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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Sixth Session

SUMMARY RECORD OF THE EIGHTY-FOURTH MEETING

held at the Palais des Nations, Geneva,  
on Friday, 14 July 1967, at 11.15 a.m.

CONTENTS:

Study of questions relative to

- (a) the definitions of outer space
- (b) the utilization of outer space and celestial bodies,  
including the various implications of space communications.  
(Agenda item 4) (concluded)

Adoption of the Legal Sub-Committee's report on the work of its  
sixth session to the Committee on the Peaceful Uses of Outer  
Space.

GE-67-23645

<u>Chairman:</u>	Mr. WYZNER	(Poland)
<u>Members:</u>	Mr. COCCA	Argentina
	Mr. O'DONOVAN	Australia
	Mr. ZEMANEK	Austria
	Mr. BAL	Belgium
	Mr. SOUZA e SILVA	Brazil
	Mr. ANGELOV	Bulgaria
	Mr. PICK	Canada
	Mr. MILLER	
	Mr. DELEAU	France
	Mr. HARASZTI	Hungary
	Mr. KRISHNAN	India
	Mr. OWADA	Japan
	Mr. DAMDINDORJ	Mongolia
	Mr. BEREZOWSKI	Poland
	Mr. GOGEANU	Romania
	Mr. PIRADOV	Union of Soviet Socialist Republics
	Mr. SIRRY	United Arab Republic
	Miss GUTTERIDGE	United Kingdom of Great Britain and Northern Ireland
	Mr. REIS	United States of America
<u>Representative of a specialized agency:</u>		
	Mr. DAVID	International Telecommunication Union
<u>Secretariat:</u>		
	Miss CHEN	Secretary of the Sub-Committee

## STUDY OF QUESTIONS RELATIVE TO

- (a) THE DEFINITION OF OUTER SPACE
- (b) THE UTILIZATION OF OUTER SPACE AND CELESTIAL BODIES, INCLUDING THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS (PUOS/67/Conference Room Paper No.1/Rev.1) (agenda item 4) (concluded)

Miss GUTTERIDGE (United Kingdom) proposed that paragraph I(b) of the questionnaire (PUOS/67/Conference Room Paper No.1/Rev.1) introduced by the representative of France should be amended to read:

"(b) to give its views on the selection of scientific and technical criteria that might be adopted by the Legal Sub-Committee, and to indicate, on scientific and technical grounds, the advantages and disadvantages of each of them in relation to the possibility of a definition which would be valid for the long-term future."

Mr. DELEAU (France) said he could accept that amendment.

Mr. ZEMANEK (Austria) said that, in view of the acceptance of the United Kingdom amendment, he would withdraw the reservations he had expressed previously on paragraph I(b) of the questionnaire.

The CHAIRMAN indicated that as no agreement could be reached on paragraph II, it had been withdrawn.

The draft questionnaire (PUOS/67/Conference Room Paper No.1/Rev.1), thus amended, was adopted.

Mr. DELEAU (France) said that, in a desire to facilitate the implementation of the general provisions of 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, his delegation had endeavoured to bring about general agreement on what was basically a practical approach to the question of the definition and the utilization of outer space. It hoped, in particular, that conditions for the exercise of the freedom proclaimed in the Treaty would be clearly defined in accordance both with international law and with the principle that outer space must be used for the benefit and in the interests of all countries.

While welcoming the Sub-Committee's approval of the questionnaire introduced by his delegation, he regretted that agreement had not been possible on paragraph II, pertaining to the study of questions relative to the utilization of outer space, which would have to be taken up at a subsequent session. His delegation understood the amended wording of paragraph I(b) of the questionnaire to mean that the Scientific and Technical Sub-Committee, in giving its views on the selection and the

value of the scientific and technical criteria that might be adopted for a definition of outer space, must bear in mind the fact that that definition, the drafting of which would be the responsibility of the Legal Sub-Committee, should remain valid for the long-term future. He hoped that the Sub-Committee would soon be able to continue its work on the definition so that the widening gap between the advances of technology and progress in the legal regulation of outer space could be narrowed.

For procedural reasons, he would not press his suggestion for consultations with the specialized agencies on the technical aspects of the definition; however, he reserved the right to revert to it in the plenary Committee.

Mr. REIS (United States of America) said that his delegation still believed that a study could usefully be begun on questions relative to the utilization of outer space, the only practical way for the Sub-Committee to do so would be to seek the expert advice of the Scientific and Technical Sub-Committee on specific questions; it would not be reasonable or productive to ask the Sub-Committee to provide an exhaustive catalogue of outer space activities and an order of priority for the regulation of each and every one of them. In his delegation's view, the lack of progress in this connexion was attributable to the unwillingness of the Legal Sub-Committee to grapple with specific problems. His delegation was pleased, however, that the Legal Sub-Committee had been able to reach agreement on the terms of reference for the Scientific and Technical Sub-Committee's study of questions relating to the definition of outer space.

