



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.105/C.2/SR.89
2 February 1968
ENGLISH
ORIGINAL: FRENCH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
LEGAL SUB-COMMITTEE
Special Session

SUMMARY RECORD OF THE EIGHTY-NINTH MEETING

Held at Headquarters, New York,
on Friday, 15 December 1967, at 8.30 p.m.

CONTENTS

- Draft agreement on assistance to and return of astronauts and space vehicles (A/AC.105/C.2/L.28/Rev.1) (continued)
- Adoption of the report to the Committee on the Peaceful Uses of Outer Space (A/AC.105/C.2/L.31)

PRESENT:

<u>Chairman:</u>	Mr. WYZNER	(Poland)
<u>Members:</u>	Mr. GOWLAND	Argentina
	Mr. McKEOWN	Australia
	Mr. MARSCHIK	Austria
	Mr. BAL	Belgium
	Mr. SILVA	Brazil
	Mr. JULEV	Bulgaria
	Mr. MILLER	Canada
	Mr. GOTMANOV	Czechoslovakia
	Mr. DELEAU	France
	Mr. MISHRA	India
	Mr. BAYANDOR	Iran
	Mr. CARDUCCI-ARTENISIO	Italy
	Mr. OTSUKA	Japan
	Mr. TELLO	Mexico
	Mr. CHULUUNBAATAR	Mongolia
	Mr. KOZLUK	Poland
	Mr. MICU	Romania
	Mr. COLE	Sierra Leone
	Mr. ROMARE	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
<u>Secretariat:</u>	Mr. STAVROPOULOS	Under-Secretary, Legal Counsel
	Mr. SLOAN	Secretary of the Sub-Committee

/...

DRAFT AGREEMENT ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES
(A/AC.105/C.2/L.28/Rev.1) (continued)

Mr. DELEAU (France) said that a number of delegations had expressed concern over the wording of article 2 of the draft agreement and had commented on the nature of the co-operation between the launching authority and the Contracting Party in the search for and rescue of astronauts. His delegation had also voiced reservations on several occasions about the article's wording, particularly concerning the problem of State sovereignty. His delegation thought that the anxieties expressed in the matter could be allayed if the second part of the third sentence of article 2 were to read "this authority shall co-operate with the Contracting Party...". The obligations would thus be reversed, since it would be for the launching authority to give its co-operation to the sovereign State, and not the other way round.

As to the interpretation of article 2, his delegation had taken note of the comments made by the United States delegation. It also believed that in the event of failure by the contracting party and the launching authority to reach agreement, the territorial authority, i.e. the contracting party, would have the final say. Thus the legitimate authority of the sovereign State would be respected without the rescue operations being jeopardized.

Mr. PIRADOV (Union of Soviet Socialist Republic) believed that the French delegation's amendment ought to be supported by all members of the Sub-Committee. Article 2 was based on the principle of sovereign equality of all States without exception, and that principle was clearly reflected in the new wording proposed by the French delegation.

Mr. REIS (United States of America) accepted the French amendment but felt that "... the launching authority shall co-operate..." was preferable to "... this authority shall co-operate...".

Regarding the interpretation to be given to article 2, his delegation wished to reaffirm its statement of the previous day that, in the event of the launching authority and the contracting party not agreeing as to whether the assistance of the launching party would contribute to the effectiveness of the rescue operations, the territorial authority would of course have the final say in the matter.

/...

Mr. MISHRA (India) said that his delegation had indicated that it had serious difficulties about article 2 because, as drafted, it did not make it clear who would decide whether assistance to the contracting party by the launching authority in carrying out its search and rescue operations on its territory was necessary. His delegation considered that the decision rested with the contracting party as the territorial State. The Committee had just heard the French amendment that would change the wording of article 2 to provide that the launching authority would co-operate with the contracting party rather than say that the contracting party would co-operate with the launching authority. The delegation of India would accept that amendment as it clearly brought out India's intention that it was the contracting party which was to invite the co-operation of the launching authority on its territory in the first place. The amendment also underlined what the representative of the United States had said in the Sub-Committee the day before, that the contracting party must have the final say in the matter.

