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COMMITTEE ON THE PEACEFUL
USES OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
FIRST SESSION (28 MAY - 20 JUNE 1962)

Introduction

1. The Legal Sub-Committee, established by the Committee on the Peaceful Uses of Outer Space at its ninth meeting on 29 March 1962, was convened at the European Office of the United Nations in Geneva on 28 May and concluded its work on 20 June 1962.
2. The Sub-Committee held fifteen meetings, the summary records of which have been circulated as documents A/AC.105/C.2/SR.1 - SR.15.
3. A list of the representatives of States members of the Sub-Committee attending the session, of the representatives of organizations invited by the Sub-Committee to participate as observers in its proceedings and of the secretariat of the Sub-Committee is given in the annex to the present report.
4. The session was opened by Mr. Haseganu (Romania), Vice-Chairman of the Committee on the Peaceful Uses of Outer Space.
5. Mr. Manfred Lachs (Poland) was unanimously elected Chairman of the Sub-Committee on the nomination of Mr. Kenneth Bailey (Australia), seconded by Mr. Krishna Rao (India).
6. The Sub-Committee agreed at its first meeting to invite the International Telecommunication Union (ITU), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Meteorological Organization (WMO), the World Health Organization (WHO), and the Committee on Space Research of the International Council of Scientific Unions (CCSPAR) to participate in its work as observers.

7. By resolution 1721 A (XVI) the General Assembly invited the Committee on the Peaceful Uses of Outer Space to study and report on the legal problems which might arise from the exploration and use of outer space. At the end of its session in March 1962 the Committee, after reporting that many specific proposals and suggestions concerning legal studies had been made by its members, established the Legal Sub-Committee for a detailed study of these problems and in accordance with the responsibilities placed on the Committee by General Assembly resolutions 1472 (XIV) and 1721 (XVI). In accordance with these terms of reference the Legal Sub-Committee considered the general principles and legal problems arising from the exploration and use of outer space.

8. In conducting its work, the Sub-Committee followed the agreement reached in the Committee and stated by its Chairman on 19 March (A/AC.105/PV.2) in the following terms: "It has been agreed among the members of the Committee that it will be the aim of all members of the Committee and its Sub-Committees to conduct the Committee's work in such a way that the Committee will be able to reach agreement in its work without need for voting."

9. The representatives of the following States took part in the discussion: Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Czechoslovakia, France, Hungary, India, Iran, Italy, Japan, Lebanon, Mexico, Mongolia, Morocco, Poland, Romania, Sierra Leone, Sweden, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom, and the United States of America. A statement was also made by the observer from the International Telecommunication Union.

10. In response to a request by the representative of India, the Secretariat submitted to the Sub-Committee a document entitled "Conventions and International Agreements on Rescue of and Assistance to Aircraft and Vessels in Distress and their Personnel" (A/AC.105/C.2/2), which contained the relevant provisions of these Conventions and International Agreements, together with an analytical summary of the main points covered by them.

II. Proposals submitted for consideration by the Sub-Committee

11. The Soviet Union and the United States submitted the following proposals in respect of substantive work of the Sub-Committee.

- (1) USSR Proposal: Declaration of the Basic Principles governing the Activities of States pertaining to the Exploration and Use of Outer Space (A/AC.105/C.2/L.1)

"The Governments of the States whose representatives have signed this Declaration,

"Inspired by the great prospects opening up before mankind as a result of penetration into outer space,

"Recognizing that the peoples of all the countries of the world are interested in the conquest of outer space,

"Desiring to promote broad international co-operation in the exploration and use of outer space for peaceful purposes,

"Taking into consideration resolution 1721 (XVI) of the United Nations General Assembly approved unanimously by all the States Members of the United Nations,

"Solemnly declare that in the exploration and use of outer space they will be guided by the following principles:

"1. The exploration and use of outer space shall be carried out for the benefit and in the interests of the whole of mankind.

