



PROVISIONAL

A/AC.105/C.2/SR.24  
1 May 1963

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE TWENTY-FOURTH MEETING

Held at Headquarters, New York,  
on Monday, 29 April 1963, at 11.10 a.m.

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Organization of work

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AS THIS RECORD WAS DISTRIBUTED ON 1 MAY 1963, THE TIME-LIMIT FOR CORRECTIONS WILL BE 6 MAY 1963.

PRESENT:

Chairman:

Mr. LACHS (Poland)

Members:

Mr. BUDO Albania

Mr. MENDEZ Argentina

Mr. COOK Australia

Mr. MARSCHIK Austria

Mr. LITVINE Belgium

Mr. de CARVALHO SILOS Brazil

Mr. MOLEROV Bulgaria

Mr. PARRY Canada

Mr. N'GARABAYE Chad

Mr. PRUSA Czechoslovakia

Mr. LEMAITRE France

Mr. PRANDLER Hungary

Mr. CHAKRAVARTY )  
Mr. NARENDRA SINGH ) 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. KAREFA-SMART 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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CONSIDERATION OF LEGAL PROBLEMS ARISING FROM THE EXPLORATION AND USE OF OUTER SPACE (A/C.1/879, 881; A/AC.105/L.3-L.6; A/AC.105/C.2/4; A/AC.105/C.2/L.6)  
(continued)

Mr. BUDO (Albania) said that General Assembly resolution 1802 (XVII) reflected wide-spread concern about the lack of legal provisions to govern the exploration and use of outer space for peaceful purposes - a lack which would inevitably be an obstacle to international co-operation and progress in that sphere and to world peace. It was therefore essential for the law to keep pace with the progress of space science and technology. That progress should benefit all mankind, since the interests of all States were involved in the use of outer space.

The basic principles embodied in General Assembly resolution 1721 (XVI) should constitute guide-lines for the elaboration of outer space law, which should be based on international law and the United Nations Charter. Particular attention should be devoted to the principle of the equal rights in space of all States, whatever their size or degree of economic and scientific development, and to the principle that outer space should be explored and used in the interest of all peoples and to the benefit of all States. Those two principles should be the framework encompassing other essential basic provisions, such as the prohibition of the extension of national sovereignty to outer space and celestial bodies, the prohibition of the use of outer space for propagating war or national or racial hatred, the obligation to guarantee the safety of outer space and not to use artificial satellites for purposes of espionage, the principle of assistance to space craft and their crews and of State liability for damage caused and other provisions which experience had shown to be necessary. The adoption of a declaration of basic legal principles would facilitate the subsequent conclusion of detailed agreements on specific legal questions, such as assistance to and rescue of astronauts and liability for damage.

Although useful discussions had been held and interesting proposals had been submitted on the subject of a declaration of principles, no practical results had yet been achieved because certain Powers were trying by various means to prevent the adoption of the necessary legal provisions. At the

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(Mr. Budo, Albania)

current session of the Sub-Committee, attempts had been made to justify activities which were incompatible with the sovereign rights of States and inimical to the cause of peace, such as espionage activities in outer space. Such claims were inadmissible and incompatible with international law, with the aims and principles of the United Nations Charter and with General Assembly resolution 1721 (XVI). His delegation wished to draw the Sub-Committee's attention to the seriousness of such claims, which would violate national defence, one of the supreme prerogatives of States, and have very serious consequences for international peace and security. If progress was to be made in drawing up general principles, such obstacles should be eliminated.

As far as the type of instrument to embody the principles was concerned, his delegation thought that a declaration signed by the States Members of the United Nations would be suitable at the present time. A mere recommendatory resolution of the General Assembly was not sufficient; what was needed was an instrument which would be binding on all States. The Albanian delegation supported the form and content of the Soviet draft declaration (A/AC.105/C.2/L.6), which would make it possible to solve the urgent problems arising from the exploration and use of outer space for peaceful purposes.

