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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Special Session

SUMMARY RECORD OF THE EIGHTY-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 14 December 1967, at 3.20 p.m.

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PRESENT:

Chairman:	Mr. WYZNER	(Poland)
Members:	Mr. GOWLAND	Argentina
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	Mr. MARSCHIK	Austria
	Mr. BAL	Belgium
	Mr. SILVA	Brazil
	Mr. YANKOV	Bulgaria
	Mr. MILLER	Canada
	Mr. GOTMANOV	Czechoslovakia
	Mr. DELEAU	France
	Mr. PRANDLER	Hungary
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	Mr. CAPOTORTI	Italy
	Mr. OTSUKA	Japan
	Mr. CHAMMAS	Lebanon
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	Mr. CHULUUNBAATAR	Mongolia
	Mr. KOZLUK	Poland
	Mr. MICU	Romania
	Mr. COLE	Sierra Leone
	Mr. BLIX	Sweden
	Mr. PIRADOV	Union of Soviet Socialist Republics
	Mr. EL ARABY	United Arab Republic
	Mr. DARWIN	United Kingdom of Great Britain and Northern Ireland
	Mr. REIS	United States of America
Secretariat:	Mr. STAVROPOULOS	Under-Secretary, Legal Counsel
	Mr. SLOAN	Secretary of the Sub-Committee

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STATEMENT BY THE CHAIRMAN

The CHAIRMAN welcomed the members of the Sub-Committee to the special session and apologized for having had to call it at such short notice. Since the last meeting of the Sub-Committee in June-July 1967, the Committee on the Peaceful Uses of Outer Space had met, in September, and had submitted its report to the current session of the General Assembly. During a constructive discussion of that report in the First Committee, a number of representatives had expressed their disappointment at the fact that in spite of continued efforts the Legal Sub-Committee had not been able to complete its work on either of the two draft agreements which it was preparing. Subsequently, on 3 November 1967, the General Assembly had unanimously adopted its resolution 2260 (XXII), in which it requested the Committee on the Peaceful Uses of Outer Space, inter alia, to continue "with a sense of urgency" its work on the elaboration of an agreement on liability for damage caused by the launching of objects into outer space and an agreement on assistance to and return of astronauts and space vehicles.

In response to those developments, a series of informal consultations had been held among members of the Sub-Committee, as a result of which a significant rapprochement of views had taken place on a number of provisions of the agreement on assistance to and return of astronauts and space vehicles. The product of some of those consultations was contained in Working Paper No. 1 (A/AC.105/C.2/L.28). The working paper had been circulated at the request of the delegations of the USSR and the United States of America, the authors of draft agreements on assistance and return considered at the Sub-Committee's last session.

There was hardly any need to emphasize the significance, in humanitarian terms and in terms of the gradual development of the law of outer space, of the conclusion of an agreement on assistance to and return of astronauts, and return of objects launched into outer space. The achievement, at the current session, of further important progress in the elaboration of such an agreement would be conducive to similar progress on the other matters of concern to the Sub-Committee: the preparation at an early date of an agreement on liability for damage, and the study of questions relating to the definition of outer space and the utilization of outer space and celestial bodies, including the various implications for space communications.

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(The Chairman)

After emphasizing the General Assembly's sense of urgency with respect to the Sub-Committee's task of creating a corpus juris spatialis, he expressed his confidence that the work of the special session would proceed in the same spirit of understanding and co-operation shown at the previous sessions of the Sub-Committee.

ADOPTION OF THE AGENDA (A/AC.105/C.2/L.29)

The agenda was adopted.

DRAFT AGREEMENT ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/L.28)

Mr. PIRADOV (Union of Soviet Socialist Republics) said that the special session had before it a question of the utmost urgency and importance, namely the rescue of astronauts, the envoys of mankind in the boundless reaches of outer space and the real heroes of the modern world. The investigation of outer space was becoming ever more complex, and the increasingly long flights of astronauts in more and more complicated but untried vehicles would expose them to many unknown and unforeseeable dangers. While everything was being done to ensure the safe return of astronauts to the territory of the launching State, there was always the possibility of a forced landing on the territory of another State or on the high seas. In the circumstances, it was the duty of the Sub-Committee to do everything in its power to complete its task on the relevant agreement at the earliest possible moment.