Mr. TELLO (Mexico) expressed his appreciation to the French delegation for its amendment, which clearly defined the obligations devolving on both the contracting party and the launching authority.

Mr. EL ARABY (United Arab Republic) said that he had mentioned the previous day that his delegation had difficulty in supporting article 2 of the draft agreement. However, the French amendment considerably improved the article and made it more acceptable. His delegation unreservedly endorsed the amendment and would support the text of article 2 as amended.

Mr. DELEAU (France) felt that in French "... cette autorité..." read better than "... l'autorité de lancement...", since the latter words already appeared in the sentence; if, however, it was thought that their repetition made the text clearer, he had no objection to their being repeated in the five languages.

Mr. BAYANDOR (Iran) said that his delegation believed that a formula along the lines suggested by him at the previous meeting could best dispel the misgivings expressed concerning article 2, but for reasons expressed by the representative of India, the Iranian delegation had accepted the French amendment.

Mr. REIS (United States of America) proposed that for the sake of clarity the words "that authority" should be used instead of "this authority".

Mr. MISHRA (India) and Mr. DARWIN (United Kingdom) said that they favoured the use of the technical expression "launching authority".

/...

Mr. DELEAU (France) said that he could accept that view since precision was more important in the present case than elegance.

It was so decided.

Mr. DELEAU (France) proposed as a stylistic change in the French text the replacement of "en vue de mener efficacement les opérations de recherche et de sauvetage" by "afin que ces opérations de recherche et de sauvetage soient menées avec efficacité".

Mr. DARWIN (United Kingdom) said that the question of liability for damage caused by the launching of objects into outer space was even more important than the question of assistance to astronauts and return of space objects, and he hoped that that would be pointed out in the Sub-Committee's report. He welcomed the agreement achieved on article 2, which contained a very important element of balance between the launching authority and the State in whose territory the search and rescue operations took place. The position of the latter was protected since under the terms of the article the operations would be subject to its direction and control. The statement made the previous day by the United States representative clarified the interpretation to be given to the article in the case of disagreement between the parties regarding the need for assistance by the launching authority. He expressed his appreciation to the French representative for his suggestion.

Article 5, paragraph 5, referred only to expenses incurred under paragraphs 2 and 3 of article 5. It appeared from the text, however, that expenses incurred in connexion with operations referred to in the third line of paragraph 4 - "or recovered by it elsewhere" - should be put in the same category as those under paragraphs 2 and 3. Those expenses should therefore also be covered by the terms of paragraph 5. He was gratified that the text of article 6, which embodied some ideas put forward by the European and Australian delegations, had met with general agreement. The formula in article 7, opening the agreement to signature by all States, seemed acceptable to him in view of the particular circumstances of the agreement. On the whole, the text had allowed encouraging progress to be made.

Mr. OTSUKA (Japan) stressed the relationship between the agreement on rescue and return and the agreement on liability. He was prepared to support a recommendation that the text under consideration should be examined by the General

/...

(Mr. Otsuka, Japan)

Assembly but reserved his Government's final position. It was to be hoped that in future the Sub-Committee would have more time to examine the text submitted to it.

Mr. BAL (Belgium) expressed satisfaction with the progress that had been made. The Sub-Committee would be required to transmit the revised draft to the Committee on the Peaceful Uses of Outer Space; his delegation would agree to that procedure, without prejudice to its position on the text.

Mr. MILLER (Canada) welcomed the drafting change made in article 2, since it struck a better balance between the respective rights of the launching authority and the Contracting Party. He agreed with those representatives who wanted the Sub-Committee to proceed promptly with the preparation of a draft agreement on liability.

Mr. DELEAU (France) thanked the members of the Sub-Committee for the reception they had given to his amendment and particularly those who would have preferred another wording but had supported that compromise text. A major difficulty had thus been resolved.

In his delegation's view, article 4 could not have the effect of restricting the application of the national legislation of the Contracting Party, where appropriate. Lastly, the French Government thought that the text currently under consideration should apply only to experimental and scientific flights. The rights of signatory States must be fully reserved for the time when flights might be utilitarian or commercial. Another convention would have to be discussed at that time.

