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COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
SEVENTH SESSION (4-28 JUNE 1968) TO THE COMMITTEE ON
THE PEACEFUL USES OF OUTER SPACE

1. The Legal Sub-Committee opened its seventh session at the United Nations Office at Geneva on 4 June 1968 under the Chairmanship of Mr. Eugeniusz Wyzner (Poland).
2. In his opening statement, the Chairman referred to the previous successful work of the Sub-Committee which had led to the formulation 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, and of the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space. He said that the primary purpose of the session was to work out a draft agreement on liability for damage caused by objects launched into outer space which, under resolution 2345 (XXII), is to be submitted to the General Assembly at its twenty-third session. He noted that that resolution "Calls upon the Committee on the Peaceful Uses of Outer Space to complete urgently the preparation of the draft agreement on liability for damage caused by the launching of objects into outer space and, in any event, not later than the beginning of the twenty-third session of the General Assembly, and to submit it to the Assembly at that session".

Adoption of the agenda

3. On the suggestion of the Chairman, the Sub-Committee adopted the following provisional agenda for the session contained in document A/AC.105/C.2/L.31:
 1. Statement by the Chairman
 2. Draft agreement on liability for damage caused by objects launched into outer space
 3. Study of the 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

Organization of work

4. The Sub-Committee held a total of twenty-one meetings. The views expressed in the Sub-Committee are summarized in documents A/AC.105/C.2/SR.90-110. In accordance with its decision on the organization of work, the discussion in the Sub-Committee was for the most part devoted to the draft agreement on liability for damage caused by objects launched into outer space, beginning with a general exchange of views and proceeding to drafting. The Sub-Committee also held a general debate on the third item of its agenda, namely, the study of questions relative to the definition and utilization of outer space. At its ninety-eighth meeting the Sub-Committee decided to establish a Working Party of the Whole which would draft the provisions on which agreement was reached in principle in the plenary meetings of the Sub-Committee. The Working Party held a total of six meetings.

5. The Sub-Committee concluded its work on 28 June 1968 by adopting the present report unanimously. A list of the representatives of States members of the Sub-Committee attending the session, of the observers for specialized agencies and of the secretariat of the Sub-Committee is appended to the present report as annex IV.

I. LIABILITY FOR DAMAGE CAUSED BY THE LAUNCHING
OF OBJECTS INTO OUTER SPACE

6. The Sub-Committee had before it three draft conventions concerning liability for damage caused by the launching of objects into outer space: a revised draft convention submitted by the delegation of Belgium (A/AC.105/C.2/L.7/Rev.3); a draft convention submitted by the delegation of the United States (A/AC.105/C.2/L.19); and a draft convention submitted by the delegation of Hungary (A/AC.105/C.2/L.10/Rev.1), as amended at the present session (A/AC.105/C.2/L.10/Rev.1/Corr.1). In the course of the Sub-Committee's discussions two draft conventions were submitted by the delegations of India (A/AC.105/C.2/L.32 and Add.1) and Italy (A/AC.105/C.2/L.40 and Corr.1 and 2). ^{1/} At the request of the Sub-Committee the Secretariat prepared the following addenda to the comparative table (A/AC.105/C.2/W.2/Rev.4) setting forth: (a) the provisions of the draft convention submitted by India (A/AC.105/C.2/W.2/Rev.4/Add.1); (b) the provisions of the draft convention submitted by Italy (A/AC.105/C.2/W.2/Rev.4/Add.3); and (c) the text or points on which agreement or provisional agreement was reached at the sixth session of the Sub-Committee (A/AC.105/C.2/W.2/Rev.4/Add.2). At the 108th meeting of the Sub-Committee, the delegation of India submitted a revised draft Convention (A/AC.105/C.2/L.32/Rev.1 and Corr.1) for future consideration.

7. In addition, the following proposals were submitted by members of the Sub-Committee:

With respect to the definition of the term "damage", a proposal was made by the delegation of Canada (A/AC.105/C.2/L.44), and of the term "launching authority", by the delegation of Australia (A/AC.105/C.2/L.39).

In regard to the question of the field of application and exemptions from the provisions of the Agreement, proposals were submitted respectively by the delegations of the United States (A/AC.105/C.2/L.34), the United Kingdom (A/AC.105/C.2/L.37/Rev.1), and Mexico (A/AC.105/C.2/L.43). A proposal was submitted by the delegation of France concerning the questions of State liable and joint and several liability (A/AC.105/C.2/L.36/Rev.2), to which an amendment was submitted by the United Kingdom (A/AC.105/C.2/L.38). The delegations of Austria, Belgium, France, Italy, Sweden and the United Kingdom jointly submitted a proposal on international organizations (A/AC.105/C.2/L.41, Add.1 and Corrs.1, 2 and 3). There was also a working paper submitted by Australia and Canada dealing with joint liability, liability for damage (a) on earth and to aircraft, (b) to space objects, and (c) to third parties, and damage in respect of which compensation is not payable (A/AC.105/C.2/L.42). The delegations of Australia and the United Kingdom submitted a working paper on applicable law for the determination of compensation (A/AC.105/C.2/L.47). Also submitted was a working paper by Australia on pursuit of remedies in respondent State or under other international agreements

^{1/} The draft convention submitted by Italy incorporated provisions previously proposed by Italy in A/AC.105/C.2/L.33 and L.35.

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(A/AC.105/C.2/L.48). At the 110th meeting of the Sub-Committee, a proposal was submitted by the United Kingdom and co-sponsored by Argentina, Australia, Austria, Belgium, Brazil, Canada, France, Japan, Mexico, Sweden and the United States (A/AC.105/C.2/L.51), drawing attention to certain matters which the Sub-Committee had discussed but on which it was unable to reach agreement.