Mr. TABITI (Morocco) said that the time lag between technical progress and the preparation of a suitable legal framework to govern the fruits of such progress was particularly noticeable in the new field of the exploration and use of outer space. There was, however, general agreement on the need to intensify efforts to reconcile viewpoints so that the foundation could be laid for a law of outer space. The Moroccan delegation entirely supported that realistic attitude and welcomed the fact that the consideration of space law had begun in a forum particularly favourable to international co-operation - the United Nations. There had been some extremely useful exchanges of views in the General Assembly and in the Committee on the Peaceful Uses of Outer Space and several concrete proposals had been submitted to the Sub-Committee. Although a considerable measure of agreement had already been reached, the issues had not been debated at sufficient length for any start to be made on the codification of space law. Nevertheless, the Sub-Committee should now be able to determine what methods it should adopt in order to discharge its responsibilities. In view of the complexity and diversity of the problems involved it would seem that the Sub-Committee should proceed methodically and by stages.

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(Mr. Tabiti, Morocco)

His delegation did not think that the differences of opinion on whether priority should be given to a statement of basic principles or to detailed regulations on specific problems constituted an insurmountable obstacle, since it believed that as agreement was reached on basic questions of substance such differences would become less marked. The broad agreement already existing with regard to the problems of liability and assistance indicated that it should soon be possible to find a satisfactory solution to them.

One of the important tasks entrusted to the Sub-Committee by General Assembly resolution 1802 (XVII) was the further elaboration of basic legal principles governing the activities of States in the exploration and use of outer space. His delegation thought that the general debate had made a useful contribution, particularly by defining more precisely the areas in which agreement could rapidly be reached and those on which the Sub-Committee should concentrate. The two principles proclaimed in resolution 1721 (XVI), namely, that international law applied to outer space and that outer space was free for exploration by all States, were reflected in certain provisions of the drafts submitted and could subsequently form the basis for a generally acceptable legal instrument. It had, however, rightly been emphasized that those general principles should be clarified and supplemented by more detailed provisions in order to remove the possibility of differences of interpretation. Before international law and the United Nations Charter could be applied to the new environment of outer space a detailed study would have to be made, in which the experience acquired from existing usage and international agreements could be used to good purpose. In that connexion, his delegation thought that the Sub-Committee might adopt the suggestion of the United Arab Republic that the United Nations Office of Legal Affairs should be requested to prepare a basis for such a study.

The Sub-Committee should devote particular attention to the implications of the second principle proclaimed in resolution 1721 (XVI), that outer space and celestial bodies were free for exploration and use by all States. A prerequisite of such freedom, however, was respect for the principles that space activities must be peaceful and that the interests of each nation and of the international community as a whole must be protected against any abuse. The space Powers had so far displayed moderation and a sense of responsibility and had repeatedly proclaimed their desire

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(Mr. Tabiti, Morocco)

to promote the interests of all mankind. The Sub-Committee would have to buttress that important moral assurance with the legal safeguard of a text universally accepted and respected, defining as precisely as possible the rights and obligations of States or groups of States engaging in space exploration. Because of the small size of the Sub-Committee and the exploratory nature of its deliberations, his delegation thought that when a sufficient measure of agreement had been reached on the definition and scope of the general principles to be applied, those principles should next be proclaimed in a solemn declaration which would be submitted to the General Assembly for approval.

Mr. de CARVALHO SILOS (Brazil) said that the new achievements in outer space since the Sub-Committee's last meeting emphasized the need for a legal framework which could ensure the orderly development of space programmes. The assumption underlying General Assembly resolution 1802 (XVII), which established some guide-lines for the Sub-Committee's work, was that the Sub-Committee ought first to explore fully all the areas of agreement already existing among the space Powers. While his delegation entirely agreed that progress must be made in those matters, it did not believe that the short-term possibilities of success in negotiations on certain subjects should divert the Sub-Committee's attention from other equally pressing and important problems. General Assembly resolution 1802 (XVII) should not be interpreted rigidly as limiting the Sub-Committee to the consideration of the topics listed in it, other problems deserving attention should be examined, even if only in an exploratory way. One such problem was particularly pressing: the need for international control of world telecommunications systems based on man-made satellites. The recent success of the Telstar and Relay experiments indicated that the most rapid achievements in the peaceful uses of outer space would be accomplished in that field. The tremendous impact that a global system of telecommunications would soon exert on society had been stressed by Richard Gardner in a recent article in Foreign Affairs, in which he had predicted that by the end of the decade the programmes of a communications satellite network would have a potential audience of nearly 1,000 million people. In the years to come, television and radio broadcast through satellites might become a new instrument for intensifying political and ideological antagonism between States