Reviewing the work that had been done by the Sub-Committee since the first draft agreements were presented in 1962, he recalled that his delegation's original draft had been repeatedly revised (A/AC.105/C.2/L.2) at subsequent sessions (A/AC.105/C.2/L.2/Rev.1 and 2, A/AC.105/C.2/L.18) so as to make provision for the principles and suggestions put forward by other delegations either in their own drafts or in their comments at the various sessions of the Sub-Committee. Without wishing to dwell on the reasons for the prolonged delay in arriving at an agreed text, he had to say that his delegation was convinced that the difficulties which had arisen were artificial and totally unjustified since the basic considerations advanced by all members of the Sub-Committee had been taken into account.

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(Mr. Piradov, USSR)

He welcomed the fact that after the adoption of General Assembly resolution 2260 (XXII) at the current session, bilateral and multilateral consultations between the delegations of the Sub-Committee concerned had led to agreement on the articles of the draft which had not been completed at the last session and he wished to thank the Chairman of the Legal Sub-Committee and the Chairman of the Committee on the Peaceful Uses of Outer Space for their efforts to promote agreements on the draft.

It should be noted that for the most part the proposed text contained provisions which had been agreed on at the Sub-Committee's sessions at New York in 1964 and Geneva in 1967. It was also important to note that the draft as a whole was based on the 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, which had been signed by nearly all States. He wished to emphasize that the sole purpose of the agreement was to ensure the speedy rescue of astronauts and their prompt return to their country, and the return of relevant objects, which were of great value in the conquest of outer space for the good of mankind. All the articles of the draft were based on the principle of the sovereign equality of States and their complete and exclusive sovereignty within the borders of their national territory. The agreement's provisions also took into account the interests of all States, including those on the territory of which astronauts might be forced to land. It provided, inter alia, for the reimbursement of the cost incurred in searching for and returning objects that had been launched into outer space - a matter of special importance to small countries - and for the application of the agreement not only to earth and air space but also to outer space and celestial bodies.

Representing as it did a State whose astronauts were soaring to the far recesses of the universe in the interests of mankind, the Soviet delegation appealed to all members of the Sub-Committee to proceed in all seriousness and with all possible speed to complete the agreement on the rescue of astronauts. It was a duty that they owed to the heroic astronauts, to world science, and to their own consciences. He reviewed the history of the conquest of outer space, which had begun ten years previously, and summarized the benefits to mankind that could

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(Mr. Piradov, USSR)

be expected from outer space exploration. Indeed, some of the discoveries were already finding practical application in many fields of science and technology.

The Soviet delegation would do its utmost to contribute to the successful completion of the other tasks before the Sub-Committee, including the task of preparing a draft agreement on liability for damage caused by the launching of objects into outer space. The year 1967 marked the end of the first decade of the outer-space age. It had begun with a most important international event: on 27 January the Treaty on Principles Governing the Activities of States in Outer Space had been open for signature - a treaty that would create conditions for more successful co-operation among all States in the conquest of outer space irrespective of the degree of their economic and scientific development. The Soviet delegation sincerely hoped that the year 1967 would end with another important contribution: the submission to the General Assembly of a generally acceptable agreement on the rescue and return of astronauts and objects launched into outer space.

Mr. REIS (United States of America) said that his delegation wished to thank the Chairman for making possible the special session of the Legal Sub-Committee to examine the progress that had been made on a draft agreement on assistance and return of astronauts and space vehicles. As it had regularly done since 1963, the General Assembly, on 19 December 1966, had requested the Outer Space Committee to continue its work on a convention on liability for damage caused by the launching of objects into outer space and on an agreement on assistance to and return of astronauts and space vehicles. It had considered those two instruments as paired agreements and had annually called for their elaboration. Again, at its current session, the General Assembly on 3 November had adopted resolution 2260 (XXII) calling for urgent work on those paired agreements.

The purpose of the current special session of the Sub-Committee was to report progress on the elaboration of an assistance and return agreement, in order to act promptly in response to the mandate contained in General Assembly resolution 2260 (XXII). Before commenting on that question, his delegation would like to stress once again the continuing importance it attached to the prompt conclusion of a satisfactory liability convention. He reviewed the history of the Sub-Committee's work on such a convention, for which the United States delegation had taken the initiative as far back as May 1959 during the session of the Ad Hoc Committee on the Peaceful Uses of Outer Space. In June 1962, the United States had placed before the

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(Mr. Reis, United States)

United Nations a first draft of a liability convention, and since then the Sub-Committee, while still far from the text of a convention, had brought it closer. It was the understanding of his delegation that the members of the Legal Sub-Committee, without exception, would make the most rapid possible progress towards such a convention, and the United States and a number of other delegations had committed themselves to meaningful negotiations to that end.