"2. Outer space and celestial bodies are free for exploration and use by all States; no State may claim sovereignty over outer space and celestial bodies.

"3. All States have equal rights to explore and use outer space.

"4. The activities of States pertaining to the conquest of outer space shall be carried out in accordance with the principles of the United Nations Charter and with other generally recognized principles of international law in the interests of developing friendly relations among nations and of maintaining international peace and security.

"5. Scientific and technological advances shall be applied to outer space in the interests of a better understanding among nations and the promotion of broad international co-operation among States; the use of outer space for propagating war, national or racial hatred or enmity between nations shall be prohibited.

"6. Co-operation and mutual assistance in the conquest of outer space shall be a duty incumbent upon all States; the implementation of any measures that might in any way hinder the exploration or use of outer space for peaceful purposes by other countries shall be permitted only after prior discussion of and agreement upon such measures between the countries concerned.

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"7. All activities of any kind pertaining to the exploration and use of outer space shall be carried out solely and exclusively by States; the sovereign rights of States to the objects they launch into outer space shall be retained by them.

"8. The use of artificial satellites for the collection of intelligence information in the territory of foreign States is incompatible with the objectives of mankind in its conquest of outer space.

"9. States shall regard all astronauts as envoys of mankind in outer space and shall render all possible assistance to spaceships and their crews which may make emergency landing on the territory of a foreign State or on the high seas; spaceships, satellites and capsules found beyond the limits of the launching State shall be returned to that State.

"The Governments of the States signatories to this Declaration call upon all the States of the world to accede to it."

- (2) USSR Proposal: International Agreement on the Rescue of Astronauts and Spaceships making Emergency Landings (A/AC.105/C.2/L.2)

"The Governments of

"Recognizing the common interest of mankind in furthering the peaceful uses of outer space,

"Wishing to do their utmost to assist the crews of spaceships which may meet with an accident,

"Have decided to conclude this Agreement and for this purpose have appointed their representatives who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

Article 1

"Each Contracting State shall render assistance to the crews of spaceships which have met with an accident and shall take steps to rescue astronauts making an emergency landing; to this end it shall employ every means at its disposal, including electronic and optical equipment, means of communication, and rescue facilities of different kinds.

Article 2

"A Contracting State which discovers that the crew of a spaceship of another Contracting State has met with an accident shall do its utmost to notify the launching State without delay.

Article 3

"In the event of astronauts of a Contracting State making an emergency landing on the territory of another Contracting State, the latter shall immediately inform the launching State of the occurrence and shall take all possible steps to rescue the astronauts making the emergency landing and to render them the necessary assistance."

Article 4

"If the astronauts are presumed to have made an emergency descent on the high seas, a joint search for them shall be made, if necessary, by those Contracting States to which the launching State may make application."

Article 5

"The assistance to be furnished when necessary by one Contracting State to another Contracting State shall in no way differ from the assistance which could be furnished to its own astronauts."

Article 6

"Each Contracting State shall do its utmost to facilitate the early return to their own country of any astronauts of another Contracting State who may make an emergency landing on its territory or who may be rescued on the high seas."

Article 7

"Foreign spaceships, satellites and capsules found by a Contracting State on its territory or salvaged on the high seas shall be returned without delay to the launching State if they have identification marks showing their national origin and if the launching State has officially announced the launching of the devices found."

"Space vehicles aboard which devices have been discovered for the collection of intelligence information in the territory of another State shall not be returned."

Article 8

"The expenses incurred by a State in fulfilling the obligations provided for in articles 6 and 7 of this Agreement shall be reimbursed by the launching State."

Article 9

"This Agreement shall be open for accession to all the States of the world."