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(Mr. de Carvalho Silos, Brazil)

and spreading distorted news and information. The best means of preventing that would be an international agreement on such broadcasts. In accordance with the principles of the United Nations Charter, the agreement should prohibit any State from using global telecommunications systems to intervene in the domestic affairs of another State. The underlying principle of such an agreement should be embodied in the proposed declaration of basic principles.

A declaration of principles would provide an invaluable foundation on which to build the future legal structure of space activities. A truly satisfactory declaration, however, must express agreement on two paramount principles: first, that activities in outer space should be confined solely to peaceful uses; second, that the exploration and use of outer space should be to the benefit of all States irrespective of their degree of economic or scientific development.

A satisfactory legal order for outer space could not be built on a set of principles which did not deal with the essential and vital problem of peace. The inclusion in the declaration of a principle confining the exploration of space to peaceful uses would pave the way for the signing of a treaty banning all nuclear tests in outer space. While it was true that the Eighteen-Nation Committee on Disarmament had been discussing the banning of nuclear tests, the division of competence between that Committee and the Committee on the Peaceful Uses of Outer Space should not be made an excuse for lack of action on the latter's part. The negotiations in the Eighteen-Nation Committee on Disarmament were hampered by the interrelationships between disarmament measures in the various environments. The Brazilian Government has always defended a gradualist and pragmatic approach to disarmament, which would permit progress in certain areas to be immediately translated into specific steps and which would not make advances in those areas conditional on the conclusion of a complete disarmament treaty or a comprehensive test ban treaty. Moreover, nothing was as yet definitely known about the effects that nuclear explosions in outer space would have on the conditions that made life on earth possible. Those explosions might represent a tremendous danger for mankind, out of all proportion to the military or strategic advantages to be derived from them.

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(Mr. de Carvalho Silos, Brazil)

His delegation also attached great importance to the principle that the use and exploration of outer space should benefit all States, irrespective of their degree of economic or scientific development. That principle had been stated in General Assembly resolution 1721 (XVI) and incorporated as a preambular paragraph in the draft declarations submitted by the United States (A/C.1/881) and the USSR (A/AC.105/C.2/L.6), but by its importance it deserved to be one of the operative paragraphs of the declaration of basic principles. Only that principle could ensure that the exploration of outer space would not increase the already profound disparities between developed and developing nations.

Mr. MENDEZ (Argentina) said that all speakers in the general debate had been in agreement concerning the urgency and importance of an agreement regulating activities in outer space. The principles enunciated in General Assembly resolution 1721 (XVI) were a good foundation for the construction of the new law. The valuable proposals submitted to the Sub-Committee and the ideas expressed during the discussions indicated significant agreement in the approach to certain questions. While his delegation did not underestimate the differences of opinion which still existed, it thought that the Sub-Committee might accomplish useful work if it concentrated on those areas where there appeared to be real agreement. The peaceful use of outer space in a spirit of broad international co-operation, the application of the rules of international law including the United Nations Charter to outer space, freedom of exploration and use of outer space for all States without distinction, and exclusion of the idea of national appropriation with respect to celestial bodies were principles endorsed by all and incorporated in the General Assembly resolutions on outer space. The Sub-Committee must develop those generally agreed principles and state them as precisely as possible. There was also a similarity of approach to other more specific issues such as liability, assistance, and jurisdiction over or ownership of space vehicles. His delegation shared the view of the United Kingdom representative that the Sub-Committee should concentrate on those areas of agreement.

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(Mr. Menéndez, Argentina)

The draft proposals clarified many matters and indicated those points which were both the most important and the most difficult. It was now for the Sub-Committee to find practical rules which with close international co-operation could provide an adequate solution to the problems encountered. There was a growing appreciation of the need for such co-operation.

The new approach to political, legal, technical and other problems required by man's conquest of space affected all States. All countries were therefore interested in an agreement on the legal regulation of outer space, but opinions as to the most effective method of reaching such an agreement differed.