ADOPTION OF THE LEGAL SUB-COMMITTEE'S REPORT ON THE WORK OF ITS SIXTH SESSION TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

The CHAIRMAN invited the Sub-Committee to consider its draft report, contained in an unnumbered working paper and four addenda.

Paragraphs 1 - 3

Paragraphs 1 - 3 were adopted.

Paragraph 4

Paragraph 4 was adopted, with a minor drafting change.

Paragraph 5

Miss GUTTERIDGE (United Kingdom) proposed that paragraph 5 of the draft report should be amended to read:

"5. The Sub-Committee decided to organize its work in the following manner; Items 2 and 3 would first be discussed by the Sub-Committee in plenary session. Two working groups of the whole would then be established - one for the draft agreement on assistance and return (WG.I) and the other for the draft agreement on liability for damage (WG.II). The first three meetings thereafter would be devoted to the draft agreement on assistance and return and thereafter there would be three meetings on liability for damage. This pattern would be followed for a further six meetings. After this, there would be a general debate in plenary session on item 4, during which representatives would bear in mind that certain matters might have to be referred to the Scientific and Technical Sub-Committee. After the consideration of agenda item 4, the Sub-Committee would revert to agenda items 2 and 3 alternatively in the working groups."

The United Kingdom amendment was adopted.

Paragraph 5, as amended, was adopted.

Paragraph 6

Paragraph 6 was adopted.

Paragraph 7

Mr. BEREZOWSKI (Poland) said it would be more accurate if paragraph 7, and indeed all subsequent paragraphs in the report, spoke of assistance "outside the territory of any State" rather than of assistance "outside the territory of a Contracting Party".

It was so decided.

Paragraph 7, as amended, was adopted with some minor drafting changes.

Paragraph 8

Miss GUTTERIDGE (United Kingdom) proposed that, in order to reflect more adequately the Sub-Committee's discussion on the question of assistance to and return of astronauts and space vehicles, paragraph 8 should be redrafted to indicate that there had been differences of view as to which of the three proposals on the question should be taken as a basis for discussion; that several delegations had pointed out that the revised draft agreement tabled by the USSR related to assistance to astronauts; that at the request of the Chairman, a comparative table of the provisions contained in the three proposals had been prepared by the Secretariat to facilitate the Working Group's discussion of the texts before it, and that it had finally been agreed that discussion should proceed on the basis of the subject-headings set out in the comparative table, starting with the question of general duty under the agreement.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that the United Kingdom proposal would not improve the text of paragraph 8 as it stood, rather the reverse, particularly since it was an inaccurate description of what had actually taken place. His delegation would not be able to accept it and he would urge the United Kingdom representative to withdraw it.

Mr. REIS (United States of America) said he thought it was essential for the report to indicate that there had been differences of view within the Sub-Committee on the scope of the assistance and return agreement. Otherwise, the failure to make a greater measure of progress would be incomprehensible at the United Nations.

In addition, he proposed that paragraph 8 should reproduce more closely the wording of General Assembly resolution 2222 (XXI) and speak of the draft agreement on assistance to and return of astronauts and space vehicles.

It was so decided.

The CHAIRMAN suggested that the Sub-Committee should revert to paragraph 8 at a later stage of its consideration of the draft report.

It was so decided.

#### Paragraph 9

Mr. PICK (Canada) suggested that the text should make it clear that the new article submitted by Canada for future consideration (WG.I/43) concerned the exchange of information and international co-operation relative to the rescue of astronauts.

It was so decided.

Paragraph 9, as amended, was adopted with some minor drafting changes.

#### Paragraph 10

Paragraph 10 was adopted, subject to any consequential changes needed to bring it into line with the final text of paragraph 8.

#### Paragraph 11

The CHAIRMAN suggested that, since preliminary agreement on the two points in question had been reached in the Working Group, it should be specified that that agreement represented the view of the Sub-Committee.

It was so decided.

Paragraph 11 was adopted, as amended, with some minor drafting changes.

Paragraphs 12 - 16

Paragraphs 12 - 16 were adopted.

Paragraph 17

The CHAIRMAN, after drawing attention to the revisions contained in addendum 3, suggested that the Sub-Committee might wish to decide that the agreement reached in the Working Group should be regarded as agreement reached by the Sub-Committee as a whole.

Mr. KRISHNAN (India) thought that the definition of "damage" should be included under the heading "Points on which agreement was reached" rather than under a separate heading "Text provisionally agreed upon". He understood that the definition was satisfactory in so far as it covered points on which agreement had been reached; but no decision had yet been taken as to whether it should extend to delayed and indirect damage. He thought that the Sub-Committee should indicate that the definition was not exhaustive.