8. In the course of the discussions in the Working Party further working papers were submitted by the delegations of the Union of Soviet Socialist Republics on the field of application (A/AC.105/C.2/WP/1) and on questions of joint liability and of absolute liability and exoneration from liability (A/AC.105/C.2/WP/2), India on the question of absolute liability and exoneration from liability (A/AC.105/C.2/WP/3), the United States on general rule (A/AC.105/C.2/WP/4/Rev.1), and the Union of Soviet Socialist Republics on State liable and joint liability (A/AC.105/C.2/WP/5).

9. The aforementioned written proposals and working papers, together with the comparative table and the addenda thereto, are reproduced in annex I to this report. Other proposals were made by various delegations orally; reference to these may be found in the summary records.

10. The Sub-Committee agreed on the following texts and principles to be embodied in the agreement on liability for damage caused by objects launched into outer space.

Definitions^{1/}

1/ (a) Text provisionally agreed upon at the sixth session of the Sub-Committee:

"Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or of their persons, natural or juridical, or of international organizations.

(No agreement was reached on the inclusion of indirect damage and delayed damage in the definition.)

(b) Points on which agreement was reached at the sixth session of the Sub-Committee

The term "launching" should include "attempted launching". In defining the term "Launching State" the following elements should be included:

1. the State which launches or attempts to launch the space object or the space device,

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2. the State from whose territory the space object or the space device was launched,
3. the State from whose facility the space object or space device was launched.

(The question whether the State referred to in (2) and (3) above should be liable primarily, or only secondarily (if the State referred to in (1) cannot be identified) was left for further consideration.)

Field of application and exemption from provisions of agreement ^{2/}

Text agreed:

"In the event of damage being caused to a space object of one State or to persons or property on board such a space object by the space object* of another State, the latter State shall be liable only if the damage is due to its fault or the fault of the persons for whom it is responsible."

(* On the understanding that the term "space object" includes its component parts.)

2/ Points on which agreement was reached at the sixth session of the Sub-Committee:

A. The provisions of this Convention shall not apply to damages sustained by:

- (a) Nationals of the Launching State;
- (b) Foreign nationals in the immediate vicinity of a planned launching or recovery area as the result of an invitation by the Launching State.

(No agreement was reached on whether the Convention should apply to damages sustained by:

- (a) Persons who are permanent residents but not nationals of the Applicant (Presenting) State;
- (b) A space **craft** and its personnel during launching, transit or descent.)

B. The Launching (Respondent) State should be absolutely liable to pay compensation for damage caused on the surface of the earth and to aircraft in flight.

(No agreement was reached on whether the Launching (Respondent) State should, on proof of fault, be liable to pay compensation for damage caused to space objects which have left the surface of the earth.)

State or international organization liable^{3/}

Question of joint liability

Texts agreed:

"If in the case referred to in paragraph 1,* damage is caused to a third State Party to this Convention or to its physical or juridical persons, the States mentioned in paragraph 1* shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between those States in accordance with the extent to which they were at fault; if the extent of the fault of each of those States cannot be established, the burden shall be apportioned equally between them.

"Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused."

(* See "Text agreed" under "Field of application and exemption from provisions of agreement" above.)

3/ Points on which provisional agreement was reached at the sixth session of the Sub-Committee

International organizations that launch objects into outer space should be liable under the Convention for damage caused by such activities.

(No agreement was reached on the question whether the liability of the States members of the international organization that are parties to the liability convention:

- (a) should be residual and arise only in the event of default by the international organization, or
- (b) should arise at the same time as the liability of the international organization.

Nor was agreement reached on the question of the rights of international organizations under the Convention. This problem requires further consideration.)

Question of absolute liability and exoneration from liability

Text agreed:

"Unless otherwise provided in the Convention, exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies."

Measure of damages

Principle agreed:

The Sub-Committee left open the question of the law to be applied to the assessment of compensation for damage. It was agreed however that if there was agreement on the applicable law between the claimant and the respondent, then that law should be applied.

Presentation of claims by States or international organizations and in respect of natural or juridical persons

Text agreed:

"1. A Contracting Party which suffers damage, or whose natural or juridical persons suffer damage, may present a claim for compensation to a respondent.

"2. Subject to the provision of paragraph 1, a Contracting Party may also present to a respondent a claim in respect of damage sustained by any natural or juridical person in its territory.

"3. A Contracting Party may also present a claim for damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.

"4. No claim may be presented under this Convention in respect of the nationals of the respondent."

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Presentation of claims for compensation through
diplomatic channel ^{4/}

^{4/} Points on which agreement was reached at the sixth session of the
Sub-Committee:

1. A claim may be presented by the Applicant (Presenting) (claimant) State through the diplomatic channel.
2. Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available in the Launching (Respondent) State. In the event the Applicant (Presenting) (claimant) State does not have diplomatic relations with the Launching (Respondent) State, the former may request a third State to present its claim and otherwise represent its interest.

Time-limits for presentation of claims ^{5/}

^{5/} Points on which agreement was reached at the sixth session of the
Sub-Committee:

1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the party that is liable.
2. If the Applicant (Presenting) (claimant) State does not know of the facts giving rise to the claim within the **aforementioned one-year period**, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the Applicant (Presenting) (claimant) State could reasonably be expected to have learned of the facts through the exercise of due diligence.
3. The above-mentioned time-limits shall apply even if the full extent of the damage may not be known. In this event, however, the Applicant (Presenting) (claimant) State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time-limits until one year after the full extent of such damage is known.

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Pursuit of remedies available in respondent State or
under other international agreements

Text agreed:

"Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claimant represents.

"Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent."

Procedure for settlement of claims for compensation ^{6/}

^{6/} Points on which agreement was reached at the sixth session of the
Sub-Committee:

If a claim presented under the Convention is not settled within six months from the date on which the Applicant (Presenting) (claimant) State completes its documentation, the Applicant (Presenting) (claimant) State may refer the matter to an arbitral commission.

Recommendation of the Sub-Committee

11. The Sub-Committee noted that while some progress was made at the present session there remained important elements on which rapprochement of views was necessary. The Sub-Committee recommends that the Committee on the Peaceful Uses of Outer Space give consideration to convening the Legal Sub-Committee as soon as it considers that substantial progress can be made on a Convention on liability for damage caused by objects launched into outer space.

