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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

SUMMARY RECORD OF THE FIFTEENTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 20 June 1962 at 4.15 p.m.

Chairman:

Mr. LACHS (Poland)

Secretary:

Mr. SCHACTER

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CONSIDERATION OF LEGAL PROBLEMS ARISING FROM THE EXPLORATION AND USE OF OUTER SPACE
(item 3 of the agenda) (concluded)Consideration of the report (A/AC.105/C.2/3)

The CHAIRMAN recalled that the Sub-Committee had decided, at its previous meeting, to conclude its first session by proceeding to the adoption of its report to the Committee on the Peaceful Uses of Outer Space. After the first draft of the report had been circulated, however, informal consultations had shown that it did not command the approval of some delegations. Doubts had been raised concerning certain parts of the report, and it appeared that it would require long and painstaking work to achieve agreement within the framework of the original draft. In those circumstances, he would suggest, in order to facilitate the conclusion of the session, that the Sub-Committee should adopt a much shorter report which would not give rise to specific comments or amendments. The abridged report would contain an introduction relating to the convening of the Sub-Committee, the election of the Chairman and the invitations to observers, and would give a list of the States whose representatives had taken part in the general discussion. A paragraph would be included concerning the procedure followed by the Sub-Committee in accordance with the parent Committee's decision that work should be conducted in such a way that agreement would be reached without need for voting. The proposals submitted to the Sub-Committee by the Soviet Union, the United States of America, India and Canada would be reproduced and a further section would mention the other legal problems suggested for future study. The summary records of the Sub-Committee's discussions would be attached to the report and would constitute part of it. A final paragraph would contain a statement by the Chairman that the Sub-Committee had reached no agreement, but that it was the consensus of all delegations participating in the session that the meetings had offered the possibility for a most useful exchange of views and that the Sub-Committee submitted its report to the parent Committee for its consideration.

In order to allow members of the Sub-Committee time to consider his suggestion, he would suspend the meeting.

The meeting was suspended at 4.35 p.m. and resumed at 5.10 p.m.

Mr. COOK (Australia) inquired why the coherent, and in his view objective, account of the Sub-Committee's discussions was to be omitted from the Sub-Committee's report. Such an account would have been helpful to delegations and to their home authorities as well as to the Committee on the Peaceful Uses of Outer Space.

Mr. MEEKER (United States of America) said that although his delegation might have cast the draft report in different terms, and had certain suggestions to make in regard to it, it had been and still was quite prepared to take the original draft for consideration by the Sub-Committee: surely, it should not be impossible for the Sub-Committee to complete work on the inclusion of such changes in the draft as delegations might wish to propose and on which agreement might be reached.

The CHAIRMAN proposed that the Sub-Committee should agree to the adoption of the factual report of the proceedings which he had outlined and which would include the complete summary records of the session.

It was so decided.

Mr. MEEKER (United States of America) said that, while illuminating exchanges of views had taken place during the Sub-Committee's session, his delegation was keenly disappointed that no agreement had been reached on tangible steps which would have recorded progress. At the full Committee's session in March 1962, there had appeared to be general agreement that the Legal Sub-Committee should proceed directly with constructive work on two topics: liability for space vehicle accidents, and assistance to and return of astronauts and space vehicles. The United States delegation had, before the Sub-Committee's session, accordingly embarked on a series of consultations with a view to securing agreed papers on the two topics and had hoped for general agreement on the two draft resolutions (A/AC.105/C.2/L.3 and L.4).

The pursuit of further consultations with the Soviet delegation had, however, disclosed some reluctance to proceed. The Soviet delegation had prepared two papers of its own, one on general principles governing the exploration and use of outer space and the other concerning a draft international agreement on assistance to and return of astronauts and spaceships (A/AC.105/C.2/L.1 and L.2). While each of those papers contained constructive elements, they also unfortunately contained elements of a political character so obviously controversial that the Soviet Union could not have expected them to be the subject of general agreement in the Sub-Committee.

During the Sub-Committee's debates, many divergent views had been advanced on the questions of general principles, liability and assistance and return. It had appeared, however, that there was a consensus to the effect that a draft international agreement on liability for space vehicle accidents should be prepared and that a working group of experts should be formed for the purpose of preparing a draft.

A few days previously, the Canadian delegation had called attention to that consensus and had made a compromise suggestion for concluding the present phase of the Sub-Committee's work. The United States delegation had accepted that suggestion and expressed its readiness to join in setting up a working group composed not of experts selected by the Secretary-General, as had been proposed in its own draft resolution, but a working group composed of representatives of governments. It had also expressed its willingness to omit entirely from the terms of reference of the working group any substantive guidelines, such as those appearing in paragraph 3 of its draft resolution. In making those changes, it had fully met the points raised by the Soviet Union delegation in regard to the proposed study of liability for space vehicle accidents.