Mr. MILLER (Canada) said that it was his delegation's understanding that the definition that it had helped to formulate did not include such items as delayed or indirect damage, since there had not been complete agreement on that point. He thought that the heading "Text provisionally agreed upon" made it clear that the definition was not intended to be comprehensive or final. It would be disappointing if the text were now to be given a different status since it represented, as it stood, an effort to incorporate all the valid comments that had been made during the discussions of the subject.

Mr. COCCA (Argentina) felt that a foot-note would be needed to indicate that there had been discussions as to whether the definition of damage should include such items as direct and indirect, immediate and delayed, and nuclear damage, but that no agreement had been reached.

Mr. SOUZA e SILVA (Brazil) supported the views of the representatives of India and Argentina.

The CHAIRMAN suggested that interested delegations might be requested to consult further on the subject in an attempt to reach an accommodation.

Mr. KRISHNAN (India) said that he agreed with the representative of Canada that it would be a pity to lower the status of the good work that had been accomplished. He thought that a foot-note of the kind suggested by the representative of Argentina would provide the necessary clarification.

Mr. OWADA (Japan) said that, in his delegation's view, the definition of damage need not necessarily extend to nuclear damage since that item could be dealt with separately - for example in the part of the convention defining the field of application. He therefore had no objection to the inclusion of the definition of damage under the heading "Text provisionally agreed upon".

Mr. MILLER (Canada) thanked the representative of India for not pressing his suggestion, and said that the Canadian delegation would have no objection to the addition of a foot-note that would make it clear that the question of delayed and indirect damage had not been decided. As the representative of Japan had suggested, there could be an indication elsewhere in the convention concerning the question of nuclear damage. For its part, the Canadian delegation considered the term "damage" broad enough to include direct, indirect and nuclear damage.

Mr. REIS (United States of America) said that his delegation could not accept any suggestion that the definition, as at present worded, covered indirect damage.

Miss GUTTERIDGE (United Kingdom) said that it was also her delegation's understanding that the question of indirect damage had been left open.

After a discussion in which Mr. COCCA (Argentina), Mr. HARASZTI (Hungary), Mr. ZEMANEK (Austria) and Mr. MILLER (Canada) took part Mr. KRISHNAN (India) proposed that the foot-note should read "No agreement was reached on the inclusion of indirect damage and delayed damage in the definition."

The Indian proposal was adopted.

Mr. ZEMANEK (Austria) suggested that the sub-heading for the portion of paragraph 17 dealing with "liability of international organizations" should be worded "Points on which provisional agreement was reached."

Mr. PIRADOV (Union of Soviet Socialist Republics) asked if he was right in assuming that all the decisions that were being taken by the Sub-Committee at its present session were provisional.

Having held appropriate consultations with the delegations concerned, he proposed the omission of the two foot-notes relating respectively to documents WG.II/31/Corr.1 and WG.II/33/Rev.1, which named the delegations that had sponsored the texts in question.



The CHAIRMAN thought that it was generally understood that all the decisions taken by the Sub-Committee at its present session were provisional. However it was for the members to decide how they wished the report to be worded and whether all points of agreement should be prefaced by the word "provisional".

Mr. REIS (United States of America) supported the USSR representative's proposal to delete the two foot-notes specifying the authorship of certain texts,

Mr. MILLER (Canada) agreed that it was not entirely appropriate to mention by name the countries whose texts had been provisionally accepted by all members of the Sub-Committee. He also agreed with the Chairman concerning the preliminary nature of the decisions taken at the present session and thought that the word "provisional" should be used - as in the case mentioned by the representative of Austria - only if to denote those points on which agreement was explicitly provisional. Some texts, such as the definition of damage, were by their very nature provisional or preliminary.

Mr. BAL (Belgium) thought that, in view of the discussions that had taken place on the provisional nature of the agreed texts, some comment was called for concerning the exact extent of the agreement reached. His delegation believed that any final decision on the principles to be embodied in the convention would have to depend on the ultimate form of the instrument as a whole. That was particularly true of the principle dealing with the liability of international organizations. The report stated, in a foot-note, that agreement had not been reached on the question of the rights of international organizations under the convention and the Belgian delegation felt that the problem required further consideration. There could surely be no question of providing in the proposed convention for an obligation to make reparation without providing for a corresponding right to submit claims. He thought that the first sentence of article 6 of the Belgian draft on the rights and obligations of international organizations was quite clear on that point. Any legal régime that entailed rights without equivalent obligations, or vice versa, would be both unjust and unsound. As a number of delegations had pointed out, the question was also directly linked with the need to encourage international

co-operation. The Belgian delegation had submitted its proposal in the belief that the convention should accord international organizations a status in keeping with their important role and achievements. In making those comments, however, he did not wish to prejudge any decision that might be taken on the proposal made by the representative of Austria.

The meeting rose at 1.15 p.m.