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II. 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 (agenda item 3)

12. The Sub-Committee considered item 3 of its agenda, namely, the study of questions relative to (a) the definition of outer space and (b) the utilization of outer space and celestial bodies, including the various implications of space communications, at its 102nd, 103rd, 104th and 107th meetings.

13. At the opening of the 102nd meeting, the Chairman informed the Sub-Committee that he had, in accordance with the decision taken by the Sub-Committee at its 84th meeting on 14 July 1967, transmitted through the Chairman of the Committee on the Peaceful Uses of Outer Space to its Scientific and Technical Sub-Committee the questionnaire adopted by the Legal Sub-Committee at its sixth session, with respect to study of questions relative to the definition of outer space. He drew attention to the conclusions reached by the Scientific and Technical Sub-Committee at its 1967 session to the effect that it was not possible at the present time to identify scientific or technical criteria which would permit a precise and lasting definition of outer space; that a definition of outer space, on whatever basis, was likely to have important implications for the operational aspects of space research and exploration; and that it would continue its consideration of this matter at future sessions (see A/6804, annex II, page 4).

14. In the course of the general discussion of item 3 of the agenda which dealt with both the problem of defining outer space and that of the utilization of outer space, the following proposals were submitted:

Proposals by France

- (a) Draft convention concerning the registration of objects launched into space for the exploration or use of outer space (A/AC.105/C.2/L.45);
- (b) Recommendation to the Committee on the Peaceful Uses of Outer Space on the questions of defining outer space and of the utilization of outer space (A/AC.105/C.2/L.50/Rev.1).

Proposal by Czechoslovakia

Concerning the question of the utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based.

Proposal by Sweden

Pertaining to the technical problems connected with direct broadcasting satellites.

These proposals are reproduced in annex II of the present report.

15. The representative of Czechoslovakia stated that he would not press for an immediate decision on his proposal. Subsequently, the Sub-Committee adopted the proposal of Sweden, as modified by the Union of Soviet Socialist Republics, as Resolution I, reading as follows:

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

"Having in mind paragraph 13 of General Assembly resolution 2260 (XXII), entitled 'Report of the Committee on the Peaceful Uses of Outer Space',

"Conscious of the importance and urgency of the problem of the potentialities of the operation of direct broadcasting satellites,

"Recommends to the Committee on the Peaceful Uses of Outer Space that it request the Scientific and Technical Sub-Committee to consider the question of direct broadcasting satellites, with a view to preparing a study of the technical problems involved, enlisting whenever appropriate the assistance of the competent specialized agencies of the United Nations."

16. The Sub-Committee then considered the French revised proposal (A/AC.105/C.2/L.50/Rev.1), to which amendments were suggested by the United States of America, the United Kingdom, Canada, the Union of Soviet Socialist Republics and Australia. The proposal, as amended, was adopted by the Sub-Committee as Resolution II, which reads as follows:

I

"The Legal Sub-Committee,

"Desiring to continue its studies on the definition of outer space,

"Noting that the Scientific and Technical Sub-Committee discussed the definition of outer space at its fifth session and decided to continue its consideration of the matter at future sessions,

"Recommends to the Committee on the Peaceful Uses of Outer Space to place consideration of the study of questions relative to the definition of outer space on the agenda of the next session of the Legal Sub-Committee.

II

"The Legal Sub-Committee,

"Desiring to obtain the technical and scientific documentary material necessary for consideration of the study of questions relative to the utilization of outer space,

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"Considering the technical and scientific competence of the specialized agencies and the International Atomic Energy Agency in respect of the peaceful uses of outer space which come within their terms of reference,

"Considering the need to give effect to Article 58 of the United Nations Charter in order to promote co-ordination among the various specialized agencies concerned with certain aspects of the peaceful uses of outer space,

"Recommends to the Committee on the Peaceful Uses of Outer Space:

(a) to request the specialized agencies and the International Atomic Energy Agency to examine and report to it on the particular problems that have arisen or may arise from the use of outer space in the fields within their competence and that they consider should be brought to the attention of the Committee on the Peaceful Uses of Outer Space;

(b) to place on the agenda of the next session of the Legal Sub-Committee, under the item concerned with the study of questions relative to the utilization of outer space, consideration of the results of the investigations which the specialized agencies and the International Atomic Energy Agency will have communicated to it, in order that these may be examined and discussed by the Legal Sub-Committee."

17. No agreement was reached in the Sub-Committee on the inclusion in the resolution of the wording concerning a draft Convention on the registration of objects launched into space for the exploration or use of outer space.

18. It was agreed, however, that this subject could be considered at the next session of the Sub-Committee, under the item of the agenda entitled "Study of questions relative to the utilization of outer space and celestial bodies, including the various implications of space communications".

19. At the request of the delegation of Canada, the Sub-Committee decided to reproduce a paper presented by the International Telecommunication Union on possible harmful interference of a space object with telecommunications as an annex to the present report (see annex III).

ANNEX I

PROPOSALS, AMENDMENTS AND OTHER DOCUMENTS RELATING TO LIABILITY FOR DAMAGE CAUSED BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

Belgium: proposal for a convention on the unification of certain rules governing liability for damage caused by space devices to third parties on the surface of the earth and to aircraft in flight (A/AC.105/C.2/L.7/Rev.3)

The Contracting Parties,

Recalling the terms of the Treaty, signed on 27 January 1967, Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Recognizing that activities in the exploration and peaceful uses of outer space may from time to time result in damage,

Recognizing the need to establish rules governing liability with a view to ensuring that compensation is paid for damage thus caused,

Have agreed as follows:

Article 1

(a) The provisions of this Convention shall apply to compensation for damage caused to persons or property by a space device or space devices. They shall not apply to compensation for damage caused in the territory of the Launching State or suffered by its nationals or permanent residents, or for damage caused by a space device to another space device.