The United States delegation had also announced that it would not press its other draft resolution, which it had hoped might be adopted at the forthcoming seventeenth session of the United Nations General Assembly, but would agree to leave the subject for further consideration at a future meeting of the Legal Sub-Committee.

To his delegation's great regret, the Soviet Union had not been willing to proceed with the consideration of the topic of liability, because of its insistence that no progress could be made on that subject without simultaneous agreement on subjects in which it was particularly interested, and it was that linkage which had prevented progress by the Sub-Committee. That situation obtained in spite of the fact that the question of liability was of interest to all countries and not merely to the relatively few actively engaged in outer space programmes, and in spite also of the fact that a clear majority of the Sub-Committee had stated its agreement with the Canadian representative's suggestions and its desire to go forward with the task entrusted to it by the General Assembly and the parent Committee.

He expressed regret that charges of "aggression", the operation of "military blocs" and the harboring of "ill-will" had been made by the Soviet delegation during the discussions. Such statements were out of place and hardly calculated to produce any constructive results. His delegation hoped that the attitude underlying such charges

would, in the course of time, moderate, and that the Soviet Union would join with other members of the community of nations in furthering international co-operative efforts for the development of the law of outer space.

The suggestion that the United States did not consider principles important or valuable in the context of outer space was far from the truth. As some representatives had pointed out, it was a United States working paper which had become the basis for the section dealing with legal problems in the report submitted three years previously by the ad hoc Committee on the Peaceful Uses of Outer Space. The working paper and the ad hoc Committee's report had both contained the statements concerning the freedom of outer space and the applicability of the United Nations Charter which were the forerunners of the principles set forth in General Assembly resolution 1721A (XVI).

That resolution included the principle of applicability of international law to relations among States in outer space - except as it might be otherwise agreed - and the principle that outer space and celestial bodies could not be appropriated to national sovereignty. The United States delegation, as one of the sponsors of the Assembly resolution, wished to make very clear the importance it attached to the development of sound general principles as well as to the achievement of progress in solving practical questions, and it looked forward to the development of further general principles concerning the law of outer space.

The Sub-Committee's session had been a beginning, but much remained to be done. His delegation looked forward to participating with energy and devotion in the international co-operative efforts that would be required to frame a just order in the realm of outer space as well as among the nations on earth.

Mr. TUNKIN (Union of Soviet Socialist Republics) regretted that the United States representative had thought fit, at the conclusion of the Committee's work, to return to contentious matters and to present the course of the Sub-Committee's deliberations in a distorted way.

The great importance which the Soviet Government attached to international co-operation in the exploration of outer space had been evidenced by the repeated reference to the subject by the Chairman of the Council of Ministers of the USSR and by his message to the President of the United States in March, 1962. That message, which emphasized first the need for collaboration, made reference to international legal problems arising in connexion with the peaceful use and exploration of outer space.

His delegation had submitted to the Sub-Committee two concrete proposals, both relating to matters whose importance no one had questioned. The Sub-Committee's first task should be to deal with the problems which were of the greatest importance for the maintenance of international peace and security and the promotion of friendly relations between States, and his delegation's proposals had been formulated accordingly. The United States delegation had, however, lightly brushed aside those proposals, labelling them as propaganda and describing them as untimely. The United States intention had been to distract the Sub-Committee from its main task by limiting its activities to matters of secondary importance. The sad experience of the League of Nations pointed to the danger of such methods. The Sub-Committee owed it to world public opinion not to shirk the main issues.

The United States representative had stated that he regretted the attitude of the Soviet Union in the discussions. But the USSR delegation could with greater justification express regret at the position taken by the United States. He had, a few days previously, drawn attention to the appeal made by some seven hundred scientists for the abandonment of the United States high-altitude nuclear explosions. The carrying out of such explosions inevitably hampered discussions on outer space.

The statement of the United States delegation that its Government invited the Soviet Union to join in finding solutions for the legal problems of outer space was a standard formula. At the sixteenth session of the General Assembly, when an overwhelming majority of States had been in favour of codifying the recent changes in international law, the United States representative had said in effect that there had been no such changes. On that occasion, too, the same formula had been used of inviting the Soviet Union to join in the efforts for the progressive development of international law, whereas such an invitation should in fact have been addressed to the United States, which opposed such a development.

During the initial stages of the Sub-Committee's session the Soviet delegation had hoped that it might be possible to make progress and to work out an agreement on a series of questions, but unfortunately that hope had not been realized. He trusted that in the future there might be a better prospect of agreement.

He expressed his delegation's thanks to the Chairman and to the Secretariat.

Mr. ZEMANEK (Austria), supported by Mr. EL-ERIAN (United Arab Republic) and Miss GUTTERIDGE (United Kingdom), expressed appreciation of the Chairman's untiring efforts.

The CHAIRMAN thanked representatives for the confidence shown in him and for their assistance. He expressed appreciation to the Secretary and members of the Secretariat for their help.

The meeting rose at 6 p.m.