SUMMARY RECORD OF THE FIRST MEETING

held at the Palais des Nations, Geneva
on Monday, 28 May 1962, at 3.20 p.m.

Acting Chairman: Mr. HASEGANU (Romania)
Chairman: Mr. LACHS (Poland)
Secretary: Mr. SCHACHTER

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STATEMENT BY THE VICE-CHAIRMAN OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
(item 1 of the provisional agenda)

Mr. HASEGANU, Vice-Chairman of the Committee on the Peaceful Uses of Outer Space, observed that only a few years earlier the study of an entirely new branch of international law, that of the law of outer space, might have been regarded as fantastic or utopian. And yet space science and technology had made such surprising progress that it had been deemed essential for international co-operation to keep pace with those advances, and the General Assembly had therefore decided to set up the Committee on the Peaceful Uses of Outer Space as a co-ordinating body for international co-operation and as a forum for the study of the legal questions involved. At its second session, the Committee had tried to lay the foundation for that international co-operation, and had decided that those ends could best be served by the establishment of two sub-committees, one scientific and technical and the other legal, comprising all the members of the Committee. The sub-committees might be regarded as laboratories where member countries would combine their efforts to evolve practical measures which would constitute the substance of the Committee's future work.

The task of the Legal Sub-Committee would be to discuss the fundamental principles of space law and to study the legal problems connected with the exploration and use of outer space. The Sub-Committee would be guided in its work by the principles adopted by the General Assembly in its resolution 1721 A (XVI), namely, that international law, including the United Nations Charter, applied to outer space and celestial bodies and that outer space and celestial bodies were free for exploration and use by all States in conformity with international law and were not subject to national appropriation.

The Committee's deliberations had shown the importance of preparing either a general agreement on the law of outer space, or agreements on specific problems which might prepare the way for the adoption of a satisfactory legal instrument. The Committee had deliberately refrained from establishing any rigid time limit for the Sub-Committee's report, in order to enable it to study all the relevant problems and to explore all the possible approaches to the question. Members of the Sub-Committee might find some guidance for their work in the proposals and suggestions made in the Committee. Finally, with regard to procedure, he recalled that

Committee's agreement that all the decisions of the Committee and of the Sub-Committees should be taken unanimously after prior consultation, thus obviating the necessity of voting.

ADOPTION OF THE AGENDA

The agenda was adopted.

ELECTION OF THE CHAIRMAN OF THE SUB-COMMITTEE (item 2 of the agenda)

Sir Kenneth BAILEY (Australia) nominated Mr. Lachs (Poland) for the office of Chairman.

Mr. RAO (India) seconded that nomination.

Mr. LACHS (Poland) was elected Chairman by acclamation and took the Chair.

STATEMENT BY THE CHAIRMAN

The CHAIRMAN thanked the Sub-Committee for the honour it had done his country and himself in electing him.

The deliberations in the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space opened a new page in international law. Such a phenomenon was not unfamiliar to lawyers, since law had always followed man in the relationships among individuals and nations and in any new adventures undertaken on land, water or in the air. Every product of man's genius and labour had been followed by law, and the corpus juris gentium had been the result. Since the basic principles of law applied to all acts of States, in all dimensions, the extension of international law beyond Newton's law of gravity was a natural development. The gigantic strides of modern science, which had revolutionized the lives of all mankind, did not merely represent an exercise of the human mind, but were being translated into the very fabric of everyday life; scientists were no longer confined to the ivory towers of their laboratories, and the effects of their work on human and international relations were becoming felt with increasing rapidity. International law should likewise not be regarded as an intellectual poor relation of science, but should be used decisively to deal with the practical effects of the discovery of a new dimension.

The modern world was confronted with two conflicting philosophies. On the one hand, there was the fear lest man should become a prisoner of his own scientific and technical inventions; on the other hand, there was confidence in the progressive development of man's mastery over nature and his use of it to

serve his noblest aspirations. There was little doubt to which of those theories the Sub-Committee would subscribe: the philosophy of doom had no place in its deliberations. The international community must strive to dismantle the destructive power vested in bombs and other weapons, and to use science and technology for constructive human purposes. The key had been found to many of the secrets of nature, and its forces could now be turned to serving the interests of mankind. In the new dimensions of outer space, there were a number of important legal problems to be solved, which arose from the logic of events.

The first guiding principles for that work had been laid down by General Assembly resolution 1721 A (XVI), which had been adopted unanimously after its substance had been previously agreed upon by the delegations of the Soviet Union and the United States of America. A very important principle of law had been confirmed by that resolution, namely, that the jurisdiction of international law and of the United Nations Charter extended to outer space and celestial bodies, which were consequently free for exploration and use by all States, and were not subject to national appropriation. International law as it was currently known, and, in particular, the Charter with its great importance to all mankind, had thus acquired new dimensions. Furthermore, the exchange of messages between Mr. Khrushchev and President Kennedy had been an event of great importance and had opened the way for further progress. The Sub-Committee must bear in mind both the vastness of its task and the essentially practical issues involved, and must seek the best solutions for the problems which were both urgent and ripe for decision. The work would be long and painstaking, and yet members should constantly remember that they were only laying the foundation stones of an edifice which their successors would continue to build. The Vice-Chairman of the Committee had wisely reminded the Sub-Committee of the procedural decision reached in the parent body; the Sub-Committee should follow the same procedure. To facilitate future peaceful co-operation in a field hitherto inaccessible to man, it was essential to agree on the fundamental principles and to establish definite rules. He assured the Sub-Committee that he would spare no effort to help it to attain that goal.