It was sometimes asserted that only the space Powers were interested in the assistance and return agreement while the non-space Powers exclusively were interested in the liability convention. His delegation did not agree. The liability convention would further the interests of all, including the space Powers since it would provide for the orderly resolution of disputes which, if not promptly resolved, could adversely affect the exploration and use of outer space. Similarly, the assistance and return agreement now before the Sub-Committee contained provisions such as those in article 5 and article 6 which were of interest to all who were engaged in or might in future be engaged in space activities. In the negotiations and consultations on the agreement, the United States delegation had sought to ensure that the instrument contained to the maximum possible degree obligations that were fair for present and future space Powers, for near-space Powers, for collective space Powers and for all who were interested in space activities, i.e., the entire membership of the United Nations.

In reviewing the terms of the proposed agreement on rescue and return (A/AC.105/C.2/L.28), which was very much a product of the United Nations and the Committee on the Peaceful Uses of Outer Space, he pointed out that its principal provisions were based on article V and article VIII of the Outer Space Treaty and that it drew on earlier work of the Outer Space Committee. He further noted that the phrase "in any other place not under the jurisdiction of any State", employed in articles 1 and 3, related to such areas as the high seas and outer space, including the moon and other celestial bodies. Article 2 made provision for assistance by the launching authority in searching for and rescuing an astronaut who had met with an accident and had come down on the territory of another party to the agreement. Assistance by the launching authority, which would possess advanced knowledge and experience in locating space vehicles and, perhaps, available aircraft or ships to

(Mr. Reis, United States)

join in a search, might, in certain rare cases, be crucial in saving the life of an astronaut. It was likely that the views of the territorial party and the launching authority would coincide on the question whether, in a particular case, assistance by the launching authority would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue operations. In the unlikely event that they did not agree, the territorial party would of course have the final say in the matter.

He would also point out that article 2, which provided that operations assisted by the launching authority would be conducted "under the direction and control" of the territorial party, which would "act in close and continuing consultation" with the launching authority, represented a just balancing of the interests of the territorial sovereign and the launching authority. Article 4 was a fuller rendering of the legal obligation in article 5 of the Outer Space Treaty to "safely and promptly return" an astronaut. The article also incorporated a suggestion advanced by the French delegation that a party should be obliged to return an astronaut to representatives of the launching authority rather than to the launching authority itself. Article 5 was based on provisions on which preliminary agreement had been reached at the Sub-Committee's 1964 session, but they had been brought into line with the language of the Outer Space Treaty.

In negotiating article 6, the United States delegation had tried to ensure that the views and interests of those countries which participated in international organizations conducting space activities had been accurately and fully reflected. There was general agreement that what was required was a straightforward definition of the term "launching authority". The definition should make it clear that the term referred to the State responsible for launching or, where an inter-governmental organization was responsible for the launching, to that organization.

The remaining articles of the proposed agreement were final articles identical to those of the Outer Space Treaty. Because of the special and exceptional character of the agreement, the United States delegation supported the accession clause in article 7, which specified that the agreement would be open to "all States" for signature and ratification. The General Assembly had described astronauts as "envoys of mankind" and an agreement for the rescue of astronauts was thus an exceptional instrument of a special character. The fact that such a

(Mr. Reis, United States)

clause had been employed in the agreement under consideration did not indicate that it was suitable in other circumstances. Again, adoption of the accession clause did not affect the recognition or status of an unrecognized régime or entity which might elect to file an instrument of accession to the agreement. Under international law and practice, recognition of a Government or acknowledgement of the existence of a State was brought about as the result of a deliberate decision and course of conduct on the part of the Government intending to accord recognition. Such recognition or acknowledgement could not be inferred from signature, ratification or accession to a multilateral agreement. The United States believed that that viewpoint was generally accepted and shared, and it was on that basis that it joined in supporting the present text of the assistance and return agreement.

His delegation hoped that the members of the Legal Sub-Committee would welcome the agreement and that the Sub-Committee would shortly be in a position to present it to the plenary Committee on the Peaceful Uses of Outer Space. Such action would speed the work of the Sub-Committee on the liability convention and the other items on its agenda, and would constitute a positive contribution to international co-operation in the peaceful uses of outer space.