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(3) United States Proposal: Assistance to and Return of Space Vehicles and Personnel (A/AC.105/C.2/L.3)

"The General Assembly,

"Recognizing that the personnel of space vehicles may from time to time be the subject of accident or experience conditions of distress,

"Recognizing that there may occur landings of space vehicles, and their personnel in the case of manned vehicles, by reason of accident, distress, or mistake, or otherwise than as planned,

"Believing that in such circumstances the action of States should be governed by humanitarian concern and with a due regard for scientific needs,

"Commends to States for their guidance the following principles:

"1. All possible assistance shall be rendered to the personnel of space vehicles who may be the subject of accident or experience conditions of distress or who may land by reason of accident, distress, or mistake, or otherwise than as planned;

"2. Space vehicles, and their personnel in the case of manned vehicles, that land by reason of accident, distress or mistake, or otherwise than as planned, shall be safely and promptly returned to the State or States or international organization responsible for launching;

"3. Any expense incurred in providing assistance to or return of space vehicles and their personnel shall be borne by the State or States or international organization responsible for launching."

(4) United States Proposal: Liability for Space Vehicle Accidents
(A/AC.105/C.2/L.4)

"The Legal Sub-Committee of the United Nations Committee on the Peaceful Uses of Outer Space,

"Recognizing that there may occur personal injury, loss of life, or property damage as a result of space vehicle accidents,

"Recognizing that States and international organizations responsible for the launching of space vehicles should be liable internationally for such injury, loss, or damage,

"Believing that there should be agreed rules and procedures applicable to such cases,

"1. Requests the Secretary-General to constitute a small advisory panel of legal experts drawn from various geographic areas;

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"2. Requests the advisory panel thus constituted to prepare a draft of an international agreement dealing with the liability of States and international organizations for injury, loss, or damage caused by space vehicles;

"3. Commends to the advisory panel for its guidance the following principles:

"(a) States or international organizations responsible for the launching of space vehicles should be liable internationally for personal injury, loss of life, or property damage caused thereby, whether such injury, loss, or damage occurs on land, on the sea, or in the air;

"(b) A claim based on personal injury, loss of life, or property damage caused by a space vehicle should not require proof of fault on the part of the State or States or international organization responsible for launching the space vehicle in question, although the degree of care which ought reasonably to have been exercised by the person or entity on whose behalf claim is made might properly be taken into account;

"(c) A claim may be presented internationally to the State or States or international organization responsible for the launching of a space vehicle causing injury, loss, or damage without regard to the prior exhaustion of any local remedies that may be available;

"(d) The presentation of a claim should be made within a reasonable time after the occurrence of injury, loss, or damage;

"(e) The International Court of Justice should have jurisdiction to adjudicate any dispute relating to the interpretation or application of the international agreement on liability in the absence of agreement between the States concerned upon another means of settlement.

"4. Requests the advisory panel to transmit the draft international agreement to the Legal Sub-Committee at an early date."

12. India submitted the following proposal (A/AC.105/C.2/L.5 and Corr.1) suggesting draft conclusions that the Sub-Committee might adopt on the basis of the views expressed by its members.

"1. The Sub-Committee will give further consideration at its subsequent sessions to the principles that should govern the activities of States in the exploration and use of outer space, taking into account proposals already made; and in this connexion members of the Sub-Committee are requested to submit any additional proposals at least one month before the next session of the Sub-Committee.

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"2. The Sub-Committee endorses the principle that States shall render all possible assistance to astronauts who have met with accident or have made emergency landings and shall return space vehicles and personnel to the launching State.

"3. The Sub-Committee endorses the principle that States shall be liable internationally for personal injury, loss of life or property damage caused by space vehicles which they have launched.

"4. The Sub-Committee decides to set up a working party of the Sub-Committee to go into the question of what further measures should be adopted to implement the principles stated in paragraphs 2 and 3.

"5. The Sub-Committee decides to include in its report a provisional list of additional subjects which may be taken up by the Sub-Committee at its subsequent sessions."