ADOPTION OF THE REPORT TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
(A/AC.105/C.2/L.31)

The CHAIRMAN said that the Sub-Committee had before it a draft report (A/AC.105/C.2/L.31) consisting of five paragraphs, to which he suggested that three new paragraphs be added.

Paragraph 6

Paragraph 6 of the draft report would be worded as follows:

"6. The views expressed by the members of the Sub-Committee are set out in the summary records of the Sub-Committee (A/AC.105/C.2/SR.86, A/AC.105/C.2/SR.87, A/AC.105/C.2/SR.88 and A/AC.105/C.2/SR.89)."

Mr. BAYANDOR (Iran) suggested that the draft report should mention specifically the discussion on article 2 of the draft agreement and the amendment submitted by the French delegation.

Mr. REIS (United States of America) agreed with the representative of Iran and proposed the addition at the end of the new paragraph 6 of the words: "including the various statements made with regard to article 2 at the 89th meeting".

Mr. BAYANDOR (Iran) accepted that proposal.

Paragraph 6, as amended, was adopted.

Paragraph 7

Mr. BAL (Belgium) observed that all the members of the Sub-Committee had referred to General Assembly resolution 2260 (XXII) and particularly to operative paragraph 9, which requested the Committee on the Peaceful Uses of Outer Space to continue its work on the elaboration of an agreement on liability for damage caused by the launching of objects into outer space. The report should therefore state that the Sub-Committee had taken note of the instructions given in operative paragraph 9 of resolution 2260, that it had been unable to consider the question of liability but that all its members had recognized that it was incumbent on it to continue and complete its work on the elaboration of an agreement on that question within the shortest possible time.

Mr. OTSUKA (Japan) associated himself with the remarks made by the Belgian representative.

The CHAIRMAN suggested that paragraph 7 of the draft report should be worded as follows:

"7. The relationship between an agreement on assistance to and return of astronauts and space vehicles and an agreement on liability for damage caused by the launching of objects into outer space was recognized in the Sub-Committee. The Sub-Committee was of the view that, as its work on the preparation of a draft agreement on assistance to and return of astronauts and space vehicles had now been concluded, it should expedite its work on the equally important matter of the preparation of a draft agreement on liability

/...

(The Chairman)

for damages caused by the launching of objects into outer space, so as to conclude its preparation not later than the beginning of the twenty-third session of the General Assembly and to submit it to that session."

Mr. COLE (Sierra Leone) said that the paragraph just read out by the Chairman should reflect the urgency of the draft agreement on liability.

The CHAIRMAN pointed out that the sense of urgency was already conveyed by the word "expedite" and that, in addition, a specific date was set for the preparation of the draft agreement in question. However, a different wording could be adopted.

Mr. MILLER (Canada) agreed with the representative of Sierra Leone and proposed the insertion of the words "and urgent" between the word "important" and the word "matter".

Mr. COLE (Sierra Leone) supported the Canadian representative's proposal.

Mr. OTSUKA (Japan), supported by Mr. EL ARABY (United Arab Republic), proposed that the beginning of paragraph 7 should be reworded to read: "The importance of the relationship ...".

Mr. MILLER (Canada) proposed that in the first sentence of the English text the word "in" should be replaced by the word "by".

The CHAIRMAN accepted the changes proposed by the representatives of Canada and Japan.

Paragraph 7, as amended, was adopted.

Paragraph 8

The CHAIRMAN suggested that paragraph 8 should be worded as follows:
"8. The Sub-Committee recommends for urgent consideration by the Committee on the Peaceful Uses of Outer Space the following text of a draft Agreement on the rescue of astronauts, the return of astronauts, and the return of objects launched into outer space."

Paragraph 8 was adopted.

/...

Mr. SILVA (Brazil) and Mr. TELLO (Mexico) said that their support of the draft report did not prejudge the attitude which their respective Governments would take towards the draft agreement.

The report of the Legal Sub-Committee to the Committee on the Peaceful Uses of Outer Space on the work of its special session was adopted.

After the customary exchange of courtesies, the CHAIRMAN declared the special session of the Sub-Committee closed.

The meeting rose at 10.10 p.m.