He suggested that representatives of the International Telecommunication Union (ITU), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Meteorological Organization (WMO), referred to in General Assembly resolution 1721 (XVI), should be invited to attend the Sub-Committee's

meetings as observers. The World Health Organization (WHO) had also expressed the wish to be represented, and he suggested that representatives of that specialized agency should also be invited. Finally, since General Assembly resolution 1721 D (XVI) also mentioned the Committee on Space Research of the International Council of Scientific Unions (COSPAR), he suggested that that body should also be asked to send an observer.

It was so decided.

STATEMENT BY THE LEGAL COUNSEL

Mr. STAVROPOULOS (Legal Counsel) extended to the Sub-Committee the best wishes of the acting Secretary-General of the United Nations for the fulfilment of its task. The importance of the Sub-Committee's role in beginning to develop international activities in an entirely new field need hardly be emphasized; the Sub-Committee was fortunate in undertaking that work in an atmosphere of international co-operation and on the basis of far-reaching principles unanimously adopted by the General Assembly. It was obvious that those principles and their future implementation were a matter of interest not only to the major powers engaged in scientific activity but to all members of the international community. The legal questions involved were of course complex, but the Acting Secretary-General hoped that the Sub-Committee would concern itself not only with general ideas but also with some specific problems.

The CHAIRMAN requested the Legal Counsel to convey the Sub-Committee's thanks to the Acting Secretary-General for his message.

CONSIDERATION OF LEGAL PROBLEMS ARISING FROM THE EXPLORATION AND USE OF OUTER SPACE (item 3 of the agenda)

General debate

Mr. TUNKIN (Union of Soviet Socialist Republics) observed that in a few months time the world would be celebrating the fifth anniversary of the opening of the space age, which had begun on 4 November 1957 with the successful launching of the first sputnik by the Soviet Union. Since that date, great achievements had been recorded in the conquest of space for peaceful purposes. The family of celestial bodies had been supplemented by artificial planets and satellites fashioned by the hand of man; a space rocket had reached the surface of the moon, and the dark side of that body had been photographed for the first time; and the first astronauts had made their historic flights in orbit round the earth.

It was generally recognized that international co-operation in the various problems raised had become absolutely essential. Those problems must be settled on a basis of equality and justice, so that all mankind should share in the vast prospects opened up by the peaceful conquest of outer space, so that joint efforts should be made to explore the universe and so that scientific and technical achievements should be made to serve the practical needs of mankind. The Soviet Union was actively in favour of international co-operation in the exploration and use of outer space, and the exchange of messages between Mr. Khrushchev, the Chairman of the Council of Ministers of the USSR, and Mr. Kennedy, the President of the United States of America, in March 1962 had marked an important stage in the practical implementation of such co-operation. Mr. Khrushchev had enumerated the points on which the Soviet Government deemed international co-operation to be most important, and that enumeration included the legal problems involved. That exchange of messages had thus provided a favourable atmosphere for international co-operation, including the solution of problems of international law in the matter.

Another useful point of departure for the Sub-Committee's work was the fact that the General Assembly, in its resolution 1721 A (XVI), had laid down the fundamental principle of the law of outer space. According to that unanimously adopted resolution, international law, including the United Nations Charter, extended to outer space and celestial bodies, which were thus free for exploration and use by all States and were not subject to national appropriation. That confirmed the generally accepted principle that States must be guided by international law in all their relations, on land or on water, in the air or in outer space. The USSR delegation considered that the Sub-Committee's work should consist above all in preparing, on the basis and in accordance with the principles of the General Assembly resolution, declarations of the principles which should guide States in the exploration and use of outer space.

The Soviet delegation also believed, in accordance with basic humanitarian principles, that the Sub-Committee should try to prepare a draft international agreement on assistance to and return of astronauts and space vehicles; Mr. Khrushchev had stressed the importance of such an agreement in his message to Mr. Kennedy. Moreover, the United States representative at the second session of the Committee had proposed a study of State responsibility for possible damage done by space vehicles. The USSR delegation had no objection to such a study of possible damage to foreign States, citizens or institutions as a result of activities in outer space.

In conclusion, the Soviet delegation wished to express its hope that the Sub-Committee's work would be conducted in a spirit of mutual understanding and would yield results which would promote international co-operation in the exploration and use of outer space for peaceful purposes.

Mr. MEEKER (United States of America) said that man's entry into space should mark a turning point in human history, and it was to be hoped that future historians would find that twentieth century man had appraised his situation intelligently and had plotted his course in the light of reason.