13. The representative of Canada made the following assessment as a basis for the Sub-Committee's conclusions (A/AC.105/C.2/SR.13):

1. No statement has been made in the Committee or in our consultations with other delegates which would suggest opposition to the idea of requesting a working group to prepare a draft international agreement dealing with liability for space vehicle accidents. Indeed the Committee has entirely endorsed action along these lines.

2. The Committee also agreed that the subject of the question of general principles be regarded as an important matter but that a more detailed consideration of this subject may be left until a later meeting.

3. The one subject on which there has not been agreement is the subject as to how best the question of assistance and return should be handled. The difference in approach regarding this question raises in turn the important issue as to whether this difference in approach should be of such a wide-spread character as to prevent useful progress being made in regard to a separate question, namely the question of liability for space vehicle accidents.

III. Other legal problems suggested for future study

14. Some representatives suggested that the Sub-Committee should examine at a later stage other legal problems arising from the exploration and use of outer space, including consideration of the list of such problems. These problems included: (1) demarcation between outer space and atmospheric space; (2) jurisdiction and law applicable to men in outer space and manned stations on celestial bodies; (3) measures to prevent interference with space projects due

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to scientific experiments or other space activities; (4) prevention of contamination of or from outer space and celestial bodies; (5) control over the launching and orbits of spacecraft and artificial satellites; (6) United Nations control of radio and television programmes through outer space instrumentalities.

IV. Summary Records

15. The Sub-Committee considers that the summary records constitute an integral part of its report and transmits them herewith to the Committee on the Peaceful Uses of Outer Space.

V. Summary by the Chairman of the Sub-Committee's conclusions

16. No agreement has been reached on any of the proposals submitted to the Sub-Committee. However, it is the consensus of all delegations who participated in this session that the meetings offered the possibility for a most useful exchange of views.

17. The Sub-Committee submits its report to the parent body, the Committee on the Peaceful Uses of Outer Space, for its consideration.

ANNEX

LIST OF DELEGATIONS AND OBSERVERS

| <u>Member State</u> | <u>Delegation</u> |
|---------------------|--|
| ALBANIA | Mr. Kristaq Misha, Chairman of Delegation, Envoy Extraordinary and Minister Plenipotentiary of the People's Republic of Albania to France Mr. Myslim Sinoimeri, Representative, First Secretary, Legation of the People's Republic of Albania in France |
| ARGENTINA | Mr. Mario Raul Pico, Representative, Ambassador Extraordinary and Minister Plenipotentiary, Permanent Representative of Argentina to the European Office of the United Nations Mr. Mario Alberto Campora, Third Secretary, Permanent Mission of Argentina |
| AUSTRALIA | Sir Kenneth Bailey, C.B.E., Representative Mr. M.J. Cook, Adviser |
| AUSTRIA | Professor Karl Zemanek, Expert, University of Vienna Mr. Heinrich Gleissner, Deputy Permanent Representative at Geneva |
| BELGIUM | Mr. Maximilian Litvine, Representative, Professor of Air and Space Law, Free University of Brussels |
| BRAZIL | Mr. Geraldo Carvalho Silos, Representative Mr. Claudio Garcia Souza, Representative |

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Member State

Delegation

BULGARIA

Professor Assene Georgiev,
Representative,
Faculty of Law, University of Sofia

Mr. Yordan Gulemenov,
Alternate Representative,
First Secretary, Ministry of Foreign Affairs

CANADA

Mr. Marcel Cadieux,
Representative,
Deputy Under-Secretary and Legal-Adviser,
Department of External Affairs

Mr. H.C. Kingstone,
Adviser,
Department of External Affairs

Mr. W.E. Bauer,
Adviser, Permanent Mission of Canada to the
European Office of the United Nations

Mr. A.E. Gotlieb,
Adviser, Permanent Mission of Canada to the
European Office of the United Nations

CHAD

CZECHOSLOVAKIA

Dr. Dusan Spacil,
Head of Delegation,
Deputy Head of Department of the Ministry of
Foreign Affairs