Mr. BAYANDOR (Iran) was gratified that the draft agreement now before the Sub-Committee (A/AC.105/C.2/L.28) had the support of both the USSR and the United States. Nevertheless, his delegation would have preferred, as a matter of principle, to see included in the agenda an item on the agreement on liability for damage caused by the launching of objects into outer space, which was mentioned together with the agreement on assistance and return in operative paragraph 9 of General Assembly resolution 2260 (XXII). His delegation, like many others, regarded the two agreements as complementary. If, as he understood was possible, a preambular paragraph referring to the liability agreement was proposed for insertion in the assistance and return agreement, his delegation would support the proposal as a means of reducing the present imbalance.

The part of article 2 of the present draft agreement which dealt with co-operation in search and rescue operations was highly sensitive. While his country was willing to co-operate fully towards the prompt rescue of astronauts of any country or international space organization, it felt that considerations of

(Mr. Bayandor, Iran)

the safety and security of the States themselves required attention. The third sentence of article 2 was unclear in that regard. No criteria were given for judging whether assistance by the launching authority would help to effect a prompt rescue. If there was a difference of opinion between a contracting party and a launching authority on the necessity of the latter's assistance, would there be sufficient time for it to be resolved, or would the launching authority merely decide that it must intervene in the search and rescue operation? Unless the provision was put in the clearest terms, it was liable to cause anxiety and tension rather than encourage assistance and co-operation.

Furthermore, the scale of the search and rescue operations was not made clear, for the reference to "the direction and control" of the contracting party in the last sentence of article 2 was ambiguously tied up with the requirement of "close and continuing consultation with the launching authority".

His delegation would be happy to co-operate with the authors in any redrafting of article 2 intended to meet the points he had mentioned.

Mr. OTSUKA (Japan) said that, as his delegation had received the present draft agreement only on the previous day, it would present no more than general comments at that stage. It had held all along that a rescue and return agreement should be formulated in conjunction with a liability agreement, since the two were interconnected from the legal and practical points of view. Relevant General Assembly resolutions had always referred to the two agreements as having equal importance and an equal degree of urgency. His delegation had therefore been somewhat surprised to learn of the priority treatment envisaged for the agreement on rescue and return.

It was argued that that agreement was more urgent than the other for humanitarian reasons, but it should not be forgotten that under the recently adopted Treaty on outer space the parties to it had already assumed the obligation to assist and return astronauts (article V) and to return space objects (article VIII). The Sub-Committee's task, he believed, was to work out the specific and precise terms and conditions for the implementation of the rights and obligations relating to rescue and return under those two articles of the Treaty. In so doing it must be guided by juridical considerations as well as by humanitarian considerations, which were already taken into account in the Treaty.

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(Mr. Otsuka, Japan)

It might be claimed that the rescue and return agreement was the more urgent instrument because it was concerned with the lives of astronauts and not merely with money. But the accidents to those astronauts and their vehicles might also cause a large amount of damage to both material objects and human beings. Moreover, the present draft agreement required the return of unmanned space objects to the launching authority; he wondered what would be the liability of the launching authority for, say, damage involving hundreds of lives lost through the crash of an unmanned space object. That example illustrated the close connexion between the rights and obligations of the launching authority and the contracting party under both the rescue and return agreement and the liability agreement. It was clearly most important to strike the right balance between the rights and obligations of the two sides under the agreements.

A preambular paragraph of the present draft agreement referred to the promotion of international co-operation in the peaceful exploration and use of outer space. He hoped that those were not hollow words. His Government had been greatly concerned be a recent report of tests being conducted by a certain space Power towards the possible development of a "fractional orbital bombardment system". That concern had been held in view of the spirit and the letter of article IV of the Treaty on outer space (General Assembly resolution 2222 (XXI)), which prohibited parties from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction. The present draft agreement or any future agreement on rescue and return could not place an obligation on a contracting party to recover and return a space object intended primarily for the development of a bombardment system to be placed into any kind of orbit, whether fractional or not fractional.

While appreciating the great amount of work that had gone into the present draft agreement, he felt that ample time should be allowed for its consideration. He feared that the work of drafting could not be completed during the present session of the General Assembly. Because of the time factor and the legal considerations he had mentioned concerning the connexion between the two agreements, his delegation believed that the two instruments should be taken up together at the next session of the Sub-Committee.

Mr. RAO (India) said it had been his understanding that the Sub-Committee was to meet in June 1968 to continue its work on the elaboration of an agreement on liability and an agreement on assistance and return and to begin the study of the

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(Mr. Rao, India)

definition of outer space and the utilization of outer space and celestial bodies. Instead, the Sub-Committee had been convened earlier to consider a draft agreement on only one of those items negotiated back-stage by certain delegations.

