

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.105/C.2/SR.16
27 June 1963

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at Headquarters, New York,
on Tuesday, 16 April 1963, at 11.25 a.m.

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PRESENT:

Chairman:

Mr. LACHS (Poland)

Members:

Mr. BUDO Albania

Mr. MENDEZ Argentina

Sir Kenneth BAILEY Australia

Mr. MARSCHIK Austria

Mr. LITVINE Belgium

Mr. SILOS Brazil

Mr. MOLEROV Bulgaria

Mr. DOBELL Canada

Mr. N'GARABAYE Chad

Mr. HAJEK Czechoslovakia

Mr. LEMAITRE France

Mr. PRANDLER Hungary

Mr. CHAKRAVARTY India

Mr. AMIRMOKRI Iran

Mr. ATTOLICO Italy

Mr. NAKAJIMA Japan

Mr. HAKIM Lebanon

Mr. CUEVAS CANCINO Mexico

Mr. DASHTSEREN Mongolia

Mr. TABITI Morocco

Mr. WYZNER Poland

Mr. JUCU Romania

Mr. COLLIER Sierra Leone

Mr. HEDIN Sweden

Mr. TIMERBAEV Union of Soviet Socialist Republics

Mr. FAHMY United Arab Republic

Miss GUTTERIDGE United Kingdom of Great Britain and Northern Ireland

Mr. MEEKER United States of America

Secretariat:

Mr. SCHACHTER Secretary of the Sub-Committee

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ORGANIZATION OF WORK

The CHAIRMAN recalled that the period since the end of the first session of the Legal Sub-Committee had been marked by new achievements in the conquest of outer space. Progress should not be hampered by the absence of legal provisions and regulations on the exploration and use of outer space, and the Sub-Committee should make serious efforts to ensure that the law kept pace with the achievements of modern science and technology. He hoped that the members of the Sub-Committee would be able to reach agreement on the vital issues and legal problems arising from the conquest of outer space; he himself would do everything in his power to help them in their task.

The Sub-Committee should continue to follow the procedure outlined by the Chairman of the Committee on the Peaceful Uses of Outer Space, who had said that "it will be the aim of all members of the Committee and its sub-committees to conduct the Committee's work in such a way that the Committee will be able to reach agreement in its work without need for voting" (A/AC.105/PV.2). He suggested that the Committee should adopt as its terms of reference the provisions of General Assembly resolution 1802 I (XVII) and that it should commence its work by a general debate.

It was so decided.

GENERAL DEBATE (A/C.1/879 and 881; A/AC.105/L.2-6)

Mr. MEEKER (United States of America) said that since, under the Charter, the United Nations was "to be a center for harmonizing the actions of nations", it was appropriate that it should discuss the question of outer space and undertake responsibility for framing a structure of law for activities in outer space. It was to be hoped that those activities would prove a unifying force since, in view of the complexity and immensity of outer space, there would be an increasing need for international co-operation in that field.

On the basis of practice and experience and the results of discussions in deliberative institutions, the law of space had already begun to take shape. The Members of the United Nations had both a weighty responsibility and a great opportunity in shaping the law of space and in reflecting it as it developed through practice. Important results had already been achieved, as, for example, the statement of legal principles adopted unanimously in General Assembly resolution 1721 (XVI). There were several areas of widely shared agreement in which the Legal Sub-Committee could record substantial progress. In connexion with the

(Mr. Meeker, United States)

question of liability for space vehicle accidents, there was general agreement that launching authorities should be held internationally liable for injuries or damage on land, on sea and in the air caused by space vehicles for which they were responsible. There was also a consensus that such liability should be incurred without proof of fault. In the view of his delegation, therefore, the Sub-Committee could go ahead with the detailed work required. The United States had submitted a draft proposal on the subject (A/AC.105/L.5) and had indicated its willingness to make adjustments in the draft with a view to obtaining general acceptance. He therefore urged the Sub-Committee to decide on a procedure for the preparation of an appropriate agreement on liability.