(b) The occurrence of the event causing the damage shall create a liability for compensation once proof has been given that there is a relationship of cause and effect between the damage, on the one hand, and the launching, motion or descent of all or part of the space device, on the other hand.

(c) If the damage suffered results either wholly or partially from an act or omission on the part of the Applicant State or of natural or juridical persons that it represents and such act or omission has been committed, either with intent to cause damage or rashly and in full knowledge that damage will probably result, the liability of the Launching State to pay compensation under this Convention shall, to that extent, be wholly or partially extinguished.

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Article 2

"Damage" shall be understood to mean loss of life, bodily injury or damage to property for which compensation may be claimed and assessed under the national law of the person injured, or if not, under applicable principles of international law.

"Launching" shall be understood to mean an attempted launching or a launching operation proper, whether or not it fulfils the expectations of those responsible therefor.

"Space device" shall be understood to mean any device intended to move in space and sustained there by means other than the reaction of air, as well as any constituent element of such device or of the equipment used for its launching or propulsion.

"Launching State" shall be understood to mean the State or States which carry out the launching of a space device or, when the Applicant State is not able to determine the said State or States, the State whose territory is used for such launching.

"Applicant State" shall be understood to mean the State which has been injured, or whose nationals, whether natural or juridical persons, or whose permanent residents have been injured, and which presents a claim for compensation.

Article 3*

The Launching State shall be held liable for compensation for damage caused in the circumstances stated in article 1 and defined in article 2. If several States participate in the launching of a space device, they shall be held jointly and severally liable.

Article 4

(a) Within two years after the occurrence of the damage, or after the identification of the State liable under article 1, the applicant State shall present through the diplomatic channel, to the State which it holds liable, all claims for compensation concerning itself and its nationals and residents. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with the Launching State.

(b) If the applicant State or a person represented by it brings an action for compensation before the Courts or administrative organs of the State receiving the claim, it shall no longer be able to present a claim for compensation for the same

* The Belgian delegation reserves the right to submit an amendment dealing with the principle enunciated in this article.

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damage under the provisions of this Convention. The said provisions shall not be considered to require, by implication, the prior exhaustion of such remedies as may exist under the rules of ordinary law in the State receiving the claim.

(c) If the State receiving the claim has not taken, within six months after being approached, a decision considered satisfactory by the applicant State, the latter may have recourse to arbitration.

Within ninety days of the date of the request addressed to it by the applicant state, the State receiving the claim shall appoint one arbitrator, the applicant State shall appoint a second and the President of the International Court of Justice a third. If the State receiving the claim fails to appoint its arbitrator within the prescribed period, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

The Arbitration Commission shall take its decisions according to law* and by majority vote. It shall make an award within six months after the date of its establishment and its decisions shall be binding.

(d) Sums due in compensation for damage shall be fixed and payable either in the currency of the applicant State or in a freely transferable currency.

(e) The periods specified in this article shall not be subject to interruption or suspension.

(f) There shall be joinder of claims where there is more than one applicant in respect of damage due to the same event or where more than one State is liable and the damage was caused by more than one space device.

Article 5

This Convention shall be open for signature by States Members of the United Nations or any of the specialized agencies or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention. Any such State which does not sign this Convention may accede to it at any time.

This Convention shall be subject to ratification or approval by signatory States. Instruments of ratification or approval and instruments of accession shall be deposited with the Secretary-General of the United Nations.

This Convention shall enter into force thirty days after the date of the deposit of three instruments of ratification, approval or accession. For each State which deposits its instrument of ratification, approval or accession after the entry into force provided for in the preceding paragraph, this Convention shall enter into force on the date of deposit of such instrument.

* An alternative might be "take its decisions ex aequo et bono".

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Article 6

International organizations which undertake to comply with this Convention shall have the same rights and obligations as States. The States members of the said international organizations shall be held jointly and severally liable for the obligations of the latter, whether or not such States are parties to the Convention. The accession of an international organization shall be accompanied by a notification of the joint and several obligations so assumed by the States members of the organization concerned.

The claims referred to in article 4 (a) may, in the case of the international organization, be presented through the Secretary-General of the United Nations.

Article 7

Each Contracting Party may notify the Secretary-General of the United Nations of its withdrawal from this Convention not less than five years after its entry into force. Such withdrawal shall take effect one year after receipt of the notice, which must be in writing. Such withdrawal shall not relieve the Contracting Party concerned of any obligation or liability arising from damage inflicted before its withdrawal takes effect.

Article 8

This Convention may be amended or supplemented at the proposal of one or more Contracting Parties. Such amendments shall take the form of additional protocols which shall be binding on such Contracting Parties as ratify, approve or accede to them. Such protocols shall enter into force when the majority of the Contracting Parties to this Convention have thus accepted them.

Article 9

The Secretary-General of the United Nations shall inform signatory States, and those which ratify, approve or accede to this Convention, of signatures, the deposit of instruments of ratification, approval or accession, the entry into force of this Convention, proposals for amendments, notifications of acceptance of additional protocols, and notices of withdrawal.

Article 10

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies to all signatory States and to any State Member of the United Nations which so requests.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Convention.

Done at

on

United States of America: proposal (A/AC.105/C.2/L.19)

Convention concerning liability for damage caused
by the launching of objects into outer space

The Contracting Parties,

Recognizing that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recalling 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,

Seeking to establish a uniform rule of liability and a simple and expeditious procedure governing financial compensation for damage,

Believing that the establishment of such a procedure will contribute to the growth of friendly relations and co-operation among nations,

Agree as follows:

Article I - Definitions

For the purposes of this Convention

(a) "Damage" means loss of life, personal injury, or damage to property whether partial or total.

(b) The term "launching" includes attempted launchings.

(c) "Launching State" means a Contracting Party, or an international organization that has transmitted a declaration to the Secretary-General under article V, paragraph 1, of this Convention, that launches or actively and substantially participates in the launching of an object into outer space, or from whose territory or facility an object is launched into outer space, or that exercises control over the orbit or trajectory of such an object.