In so far as possible, the legal provisions should be established in advance of the facts: the rules could not be limited to legalization or systematization of existing situations, especially in a field affected by technological developments. Of course, existing international law and the principles of the Charter, based on the idea of State sovereignty, could not always provide an adequate answer to the new legal questions arising from activities in outer space.

His delegation did not favour the immediate codification of all the legal aspects of outer space. In its view, general codification was neither possible nor desirable at present, when so little was known concerning the possible uses of outer space. On the other hand, it fully shared the view that certain legal problems relating to the general principles and to more specific questions were ready to be regulated by rules having general validity. For the same reasons it thought that nothing could be so harmful to the work of the Sub-Committee as obstacles of extreme intransigence. The Sub-Committee should agree to consider first those issues on which progress would be most likely and should determine at least to deal subsequently with the problems on which there was a greater difference of opinion.

As to the form in which the statement of basic principles should be embodied, his delegation noted the legitimate concern of some delegations that the instrument proclaiming those principles should have binding force. Some caution was necessary, however, in the elaboration of the law of outer space, since rapid technological progress might soon invalidate hastily established rules.

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(Mr. Mendez, Argentina)

His delegation did not consider, therefore, that the instrument had necessarily or immediately to be in convention or treaty form. Rather, there would be an advantage in beginning with an agreed resolution stating in the clearest possible legal form certain basic principles which were already widely accepted, and at a not too distant stage embodying those principles in a convention or treaty having full legal force.

His delegation agreed that nations had a duty to use outer space for peaceful purposes only, but it doubted the value of including a prohibition of war propaganda in the basic principles. Such propaganda had already been prohibited in General Assembly resolution 110 (II), and there seemed to be no point in raising political questions which came within the competence of the Eighteen-Nation Committee on Disarmament.

Turning to the question of liability for space vehicle accidents, he noted that the answers to such questions as the class of interests protected, the type of activity giving rise to liability and other connected problems would vary with the particular legal system applied in analysing them. The document prepared by the Sub-Committee on that subject should establish and evaluate objectively the conditions of liability and should declare that the State or international organization authorizing or carrying out the launching was internationally liable. In his delegation's view, the United States proposal (A/AC.105/L.5) gave appropriate expression to that principle.

On the question of assistance to and return of astronauts and space vehicles, his delegation considered that a resolution should be prepared, stressing - as did paragraph 10 of the USSR draft declaration (A/AC.105/C.2/L.6) - the singular character of the astronaut as a civilian explorer of outer space and the duty of States to render him all possible assistance in the event of a forced landing outside the borders of the launching State.

Lastly, his delegation shared the view of the Austrian, Indian and Australian delegations that a working group should be established to draw up a common draft of those principles on which agreement had been expressed.

Miss GUTTERIDGE (United Kingdom) considered that the time had come for the Sub-Committee to evaluate the progress it had made and to decide upon its future course of action. The discussion had revealed many areas of agreement

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(Miss Cutteridge, United Kingdom)

and also certain points on which there was as yet no possibility of general agreement. However, the progress which could be made at present should not be delayed because of the existence of those areas of disagreement and her delegation would especially deplore any attempts to persuade the Sub-Committee that agreement on basic principles could be achieved only by the adoption of one of the proposed drafts in its present form. Moreover, a statement of basic principles which merely reiterated those expressed in General Assembly resolution 1721 (XVI) would clearly not suffice.

Her delegation therefore believed that serious consideration should be given to the ideas which had been expressed with regard to paragraphs 6 and 7 of the Soviet draft (A/AC.105/C.2/L.6). Several constructive observations had been made and it would be desirable to consider whether those paragraphs might not be reformulated in such a way as to make them generally acceptable. Many speakers had endorsed the view expressed in her delegation's draft (A/C.1/379) that the freedom to explore and use outer space should be exercised by all States with due regard to the interests of other States in the exploration and use of outer space, and to the need for consultation and co-operation between States in relation to such exploration and use. Furthermore, a number of representatives had referred with approval to the establishment by the Committee on Space Research of a consultative group to study the problems of interference and contamination in outer space, and to serve as a means of consultation and discussion in relation to contemplated projects. These statements pointed to the possibility of reformulating paragraph 6 of the Soviet draft in such a manner as to make it generally acceptable. Such a reformulation might begin with the sentence which she had quoted from her own delegation's draft, after which would come a specific reference to the need for international consultation, particularly with the appropriate scientific bodies, in any case in which experiments in outer space might have harmful effects. The general adoption of such a principle would be a very real step forward and would avoid the difficulties seen by her delegation and others in paragraph 6 of the Soviet draft, which in its present form appeared to impose a veto on activities in outer space.