For humanitarian reasons, it was vital to conclude an agreement on assistance and return. However, an agreement on liability was also vitally important, especially for non-space Powers; such an agreement should be elaborated and opened for signature at the same time as an agreement on rescue and return.

Many points in the draft agreement on rescue and return would require careful consideration. Article 2, for example, did not make clear who would decide whether assistance by the launching authority would help to effect a prompt rescue or contribute substantially to the effectiveness of search and rescue operations. The implication was that the contracting parties should admit personnel of the launching authority on their territory for search and rescue operations. That was a far-reaching obligation, with serious implications for a country's territorial sovereignty. The text could perhaps be clarified on the basis of the comments just made by the United States representative and the wording used in the revised Soviet Union draft (A/AC.105/C.2/L.18), whereby a contracting parties assistance might include permission to the launching authority to carry out search and rescue operations on its territory.

Precisely because of the importance of the draft agreement, it should be given the most careful consideration. It would be unfair to the other Members of the General Assembly to expect them to approve within so short a time a text which represented the outcome of five years' work by the Committee on the Peaceful Uses of Outer Space. He agreed with the remarks made by the representatives of Japan and Iran about the text of the draft agreement and the time at which it could most appropriately be considered.

Mr. DARWIN (United Kingdom) proposed at that stage to comment only on one topic which was of special interest to his country. The United Kingdom, like a number of other countries, conducted a large part of its space programme through international organizations. It seemed likely that for many countries participation in space activities must necessarily be through such organizations. The place which those organizations played in any arrangement established in an international

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(Mr. Darwin, United [illegible])

agreement was therefore of some importance. He welcomed the recognition in article 6 of the present draft agreement that, where a launching authority was an international organization, that organization should be accommodated in the scheme of arrangements provided for in the agreement.

Having consulted with a number of European delegations and the Australian delegation, among others, he wished on their behalf to state the principles in accordance with which the question of international organizations should be treated in the agreement. Those delegations believed that an international organization should be regarded as a launching authority for the purposes of the agreement on certain conditions. The organization should be prepared to play its full part in the arrangements established by the agreement and in the rights and obligations laid down in it. It should be willing to declare that it would do so. A majority of the members of the organization should be parties to the agreement and to the Treaty on the Peaceful Uses of Outer Space.

The delegations concerned hoped to be able to submit to the Sub-Committee a proposal based on those considerations.

Mr. DELEAU (France) thought that the preamble of the agreement should start with the words "The signatory States". That formula, which was commonly used in international agreements, recognized the special role played by the signatory States in the preparation and interpretation of the articles of the agreement.

It appeared from the statement of the United States representative that the words "any other place not under the jurisdiction of any State", used in article 1, covered outer space and celestial bodies. It was not absolutely clear from the text of the draft agreement, however, whether articles 1, 3, 4 and 5 in fact related to outer space and celestial bodies.

In the first sentence of article 2, it would be preferable to use the wording of the Chicago Convention concerning assistance, which stated that assistance would be given "to the extent possible". As they stood, the provisions regarding co-operation between the contracting party and the launching authority might give rise to difficulties. It would be better to state first that search and rescue operations should be subject to the direction of the contracting party. It could then be added that, if the assistance of the launching authority was required, it would be requested and the launching authority would act in co-operation with the contracting party. The sovereignty of States would then be better safeguarded.

(Mr. Perreau, France)

His delegation appreciated the humanitarian motives underlying article 4 of the draft. However, the terms of that article should not conflict with the legislation of countries concerning, for example, the right of asylum.

Article 5, paragraph 3, should specify that objects found beyond the territorial limits of the launching authority should be either returned to or held at the disposal of the representatives of that authority. In certain cases, it might be difficult to return the objects in question. A more flexible wording should also be used in paragraph 5 of the same article. It would be preferable to say that the expenses incurred would be borne by the launching authority. It should be mentioned in that connexion that the return of the device might be subject to the receipt of compensation for damages caused by the landing of a space object on the territory of a contracting party.

He hoped that a new formulation could be adopted for article 6 along the lines mentioned by the United Kingdom representative. His delegation had certain reservations on principle concerning article 7 but it realized that the wording, which was the same as that in the Treaty on outer space, was being used in exceptional circumstances.

Mr. SILVA (Brazil) welcomed the resumption of the debate on the draft agreement on rescue and return but had doubts about the possibility of obtaining endorsement of a text by the General Assembly at the current session. More time was required to study the text of an agreement which affected the interests of all and there were still some unresolved difficulties.