(d) "Presenting State" means a Contracting Party, or an international organization that has transmitted a declaration to the Secretary-General under article V, paragraph 1, of this Convention, that presents a claim for compensation to a Respondent State.

(e) "Respondent State" means a Launching State from which compensation is sought under this Convention.

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Article II - Liability

1. The Launching State shall be absolutely liable to pay compensation to the Presenting State, in accordance with the provisions of this Convention, for damage shown to have been caused by the launching, transit or descent of all or part of a space object.

2. If the damage suffered results either wholly or partially from a wilful or reckless act or omission on the part of the Presenting State, or of natural or juridical persons that it represents, the liability of the Launching State to pay compensation under paragraph 1 of this article shall, to that extent, be wholly or partially extinguished.

3. There shall be no liability under this Convention for damage caused to persons and property within a launch facility or immediate recovery area for participation in or observation of the launch or recovery, or to space objects and their personnel during launching, transit or descent.

Article III - Multiple Respondent States

1. If under paragraph 1 of article II or paragraph 3 of article V two or more Launching States would be liable to pay compensation, the Presenting State may proceed against any or all such States individually or jointly for the total amount of damages.

2. When the Presenting State proceeds against less than all possible Respondent States, the State or States proceeded against shall within three months give formal notice to any other Launching States which may be involved, and the States so notified shall also become Respondent States and shall participate in the settlement or other disposition of the claim.

3. When a claim has been presented to only one Launching State and it does not notify and join other Launching States under paragraph 2 of this article, it shall pay the entire compensation which is found to be due. If any Launching States are originally joined, or if a Respondent State notifies and joins the other Launching States, any settlement, agreement or judgement shall specify the apportionment of liability among the several Respondent States.

4. If a number of Contracting States co-operate in a launching, and if they reduce the terms of their co-operation to writing and file a copy thereof with the Secretary-General of the United Nations, Presenting States shall be on notice as to those terms and shall be bound to observe the proportionate shares of liability assumed by the several Contracting States. If payment of the specified proportionate share has not been made by one or more Respondent States six months after the amount of over-all liability has been ascertained, a Presenting State may demand payment from any other Respondent State as provided in article III, paragraph 6.

5. The amount recoverable by the Presenting State from any one Respondent State shall be reduced to the extent of any compensation received in respect of that claim by the Presenting State from any other Respondent State, so that in no case shall the aggregate of the compensation paid in respect of any one claim exceed the amount which would be payable under this Convention if only one Respondent State were liable.

6. If any one of several Respondent States fails to pay its proportionate share of the over-all liability within six months of the date of the ascertainment of the amount due, the Presenting State may demand payment from any or all of the other Respondent States.

7. A Respondent State which has not paid its proportionate share of the over-all liability to the Presenting State shall be obligated to reimburse the other Respondent States for their payments in excess of their proportionate shares.

8. The periods specified in this article shall not be subject to interruption or suspension.

Article IV - Measure of Damages

The compensation which a State shall be liable to pay for damage under this Convention shall be determined in accordance with applicable principles of international law, justice and equity.

Article V - International Organizations

1. If an international organization which conducts space activities transmits to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the provisions of the present Convention, all the provisions, except articles XII, XV, XVI and XVII, shall apply to the organization as they apply to a State which is a Contracting Party.

2. The Contracting Parties to the present Convention undertake to use their best endeavours to ensure that any international organization which conducts space activities and of which they are constituent members is authorized to make and will make the declaration referred to in paragraph 1 of this article.

3. If within one year of the date on which compensation has been agreed upon or otherwise established pursuant to article X, an international organization fails to pay such compensation, each member of the organization which is a Contracting Party shall, upon service of notice of such default by the Presenting State within three months of such default, be liable for such compensation in the manner and to the extent set forth in article III.

Article VI - Presenting a Claim

1. A Contracting Party which suffers damage referred to in article II, Paragraph 1, or whose natural or juridical persons suffer such damage, may Present a claim for compensation to a Respondent State or States.

2. A Contracting Party may also present to a Respondent State a claim of any natural person, other than a person having the nationality of a Respondent State, permanently residing in its territory. However, a claim of any individual claimant may be presented by only one Contracting Party.

3. A claim shall be presented through the diplomatic channel. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with a Respondent State.

4. Notice of a claim must be presented within one year of the date on which the accident occurred or, if the Presenting State could not reasonably be expected to have known of the facts giving rise to the claim, within one year of the date on which these facts became known to the Presenting State even if the nature or extent of the damages may not be known to the Presenting State.

Article VII - Nationals

A State shall not be liable under this Convention for damage suffered by its own nationals or nationals of other Respondent States or by juridical persons beneficially owned by such nationals, to the extent of such ownership.

Article VIII - Limitation of Liability; Apportionment

1. The liability of the Launching State or States shall not exceed _____ with respect to each launching.

2. If the total amount otherwise payable with respect to the claims presented exceeds the limit of liability provided by this article, the following rules shall apply:

(a) If the allowable claims are exclusively in respect of loss of life or personal injury, or exclusively in respect of damage to property, such claims shall be reduced proportionately.

(b) If the allowable claims are both in respect of loss of life or personal injury and in respect of damage to property, three fourths of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

Article IX - Exhaustion of Remedies

1. The presentation of a claim under this Convention shall not require exhaustion of any remedies which might otherwise exist in a Respondent State.

2. If, however, the Presenting State, or a natural or juridical person whom it might represent, elects to pursue a claim in the administrative agencies or courts of a Respondent State or pursue international remedies outside this Convention, the Presenting State shall not be entitled to pursue such claims under this Convention against such Respondent State.