Agreement also appeared possible on the idea underlying paragraph 7 of the Soviet draft. The USSR representative had indicated (A/AC.105/C.2/SR.17, page 7) that the first sentence of that paragraph was designed to ensure that no

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(Miss Gutteridge, United Kingdom)

irresponsible acts were perpetrated in outer space by individuals or companies. There must be general agreement with that principle, but the manner in which it was expressed in the USSR draft was not appropriate to all social systems. It might be preferable to provide that if activities in outer space were carried out by private individuals or corporations, those activities should be licensed by, and under the supervision of, the State of which such individuals or corporations were nationals. Another method of formulating the same idea was to be found in paragraph 5.4 of the draft code drawn up by the David Davies Memorial Institute study group. As the latter had stated, the underlying principle was that the nature of space operations required a continuing state of responsibility for them, whatever arrangements might be made between a State and private operators. The United States Communication Satellites Act (1962), expressed in very concrete form the concepts of governmental permission and governmental supervision.

Her delegation also agreed with other speakers that it might be useful to embody in any draft declaration the substance of paragraphs 6 and 7 of the draft code submitted by the United Arab Republic in document A/AC.105/L.6.

Turning to those matters which were not at present generally agreed by the Sub-Committee to be suitable for incorporation in a declaration of basic principles, she said that her delegation, like others, believed that the problem raised in paragraph 5 of the Soviet draft (A/AC.105/C.2/L.6) did not pertain exclusively to outer space and was therefore not an appropriate subject for inclusion in a declaration of basic principles governing the use and exploration of outer space. The Canadian representative's reformulation of the same basic idea (A/AC.105/C.2/SR.21, page 7) was an interesting one.

Paragraph 9 of the Soviet draft had disclosed real differences which could not easily be resolved. Her delegation was among those which considered that observation from outer space, as from any area outside the territory of a State, was not prohibited by international law. Article 36 of the 1944 Chicago Convention, which had been cited in support of that paragraph, had no real relevance, as it dealt with the use of photographic apparatus in aircraft within the territory of a contracting State. However, it would be most unfortunate if disagreement on that paragraph should prevent the adoption of other basic principles which were uncontroversial or on which early agreement might be reached.

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(Miss Gutteridge, United Kingdom)

Several delegations had suggested that paragraph 1 of the draft code submitted by the United Arab Republic should be included among the basic principles. She believed that there was no disagreement with that paragraph as a statement of an objective to be achieved and felt that consideration might be given to the Australian representative's suggestion that the paragraph might be referred to in that way in the draft declaration. However, her delegation considered that the inclusion of such a statement among the basic principles at present would raise difficulties rather than resolve them. The content of the expression "peaceful purposes" needed careful examination and such examination and the practical implementation of the concept must be the concern of the Eighteen Nation Committee on Disarmament. For those reasons - and certainly with no wish to see the arms race extended to outer space or to see a holocaust directed from a celestial body - she believed that the inclusion of that question among the basic principles would be premature at present.

Her delegation agreed with those members of the Sub-Committee which considered that any agreed statement of basic principles should be expressed in a form which would permit of their expansion as the areas of agreement increased and as the areas of difference or uncertainty diminished. The most appropriate form, therefore, would be a General Assembly resolution which might itself, as the Lebanese representative had suggested, take the form of a declaration. Such a resolution, unanimously accepted, would be an important contribution to the development of the law of outer space.