Reference should be made in the preamble of the agreement to the need to conclude an agreement on liability. The two agreements were logically interrelated and together provided the essential balance of rights and duties of space and non-space Powers.

The language of article 2 created serious problems connected with the principle of national sovereignty and the control which a State exercised over its territory. It was not clear who was to determine when assistance from the launching authority was necessary.

In article 3, the expression "those Contracting Parties which are in a position to do so" seemed to mean those parties whose geographical position was near or adjacent to the area in which the object of the rescue operation was located. However, geographical location was not the only criterion and the degree of technological development of the contracting party should also be taken into

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(Mr. Silva, Brazil)

account in determining whether an obligation under the terms of article 3 existed. The obligations laid down in article 4 should be interpreted in the same manner.

Mr. PRANDLER (Hungary) emphasized that the subject of the draft agreement was not new to the Sub-Committee. The text was a delicate balance of the views expressed in the Sub-Committee over the years and embodied principles already accepted in the Treaty on outer space. At a time when there was an upsurge of outer space activities and an inevitable possibility of accidents, distress and emergencies, it was essential to have a legal instrument to govern the rescue and return of astronauts. The adoption of such an instrument would give impetus to efforts to elaborate an agreement on liability and be a landmark in outer space activities. All nations should be willing to promote the peaceful exploration of outer space by rendering assistance to astronauts in distress. Those humanitarian considerations should outweigh any differences of approach to practical and technical details.

Mr. EL ARABY (United Arab Republic) welcomed the submission of a draft agreement on rescue and return, which had obvious humanitarian aspects. However, General Assembly resolution 2260 (XXII) implied that priority should be given to work on the elaboration of an agreement on liability. The latter agreement too had important humanitarian aspects and was of interest to all States. It would have been preferable for the two agreements to be elaborated at the same time. The adoption of one agreement could perhaps be made conditional upon approval of the other.

The text of the draft agreement on rescue and return had only just been circulated and would require careful study. It was to be hoped that the procedure followed for its presentation would not constitute a precedent and that in future all members of the Sub-Committee would be consulted on all matters, however urgent. His delegation wished to associate itself with the remarks made by the Japanese and Indian delegations concerning the further consideration of the draft. Due to the obligation on national sovereignty which the draft created and the time factor, his delegation was not in a position to address itself to the substance of the draft.

Mr. GOTMANOV (Czechoslovakia) said that the draft agreement under consideration reflected proposals made at the last session of the Sub-Committee, in particular the revised proposal submitted by Australia and Canada (A/AC.105/C.2/L.20). It embodied all the relevant principles and corresponded to the current state of science and technology. There were already a number of

(Mr. Gotmanov, Czechoslovakia)

multilateral and bilateral agreements on mutual assistance at sea and in the air. It was therefore only logical that a similar agreement on outer space should be elaborated and opened for signature to all States. The Sub-Committee had spent several years preparing the agreement and it should be able to submit a draft to the current session of the General Assembly. The agreement should then enter into force as soon as possible.

Mr. MILLER (Canada) said that while he welcomed the draft agreement (A/AC.105/C.2/L.28) which had been placed before the Sub-Committee for its urgent consideration, he shared the views of those who attached equal importance to an agreement on liability for damage caused by objects launched into outer space and wished the Sub-Committee to give equally urgent attention to the drafting of such an agreement. He agreed with the representatives of Brazil and the United Arab Republic that it might be useful to include a reference to the equal importance of the two agreements in the preamble to the draft agreement on rescue and return. He was glad to note from the statements made by the representatives of the USSR and the United States that those two countries also attached importance to the conclusion of an agreement on liability.

Turning to the draft agreement, he reminded members that the proposals his delegation had made or co-sponsored during the Sub-Committee's sixth session, notably those in paragraphs 7 to 11 of the report on that session (A/AC.105/37) were still before the Sub-Committee, although he would not press for their consideration before the present draft had been thoroughly examined. He regretted that the preamble to the present draft omitted the reference, included in an earlier draft, to the common interest of all mankind in the exploration and use of outer space, and hoped that it could be reintroduced. He would also like the preamble to refer to the principles enunciated in General Assembly resolution 1962 (XVIII). He was glad to note the declared intention in the preamble to promote international co-operation in the peaceful exploration and use of outer space and shared the concern expressed by the representative of Japan about the testing of fractional orbit bombardment systems.