Article X - Claims Commissions

1. If a claim presented under this Convention is not settled within one year from the date on which documentation is completed, the Presenting State may request the establishment of a commission to decide the claim. The competence of such commission shall extend to any dispute arising from the interpretation or application of this Convention. The Respondent State and the Presenting State shall each promptly appoint one person to serve on the commission and a third person, who shall act as a chairman, shall be appointed by the President of the International Court of Justice. If the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

2. No increase in the membership of the commission shall take place where two or more Presenting States or Respondent States are joined in any one proceeding before the commission. The Presenting States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Presenting State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way. If the Presenting or Respondent States fail to appoint their member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

3. The commission shall determine its own procedure.

4. The commission shall conduct its business and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

5. The decision of the commission shall be rendered expeditiously and shall be binding upon the parties.

6. The expenses incurred in connexion with any proceeding before the commission shall be divided equally between Presenting and Respondent States.

Article XI - Currency

Payment of compensation shall be made in the currency of the Presenting State or a currency convertible readily and without loss of value into the currency of or used by the Presenting State.

Article XIII - Settlement of Disputes

Subject to prior recourse to proceedings under article X, any dispute arising from the interpretation or application of this Convention, which is not previously settled by other peaceful means, may be referred by any Contracting Party thereto to the International Court of Justice for decision.

Article XIII - Amendments

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on acceptance by a majority of the Contracting Parties, and thereafter for each remaining Contracting Party on acceptance by it.

Article XIV - Withdrawal

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of the notification by the Secretary-General. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damages arising before withdrawal becomes effective.

Article XV - Signature and Accession

The Convention shall be open for signature by States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party. Any such State which does not sign this Convention may accede to it at any time.

Article XVI - Ratification: Depositary

This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XVII - Entry Into Force

This Convention shall enter into force thirty days following the deposit of the fifth instrument of ratification or accession. It shall enter into force as to a State ratifying or acceding thereafter upon deposit of its instrument of ratification or accession.

Article XVIII - Depositary's Duties

The Secretary-General of the United Nations shall inform all States referred to in article XV and all organizations which have made declarations under article V, paragraph 1, of signatures, deposits of instruments of ratification or accession,

/...

declarations referred to in article V, paragraph 1, the date of entry into force of this Convention, proposals for amendments, notifications of acceptances of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to those States and organizations certified copies of each amendment proposed.

Article XIX

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies of each to the States mentioned in article XV.

Hungary: revised draft Convention concerning Liability
for Damage caused by the Launching of Objects into Outer
Space (A/AC.105/C.2/L.10/Rev.1)

The Contracting States,

Recognizing the common interest of mankind in furthering the peaceful exploration and use of outer space,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the General Assembly on 13 December 1963 as resolution 1962 (XVIII),

Considering that the States and international organizations involved in the launching of objects into outer space should be internationally liable for damage caused by these objects,

Recognizing the need for establishing international rules and procedures concerning such liability to ensure protection against damage caused by objects launched into outer space,

Believing that the establishment of such rules and procedures would facilitate the taking of the greatest possible precautionary measures by States and international organizations involved in the launching of objects into outer space to protect against damage inflicted by objects launched into outer space,

Have decided to conclude the present Convention:

/...

The scope of liability

Article I

1. The provisions of this Convention shall apply to compensation for loss of life, personal injury or other impairment of health, and damage to property (hereinafter called "damage"):

(a) Caused by an object launched into outer space; or

(b) Caused in outer space, in the atmosphere or on the ground by any manned or unmanned space vehicle or any object after being launched, or conveyed into outer space in any other way,

but they shall not apply to nuclear damage resulting from the nuclear reactor of space objects.

2. Liability is also incurred even if, for any reason, the space vehicle or other object has not reached outer space.

3. For the purpose of this Convention "Space Object" means space ships, satellites, orbital laboratories, containers and any other devices designed for movement in outer space and sustained there otherwise than by the reaction of air, as well as the means of delivery of such objects and any parts thereof.

Article II

1. Liability under this Convention shall not exceed

2. A claim for damage may be advanced on the ground of loss of profits and moral damage whenever compensation for such damage is provided for by the law of the State liable for damage in general.

Article III

Unless otherwise provided in articles IV and V, exemption from liability may be granted only in so far as the State liable produces evidence that the damage has resulted from natural disaster or from a wilful act or from gross negligence of the party suffering the damage.

Article IV

1. Whenever damage is done to a space object or to persons and property on board by another space object, no claim shall arise between each other, except in so far as the claimant State produces evidence that the damage has been caused because of the fault of the other State or of a person on behalf of whom the latter State might present a claim (article VIII).

2. If in the case mentioned in paragraph 1, a claim arises on the part of a third State, liability of the States liable for the space objects shall be joint and several.

Article V

The State shall assume liability for damage caused on the ground, in the atmosphere or in outer space, if the damage occurred while exercising an unlawful activity in outer space or the space vehicle or object was launched for unlawful purposes, or if the damage has otherwise resulted from an unlawful activity. In such cases, the State liable shall be barred from any exoneration whatsoever.

The subject of liability

Article VI

1. Liability for damage shall rest with the State or international organization which has launched or attempted to launch the space vehicle or object, or in the case of a common undertaking, with all the States participating in the undertaking or with the State from whose territory or from whose facilities the launching was made, or with the State which owns or possesses the space vehicle or object causing the damage.

2. Where liability may be laid upon more than one State or international organization, their liability towards the claimant shall be joint and several.

Article VII

If liability for damage rests with an international organization, the financial obligations towards States suffering damage shall be met by the international organization and by its member States jointly and severally.

Claims, payment, arbitration

Article VIII

A claim for damage may be made by a State in whose territory damage has occurred or in respect of damage suffered by its citizens or legal entities whether in the territory of that State or abroad.

Article IX

A claim must be presented within one year of the date of occurrence of the damage, or of the identification of the State that is liable. If the applicant State could not reasonably be expected to have known of the facts giving rise to the claim, the claim must be presented within one year of the date on which these facts officially became known.

Article X

The claim shall be presented through diplomatic channels. The claimant State may request a third State to represent its interests in the event it has no diplomatic relations with the State liable.