There was also general agreement that every effort should be made to assist astronauts in distress and that astronauts rescued by authorities other than the launching authorities should be safely and promptly returned. The Sub-Committee was therefore ready to make progress on that subject, and his delegation had noted with interest the suggestion made by the French delegation that the United Nations should at an early date adopt a resolution on assistance and return and thereafter arrange for the preparation of a more detailed international agreement.

Since the previous session, several delegations, including his own, had indicated a readiness to join in the further formulation of general principles of space law. It was apparent from the previous discussion and the drafts before the Sub-Committee that a number of ideas were held in common and should be capable of agreed expression by the United Nations. Included among them were such principles as the freedom of outer space and celestial bodies, the application of the United Nations Charter and relevant principles of international law to relations among States in outer space, the principle that exploration and use of space should be carried out for the benefit and in the interest of all mankind, the principle that all possible assistance should be rendered to astronauts in distress, the principle of return of space vehicles and their personnel to the launching authority, the principle of international responsibility of the launching authority for injury, loss or damage caused by its space vehicles, the principle that ownership of a space vehicle remained unaffected in transit or on return to the earth and that jurisdiction over a space vehicle and its personnel in transit were retained by the State or international organization in which ownership of the vehicle resided at the time of launching.

The Sub-Committee could overcome the obstacles it had previously encountered if it concentrated on areas where agreement already existed or was clearly indicated. His delegation hoped that the Sub-Committee, by recognizing and formulating the widest possible area of agreement attainable on questions of space law, would justify the faith of the world community that the United Nations could make a fruitful contribution to the rational ordering of man's activities in space.

Mr. MARSCHIK (Austria) said that the Sub-Committee was resuming its work virtually at the point where it had left off the year before. The events of that year had been somewhat disappointing in that an impasse appeared to have been reached, but a new start should be made and the Sub-Committee should look ahead. It had two main tasks: firstly, the formulation of a statement of general principles to govern the activities of States in the exploration and use of outer space; and, secondly, the consideration of specific issues arising from those activities.

In connexion with the first of those tasks, the Sub-Committee had before it four proposals on which his delegation would comment at a later stage but whose common features offered some hope that progress might be made. In seeking to formulate basic principles, the Sub-Committee could usefully apply certain procedural rules.

First, the Sub-Committee should proceed gradually, step by step, from the two principles set forth in General Assembly resolution 1721 (XVI). The aim at the present session should not be to elaborate a complete and perfect set of principles but rather to supplement the two principles of that resolution by as many additional principles as could be agreed upon.

Second, in evolving general principles, use should be made of relevant provisions of existing international conventions such as the Antarctic Treaty and the Convention on the High Seas.

Third, any principle recommended by the Sub-Committee should have the support of all members. If the principles were to be effective and represent any contribution to the growth and development of international law, they should emerge from a concensus of international opinion and practice and should command general support and acceptance.

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(Mr. Marschik, Austria)

Fourth, in formulating basic principles, the Sub-Committee should avoid involvement in matters discussed by other international bodies. Where the inclusion of such matters appeared unavoidable, it would be desirable to recommend to the General Assembly that the competent bodies should be consulted regarding those matters before principles concerning them were included in a draft declaration.

Consideration of specific issues arising from the exploration of outer space would not be premature but would, in fact, become more urgent as scientific progress advanced and space flights became more frequent. One of the foremost issues appeared to be the question of assistance to space vehicles and their crews and their return to their home countries. Two proposals had been made in that connexion, and the Sub-Committee could also make use of existing multilateral and bilateral aeronautical and maritime conventions which contained provisions on assistance to aircraft, vessels and persons in distress.

A second important question was that of liability for damage caused by objects launched into space, and in that connexion the United States delegation had put forward a useful proposal. Although the question was a complex one requiring thorough study, his delegation saw no need to appoint an advisory panel of legal experts to deal with it. The Sub-Committee itself could simply agree on the provisions to be contained in a convention on the subject and then ask the Secretariat to translate them into a draft international convention. The Secretariat's draft could be studied and further elaborated by a working group of the Sub-Committee and then put in final form by the Sub-Committee as a whole. His delegation would have comments to make on the substance of the question at a later stage.

The meeting rose at 12 noon.