Dr. Vladimir Kopal,
Scientific worker of the Institute of Law of the
Czechoslovak Academy of Sciences

Mr. Ilja Hulinsky,
Attache of the Permanent Mission of the Czechoslovak
Socialist Republic to the European Office of the
United Nations in Geneva

FRANCE

Mr. Jacques Fatey,
Representative,
Legal Adviser, Ministry of Foreign Affairs

Mr. Xavier Clement,
Secretary of Embassy,
Deputy Permanent Representative to the European
Office of the United Nations

HUNGARY

Dr. Gyorgy Misur,
Representative,
Department of International Law of the Ministry
of Foreign Affairs

| <u>Member State</u> | <u>Delegation</u> |
|---------------------|---|
| INDIA | Dr. K. Krishna Rao, Representative, Legal Adviser to the Ministry of External Affairs, Government of India Mr. G.D. Commar |
| IRAN | Mr. S. Golestaneh, Representative |
| ITALY | Professor Antoni Ambrosini, Representative |
| JAPAN | Mr. Toshijiro Nakajima, Representative, Second Secretary, Permanent Mission to the United Nations |
| LEBANON | Mr. Charles Ammoun, Representative, Ambassador, Permanent Representative of Lebanon to UNESCO |
| MEXICO | Mr. Emilio Calderon Puig, Ambassador and Representative of Mexico to the international organizations with headquarters in Geneva |
| MONGOLIA | Mr. B. Dashtseren, Representative, First Secretary, Ministry for Foreign Affairs |
| MORCCCO | Mr. Mohamed Amor, Representative, Ambassador of Morocco in Berne Mr. Ahmed Fassi-Fihri |
| POLAND | Professor Manfred Lachs, Representative, Legal Adviser to the Minister of Foreign Affairs Dr. Jerzy Szucki, Special Adviser |

Member State

Delegation

ROMANIA

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Representative,
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Mr. Nicolaie Ecobescu,
Deputy Representative,
Chief of Service, Ministry of Foreign Affairs

SIERRA LECONE

Mr. Gershon Collier,
Representative,
Ambassador and Permanent Representative of
Sierra Leone to the United Nations

Mr. Lynch-Shyllon,
First Secretary, Permanent Mission of Sierra Leone
to the United Nations

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Mr. Sture Petren,
Representative,
Ambassador and head of Legal Department, Ministry
for Foreign Affairs

Mr. C. Lidgard,
Expert,
First Secretary in the Legal Department, Ministry
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UNION OF SOVIET SOCIALIST REPUBLICS

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Mr. G.S. Stashevski,
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Member State

Delegation

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UNITED KINGDOM

Miss J.A.C. Gutteridge, C.B.E.,
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to the United Nations

Mr. P.L. Carter,
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Mr. Leonard C. Meeker,
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Mr. George Feldman,
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Mr. Howard Furnas,
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Mr. John Johnson,
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Colonel Paul Nadler,
Adviser,
Staff member to Special Assistant for Space,
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Mr. Herbert Reis,
Adviser,
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Mr. Peter Thacher,
Adviser,
United States Permanent Mission to the United Nations

Observers

| | |
|--------|-------------------|
| ITU | Mr. J. H. Glazer |
| UNESCO | Mr. R. Scott |
| WHO | Mr. C.H. Vignes |
| CCSPAR | Mr. P.J. Beaulieu |

Secretariat

| | |
|-----------------------|---|
| Mr. C.A. Stavropoulos | Legal Counsel, Representative of the Secretary-General |
| Mr. O. Schachter | Director of the General Legal Division, Office of Legal Affairs, Secretary of the Legal Sub-Committee |
| Miss K. Chen | Legal Officer |
| Mr. G. Kalinkin | Legal Officer |
| Mr. M. Khalid | Associate Legal Officer |