Article XI

1. In case the State liable does not satisfy the claim of the claimant State, the claim for compensation shall be presented to a committee of arbitration set up by the two States on a basis of parity. This committee will determine its own procedure.

2. Should the committee mentioned in paragraph 1 not arrive at a decision, the States may agree upon an international arbitration procedure or any other method of settlement acceptable to both States.

Article XII

Claim for compensation for damage caused by a space ship of a foreign State shall not constitute ground for sequestration or for the application of enforcement measures to such space ship.

Final clauses

Article XIII

1. This Convention shall be open for signature to all States. It shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. It shall enter into force thirty days after the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification.

Article XIV

After the Convention enters into force it shall be open for accession to other States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XV

With respect to each State which ratifies the Convention or accedes thereto after the deposit of the fifth instrument of ratification, the Convention shall enter into force thirty days after the date of deposit by the State of its instrument of ratification or accession.

Article XVI

Any Contracting State may denounce this Convention by notification to the Secretary-General of the United Nations. The denunciation shall take effect one year after the date on which the notification has been received by the Secretary-General of the United Nations.

Article XVII

The Secretary-General of the United Nations shall notify all States concerning:

(a) The signature of this Convention and the deposit of instruments of ratification or accession in accordance with articles XIII and XIV;

(b) The date of entry into force of this Convention in accordance with articles XIII and XV;

(c) Denunciations received in accordance with article XVI.

Article XVIII

The original of this Convention, of which the texts in the Chinese, English, French, Russian and Spanish languages are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified copies thereof to all States.

Hungary: proposal (A/AC.105/C.2/L.24)

In the revised draft convention concerning liability for damage caused by the launching of objects into outer space (A/AC.105/C.2/L.10/Rev.1) submitted by Hungary:

(1) replace sub-paragraph 1 (a) of article I by the following text:

"(a) caused by an object during its launching into outer space; or"

(2) replace paragraph 1 of article VI by the following text:

"1. Liability for damage shall rest with the State or international organization which has launched or attempted to launch the space vehicle or object or has procured the launching, or with the State from whose territory or facility the launching was made."

Hungary: proposal (A/AC.105/C.2/L.24/Add.1)

In the revised draft convention concerning liability for damage caused by the launching of objects into outer space (A/AC.105/C.2/L.10/Rev.1) submitted by Hungary, delete paragraph 1 of article II.

/...

Hungary: proposal (A/AC.105/C.2/L.10/Rev.1/Corr.1)

In the revised draft Convention concerning liability for damage caused by the launching of objects into outer space (A/AC.105/C.2/L.10/Rev.1) submitted by Hungary:

Delete from article III of the Hungarian draft:

"... from natural disaster or..."

India: proposal (A/AC.105/C.2/L.32)

Convention concerning liability for damage caused
by the launching of objects into outer space

The Contracting Parties,

Recognizing the common interest of mankind in the peaceful exploration and use of outer space,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the United Nations General Assembly on 13 December 1963 as resolution 1962 (XVIII),

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1834 (XVIII), calling upon States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kind of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Having regard to United Nations General Assembly resolutions 2260 (XXII) of 3 November 1967 and 2345 (XXII) of 19 December 1967, which inter alia called upon the Committee on the Peaceful Uses of Outer Space to complete urgently the preparation of the draft of an agreement on Liability for Damage Caused by the Launching of Objects into Outer Space,

Bearing in mind 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 came into force on 10 October 1967, and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, which was opened for signature on 22 April 1968,

Recognizing that activities in the exploration and use of outer space may from time to time result in damage,

Seeking to establish uniform rules of liability and a simple and expeditious procedure governing financial compensation for damage,

Agree as follows:

Definitions

Article I

For the purpose of this Convention

(a) "Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or their persons, natural or juridical, or of international organizations.

(b) "Launching" includes "attempted launching" whether or not it fulfils the expectations of those responsible therefor.

(c) "Space Objects" mean space ships, satellites, orbital laboratories, containers and other devices designed for movement in outer space and sustained there by means other than reaction of air, as well as the means of delivery of such bodies and any part thereof.

(d) "Launching authority" means the State responsible for the 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 on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

(e) "Claimant" means the State or other Contracting Party that presents a claim for compensation to a respondent.

(f) "Respondent" means a launching authority from which compensation is sought under this Convention.

Liability

Article II

1. The respondent shall be absolutely liable to pay compensation to the claimant in accordance with the provisions of this Convention, for damage caused in all environments except outer space by the launching, transit or descent of all or part of a space object.

2. The claimant shall only be required to furnish evidence relative to the connexion between the damage suffered by it and the space object in question.

Exemptions

Article III

1. Unless otherwise provided in the Convention, exemption from liability may be granted only in so far as the respondent produces evidence that the damage has resulted either wholly or partially from a wilful act on the part of the claimant or of natural or juridical persons it represents which has been committed in full knowledge that damage will probably result. Provided that no mitigation of the principle of absolute liability may be allowed in cases where the claimant or the natural or juridical persons which it represents have not committed acts which are in contravention of the rules of international law. No exemption from the principle of absolute liability will be granted in cases where the respondent has conducted activities which affect the rights of other States under general international law.

2. The provisions of this Convention shall not apply to damages sustained by:

(a) nationals of the launching authority;

(b) foreign nationals in the immediate vicinity of a planned launching or recovery area as result of an invitation by the launching authority.

Joint and Several Responsibility

Article IV

If damage is caused as a result of the launching of a space object under a joint programme, the parties concerned shall, jointly and severally, be liable. Provided that nothing in this article shall preclude the conclusion of agreements on the apportionment of liability between two or more Contracting Parties.

Presentation of Claims

Article V

1. A Contracting Party which suffers damage or whose natural or juridical persons suffer such damage may present a claim for compensation to a respondent.

2. A claimant may also present to a respondent a claim of any natural or juridical person, permanently residing in its territory, other than a person having the nationality of the respondent.