Appreciation of the fantastic new possibilities offered by man's expanding knowledge of the cosmic environment should bring to nations a new sense of common purpose. Just as, throughout history, political and social units had grown to meet the necessities of changing circumstances, it might well be that the challenge of extra-territorial space could provide an inducement for effective international co-operation. Certainly, in view of the heavy demands which the tasks of space exploration made on material resources and human technology, progress could be more rapid if those tasks were regarded as the effort of Earth as a whole.

The United Nations Committee on the Peaceful Uses of Outer Space was directly concerned with international co-operation. That concern was separate from the subject matter of disarmament. Although ensuring that outer space was used solely for peaceful purposes was bound to involve agreements and measures in the context of disarmament, the Committee could nevertheless make significant collateral contributions to that end. His country had always supported the principle that outer space should be used for peaceful purposes only - a goal which it believed could be reached only through measures of disarmament appropriately backed up by verification to ensure compliance - and it had advanced several proposals along those lines in the Conference of the Eighteen-Nation Disarmament Committee. It was conceivable that collaboration in space exploration would lead in the future to a political atmosphere in which the problems of disarmament would appear far less formidable and would lend themselves much more readily to solution.

Turning to the task of the Legal Sub-Committee, which was to study legal problems arising in the exploration of space, he pointed out that the development of law in any field was likely to be a long-term process comprising a number of elements, such as judicial decisions, actual practice, and legislation by international treaty or agreement.

The United Nations had been a valuable forum for the consideration of law for outer space. The General Assembly had adopted a resolution embodying the principles that international law, including the United Nations Charter, applied to outer space and celestial bodies, and that outer space and celestial bodies were free for exploration and use by all States in conformity with international law and were not subject to national appropriation.

While it might well be said that law must accompany man into outer space, any effort to elaborate a code of space law would be premature at the present stage. It would be sounder to deal with the developing problems realistically as they became evident rather than to make rules for their own sake or to seek to articulate a set of principles before possessing a sufficient understanding of the relevant scientific facts.

Bearing in mind that the aim should be to meet the needs arising from experience, the United States had proposed at the March meetings of the Committee that early work should be undertaken on the subjects of the return of space vehicles and liability for injury or damage resulting from space vehicle accidents. Despite the good fortune that had attended programmes up to the present, accidents were liable to occur. When they did, it was obvious that all States should render any help possible to save the lives of cosmonauts and their co-operation would also be needed to permit the return of the vehicle involved with a view to determining the cause of the accident. Similarly, humanitarian and scientific requirements should be met whenever a space vehicle, owing to accident, distress or mistake, landed elsewhere than in the area intended.

Accordingly, his delegation proposed that a resolution should be prepared on assistance to and return of astronauts and space vehicles, for submission to the General Assembly by the Committee, and it planned to submit a draft at a later stage.

His delegation suggested a General Assembly resolution, rather than a treaty, on the subject of assistance and return because it was convinced that the shared humanitarian and scientific concerns of the international community were such that States would willingly comply with such a resolution. Moreover, the principles involved were so clear and simple that they did not require elaboration in a formal legal instrument. Similar reasons had already led to the conclusion that a treaty on the applicability of the Charter to outer space and on the principle that outer space and celestial bodies were not subject to national appropriation was unnecessary and that the matter could appropriately be dealt with by an expression of the General Assembly in resolution 1721 (XVI).

A further reason for preferring a General Assembly resolution to a treaty was the fact that preparing a treaty and obtaining the required number of ratifications was a time-consuming process, whereas the Legal Sub-Committee was in a position to act immediately by preparing a draft resolution for action by the General Assembly at its seventeenth session.

A second problem which called for early treatment was the question of legal and financial liability for injury resulting from space vehicle accidents. His Government believed that a treaty would be the most appropriate form for the handling of that subject, first, because legal and financial liability was a very complex subject and secondly because the financial consequences of responsibility required legislative authorization on the part of almost all Member States.

It was only realistic to recognize that the Sub-Committee could not draft a treaty in the relatively short time at its disposal. Also, it might well be too large for optimum efficiency in the initial drafting of a detailed international instrument. For those reasons his delegation suggested that the Acting Secretary-General should be asked to appoint a small panel of legal experts, drawn from various areas of the world, for the preparation of a draft agreement which would subsequently be submitted to the Legal Sub-Committee for analysis and revision. A text could be submitted to governments for comment at an appropriate stage and, finally, a plenipotentiary conference could be convened by the General Assembly for the conclusion of a treaty.

The Sub-Committee could itself provide guidelines for the work of the panel of experts; his delegation would have more to say on that subject later in the discussions. For the present he wished to suggest two basic principles. First, the liability of a launching State or organization should be absolute; to require proof of negligence would generally be tantamount to denying the possibility of compensation. Second, liability should attach whether injury or damage occurred on land, on the sea or in the air. It was probably premature to attempt to deal with the subject of collisions between space craft in outer space.

His Government looked forward with interest and enthusiasm to undertaking the shared tasks of building a law for outer space.

The meeting rose at 4.35 p.m.