The revised version of article 1 was an improvement on the text accepted during the sixth session and rightly allowed for the possible inability of the territorial Power to identify the launching authority and provided for the notification of the Secretary-General. Article 2 reflected the provisions of the

(Mr. Miller, Canada)

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. He nevertheless shared the apprehension expressed by the representatives of Brazil, France and India regarding a contracting party's legal obligation under that article to co-operate with the launching authority, although additional wording along the lines indicated by the representative of the United States, whereby in the event of disagreement the final decision would rest with the territorial Power, would largely remedy that defect. The principle of respect for territorial sovereignty would thus be safeguarded. The phrase "to assure their speedy rescue" in article 3 was justified by humanitarian considerations and had also been used in the Treaty. The word "progress" in the last sentence was an improvement over "result", used in earlier drafts. The provision in article 4 for the safe and prompt return of the personnel of a space craft to representatives of the launching authority was also an improvement over the earlier draft, since it might be difficult in some cases to return them direct to the launching authority. The word "found" seemed rather vague in that context, although he assumed that it was intended to mean "recovered". If it was not, he would be in favour of the insertion of the phrase "or held at the disposal of" after "returned to", as suggested by the representative of France, since recovery could be a difficult and costly operation.

Article 5 was generally acceptable to his delegation, since it seemed to be based on the text proposed by Australia, Canada and the United States. However, paragraph 1 did not now include any reference to urgency, whereas earlier drafts had stipulated that the launching authority and the Secretary-General were to be informed "immediately" or "without delay". He wondered whether it was wise to omit the provision proposed by Australia, Canada and the United States (A/AC.105/37, annex 1, p. 14, para. 5), whereby the contracting party would request the launching authority to co-operate in the recovery or return operations under the former's direction and control if it considered that such assistance would substantially facilitate those operations. He agreed with the representative of France that the word "reimbursed" in paragraph 5 might be replaced by "borne by the launching authority".

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(Mr. Miller, Canada)

He welcomed the reference to international inter-governmental organizations in article 6 for they were likely to play an increasing part in space activities. He hoped that a suitable text, along the lines suggested by the representative of the United Kingdom, would be inserted to enable such organizations to benefit under the agreement and accept the obligations it imposed. He agreed with the representative of the United States that the inclusion of the "all-States clause" in article 7 was warranted by the special nature of the agreement and did not imply that it should henceforth be used in all treaties and agreements.

At the Sub-Committee's sixth session, Canada had proposed the insertion of an additional article providing for the exchange of technical and scientific information on rescue methods and procedures and for co-operation with a view to the establishment of an international search and rescue service for spacecraft personnel. That proposal could perhaps be borne in mind when, at some future date in the context of more widespread space exploration and travel, a subsequent agreement on the subject was considered.

Mr. YANKOV (Bulgaria) said that the draft agreement now before the Sub-Committee was an improvement over the earlier drafts and that it was worthy of the moral, political and practical purpose it was intended to serve. Such an agreement was of great importance and was urgently needed in view of the rapidly increasing scale of space activities. Some delegations had implied that the Sub-Committee was being hustled into accepting a draft "out of the blue", but that was not so. The Sub-Committee had studied many similar drafts over the past five years and all the main provisions of the draft now before it had been agreed upon in principle at previous sessions. The legal issues involved were not as complex as many of those inherent in other aspects of space exploration and use. Humanitarian considerations made it necessary to conclude an international agreement providing for assistance to the brave men and women who ventured into space in the service of all mankind. The approval of such an agreement by the General Assembly at its present session would also be most timely, in view of the recent entry into force of the Treaty which covered general aspects of the exploration and peaceful use of outer space and the forthcoming United Nations Conference on the Exploration and Peaceful Uses of Outer Space.

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(Mr. Yankov, Bulgaria)

The draft before the Sub-Committee did not contain any new concepts and made suitable provision for respect for territorial sovereignty. There were already a number of international agreements on rescue, of which the common-law and customary-law aspects had been the subject of prolonged and detailed study. The legal obligations in rescue and search operations had also been fully discussed in the Sub-Committee. Some delegations had objected to the stipulation in the last sentence of article 2 that, in such operations, the contracting party should act in close and continuing consultation with the launching authority. That seemed quite appropriate, since the launching authority would possess the relevant technical information about the space craft and would be familiar with the most effective rescue techniques. His delegation had no objection to the procedures specified in the final articles of the draft agreement. The "all-States clause" in article 7, paragraph 1, was in accordance with the principle of universality and sovereign equality and should become standard for multilateral agreements.