The omission of any reference to the questions of assistance and return of space vehicles and their personnel and liability for space vehicles accidents in document A/C.1/379 did not imply that her delegation did not regard those questions as important. It believed that those topics, and particularly the question of liability, could be more appropriately dealt with in the form of detailed agreements. The latter question raised a number of difficult and important problems which would require detailed examination before even very general principles could be formulated. Her delegation's view on the matter had been reinforced, to some extent, by the discussion in the Sub-Committee, although the debate had helped to clarify some of the difficulties. The compression of the

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(Miss Gutteridge, United Kingdom)

fundamental principles of liability into a few sentences might involve some risk, but, if there was general support for the idea, her delegation would not oppose the inclusion of a reference to liability for space vehicle accidents in the Sub-Committee's statement of basic principles. The Sub-Committee could initiate discussion of the question of liability at the present session, as a prelude to a more detailed consideration of the subject at the next session when it should be possible to consider proposals for a draft agreement on the question. Another subject for discussion at the next session might be a draft agreement on assistance and return, in which the ideas contained in the USSR and United States proposals (A/AC.105/L.3, A/AC.105/L.4) might be combined and amplified in the light of comparable provisions of other international agreements.

Her delegation still hoped that the Sub-Committee might take some positive action at the present session and that the most recent example of co-operation in the technical field - the approval by the World Meteorological Organization of a world weather watch based on artificial satellites - could be matched by a substantial measure of international co-operation in the legal field.

Mr. N'GAPABAYE (Chad) said that the prospects which the peaceful exploration and use of outer space offered for mankind dictated the need for orderly co-operation in that new sphere. General Assembly resolution 1802 (XVII) had assigned a specific task to the Sub-Committee with regard to the formulation of the legal principles involved and a number of delegations had put forward interesting proposals.

The declarations of aims and intentions made by various countries since the establishment of the Committee on the Peaceful Uses of Outer Space might lead to the belief that all was well in that new field of human endeavour, but the method of achieving the co-operation which was so generally desired was as yet so ill-defined that his delegation's enthusiasm was tempered with some concern. Although it was obviously not yet possible to reach a comprehensive solution of all the legal problems arising from outer space activities, an effort should nevertheless be made to prevent the disputes on questions of interpretation, which might arise as space exploration progressed.

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(Mr. N'garabaye, Chad)

Sharing the views expressed by the President of the United States of America at the 1013th plenary meeting of the General Assembly, his delegation believed that the time had come to recognize explicitly that international law and, in particular, the United Nations Charter extended to the limits of explored space. Outer space and celestial bodies should be free for exploration and use by all States and should not be subject to national appropriation. Man should be free to venture into space with no restrictions other than those imposed by the laws of his country and by international law, including the United Nations Charter. On comparing those views with the draft principles submitted by the Sub-Committee by the USSR delegation (A/AC.105/C.2/L.6), his delegation had been glad to note that the two great nuclear Powers took positions which were almost identical. It was encouraging for the future that neither the United States nor the USSR sought supremacy in outer space.

His delegation wished to pay tribute also to the delegations of the United Kingdom and the United Arab Republic for the useful contribution they had made to the work of the Sub-Committee. It endorsed the view that to be effective and useful any declaration of general principles must be based on the general consensus of the international community.

His Government was following with interest the developments which were taking place in the field of science and technology. It believed that through open international co-operation, the scientific knowledge and technical ability of all peoples might be mobilized for peaceful ends with results from which all nations would benefit. His delegation wished the Sub-Committee success in its efforts to reduce to the minimum the problems which might arise from the exploration and use of outer space.

The CHAIRMAN declared the general discussion closed.

#### ORGANIZATION OF WORK

Mr. MARSCHIK (Austria) said that in view of the informal consultations which were proceeding outside the Sub-Committee his delegation withdrew the suggestion it had made at the previous meeting that the Sub-Committee should establish a working group.

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After a procedural discussion, in which Mr. MARSCHIK (Austria),  
Mr. COOK (Australia), Mr. LEMAITRE (France), Miss GUTTERIDGE (United Kingdom)  
and Mr. HAKIM (Lebanon) took part, the Sub-Committee decided to consider at its  
next meeting the questions of liability for space vehicle accidents and assistance  
to and return of space vehicles and personnel.

The meeting rose at 12.45 p.m.