While he agreed that the legal and political aspects of outer space activities were interrelated, he did not believe that agreements on them were necessarily interdependent and should be concluded simultaneously. Since a general treaty had been concluded, it would now be appropriate to agree on individual aspects, and he hoped that the conclusion of an agreement on rescue and return would facilitate the adoption of an agreement on liability. However, a rescue agreement should not be made subject to a package deal in space law. The procedure for concluding agreements relating to space law should remain flexible. The points in the present draft which had given rise to objections were not of a substantive character and could be remedied by generally acceptable amendments. It should then be possible to submit the final draft to the General Assembly for acceptance at the present session.

Mr. BLIX (Sweden) said he was not in favour of any theoretical division of responsibility whereby space Powers would be primarily concerned with treaties on exploration and rescue operations, while the non-space Powers devoted their attention to liability agreements. However, he agreed with those delegations

(Mr. Blix, Sweden)

which had drawn attention to the desirability of completing a draft agreement on liability as soon as possible, since accidents which called for rescue efforts might also require arrangements for the orderly payment of compensation for damage caused by space vehicles.

Although he did not wish to delay the acceptance of the draft agreement on rescue and return, he had not had time to consult his Covernment, since the text had only become available on the previous day. He could therefore only make some preliminary comments on the text before the Sub-Committee. He assumed that the expression "all possible steps" in the first sentence of article 2 meant action within the limits of the facilities at the contracting parties' disposal. The same applied to the "assistance" which the contracting party was required, in article 3, to extend if necessary, and also to the "practicable steps" it would be required to take upon the request of the launching authority under article 5, paragraph 2. He shared the concern expressed by the representatives of Brazil, Canada, France and India regarding the phrase "shall co-operate with the launching authority" in article 2. He hoped that the wording could be improved, although it was clear that the article referred only to rescue of personnel and not the return of the space craft. The present text of article 3 placed no obligation on the launching authority to assist in the rescue operations and, although such an obligation was assumed, it might be better to specify it. The same applied to the operations covered by article 5, paragraphs 2 and 3. He also shared the concern expressed by the representatives of France and Japan, in connexion with paragraphs 4 and 5 of that article, regarding the payment of compensation for damage caused by falling space vehicles.

He was glad to see the reference to international inter-governmental organizations in article 6 and agreed in principle with the amendment suggested by the representative of the United Kingdom.

Mr. REIS (United States of America), replying to a question asked by the representative of Brazil, said that it was not the intention of article 3 to impose an obligation to assist in search and rescue operations on countries in the geographical vicinity to space craft which had alighted on the high seas or

(Mr. Reis, United States)

in any other place not under the jurisdiction of any State. It was intended mainly to allow for the possibility of a contracting party's ships being near the scene of the accident and therefore in a position to help with the rescue. The representative of Sweden had rightly assumed that the obligations imposed on the contracting parties in the first sentence of article 2, the first sentence of article 3, and the second and third paragraphs of article 5 did not go beyond the limits of those countries' capabilities. There were no universal standards for the degree of assistance expected in rescue operations, although it was quite possible that a small country would in certain circumstances be in a better position to render assistance than a large one.

Mr. DARWIN (United Kingdom) proposed that the meeting be suspended for fifteen minutes to enable delegations to hold consultations on amendments to the draft agreement which would make it more generally acceptable.

It was so agreed.

The meeting was suspended at 6.30 and resumed at 6.45 p.m.

The CHAIRMAN announced that, as a result of the consultations just held, the following changes were to be introduced in the draft agreement: (1) in the first preambular paragraph the words "emergency or unintended landing" would be changed to "or emergency landing", which were the words used in the Treaty on outer space; (2) in article 5, paragraph 3, the words "or held at the disposal of" would be inserted between "shall be returned to" and "the representatives of the launching authority"; (3) in article 5, paragraph 5, the word "reimbursed" would be replaced by "borne by the launching authority"; and (4) the text of article 6 would be changed to read: "... the term 'launching authority' shall refer to the State responsible for launching, or, where an international inter-governmental organization is responsible for launching, that organization, provided that that organization declares its acceptance of the rights and obligations provided for in this Agreement and a majority of the States members of that organization are Contracting Parties to this Agreement and to the Treaty...".

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Mr. REIS (United States of America), Mr. PIRADOV (Union of Soviet Socialist Republics), Mr. MILLER (Canada), Mr. DELEAU (France) and Mr. DARWIN (United Kingdom) expressed their agreement with the changes announced by the Chairman.

The meeting rose at 6.55 p.m.