3. A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.

4. Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available in the Launching (Respondent) State. Provided that nothing in this Convention shall prevent the claimant or a natural or a juridical person from pursuing a claim in the administrative agencies or courts of a respondent. In such a case, the claimant shall not be entitled to simultaneously pursue claims under this Convention against the respondent.

Article VI

1. A claim must be presented within one year of the date of the concurrence of the damage, or of the identification of the launching authorities liable. If the claimant could not reasonably be expected to have known of the facts giving rise to the claim, the claim must be presented within one year of the date on which these facts officially become known.

2. In cases where an international organization is liable under this Convention claims may be presented through the Secretary-General of the United Nations.

Article VII

1. In case of disagreement between the claimant and the respondent, the two parties shall endeavour to arrive at a settlement through the recognized means of the peaceful settlement of disputes.

2. If no settlement is arrived at within one year of the presentation of the claim the claimant may refer the matter to a Claims Commission as provided for in the Protocol annexed to this Convention.

Currency

Article VIII

Sums due in compensation for damage shall be fixed and payable in the currency of the claimant or in a freely convertible currency unless the Parties agree otherwise.

Joinder of Claims

Article IX

There may be joinder of claims where there is more than one claimant in respect of damage due to the same event or where more than one State or international organization is liable.

Final Clauses

Article X

1. This Convention shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 4 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. (Provision regarding mode of accession of international organizations to the Convention, their rights and duties and relationship with States Parties to the Convention to be inserted.)

4. This Convention shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Convention.

5. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

6. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

7. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XI

Any State Party to the Convention may propose amendments to this Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article XII

A Contracting Party may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

/...

Article XIII

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

India: proposal (A/AC.105/C.2/L.32/Add.1)

Add to article IV the following as paragraphs 2 and 3:

2. In cases where the territory or facilities of a State were used for the launching of a space object by another State or States, both the former and the latter are jointly or severally liable for the damage caused.

3. If an international organization is responsible under the provisions of this Convention for damage caused by its space object, both the organization and its members are jointly and severally liable. Claims in respect of damage caused by the activities of an international organization shall first be presented to the organization. If the organization is unable to settle the claim then the claimant may proceed against any one or more of the members of the organization which are also parties to the Convention.

India: proposal (A/AC.105/C.2/L.32/Rev.1)

Convention concerning liability for damage caused
by the launching of objects into outer space

The Contracting Parties,

Recognizing the common interest of mankind in the peaceful exploration and use of outer space,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the United Nations General Assembly on 13 December 1963 as resolution 1962 (XVIII),

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

/...

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kind of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Having regard to United Nations General Assembly resolutions 2260 (XXII) of 3 November 1967 and 2345 (XXII) of 19 December 1967 which inter alia called upon the Committee on the Peaceful Uses of Outer Space to complete urgently the preparation of the draft of an agreement on Liability for Damage Caused by the Launching of Objects into Outer Space,

Bearing in mind the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,

Recognizing that activities in the exploration and use of outer space may from time to time result in damage,

Seeking to establish uniform rules of liability and a simple and expeditious procedure governing financial compensation for damage,

Agree as follows:

Article I

For the purpose of this Convention

(a) "Damage" means loss of life, personal injury or other impairment of health; or damage to property of States or their persons, natural or juridical, or to property of international organizations.

(b) "Launching" includes "attempted launching" whether or not it fulfils the expectations of those responsible therefor.

(c) "Space Objects" mean space ships, satellites, orbital laboratories, containers and other devices designed for movement in outer space and sustained there by means other than reaction of air, as well as the means of delivery of such bodies and any part thereof.

(d) "Launching State" means the State which launches a space object or procures the launching by another State of a space object.

(e) "Claimant" means the State that presents a claim for compensation to a respondent.

(f) "Respondent" means a Launching State from which compensation is sought under this Convention.

/...

Article II

Unless otherwise provided in the Convention a Launching State shall be absolutely liable for damage caused by its space object whether during launching or thereafter.

Article III

1. Unless otherwise provided in the Convention exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of a natural or juridical person it represents. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies.

2. The provisions of this Convention shall not apply to damage sustained by

(a) nationals of the Launching State

(b) foreign nationals in the immediate vicinity of a planned launching or recovery area as a result of an invitation by the Launching State.

Article IV

1. In the event of damage being caused to a space object of one State or to persons or property on board such a space object by the space object of another State, the latter State shall be liable **only if the damage is due to its fault or the fault of the persons for whom it is responsible.**

2. If in the case referred to in paragraph 1, damage is caused to a third State Party to this Convention or to its physical or juridical persons, the States mentioned in paragraph 1 shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between those States in accordance with the extent to which they were at fault; if the extent of the fault of each of those States cannot be established, the burden shall be apportioned equally between them.

Article V

1. If damage is caused as a result of the launching of a space object under a joint programme the parties concerned shall, jointly and severally, be liable.

2. In cases where the territory or facilities of a State were used for the launching of a space object by another State or States, both the former and the latter are jointly and severally liable for the damage caused.

/...

Article VI

The amount of compensation payable under this Convention shall be determined in accordance with any national law which is agreed upon between the claimant and the respondent. If the claimant and respondent do not agree on a national law to be applied, the amount of compensation payable shall be determined in accordance with international law and taking account of the national law of the claimant State.

Article VII

1. A Contracting Party which suffers damage or whose natural or juridical persons suffer damage, may present a claim for compensation to a respondent.
2. A Contracting Party may also present a claim in respect of damage sustained by its nationals or by persons permanently resident in its territory who are not nationals of the respondent and in respect of whom the State of nationality has not presented a claim or notified its intention of presenting a claim.
3. A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.
4. Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claimant represents.
5. Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent.

Article VIII

1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the party that is liable.
2. If the claimant does not know of the facts giving rise to the claim within the aforementioned one-year period, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the claimant could reasonably be expected to have learned of the facts through the exercise of due diligence.

/...

3. The above-mentioned time-limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time-limits until one year after the full extent of such damage is known.

Article IX

Sums due in compensation for damage shall be fixed and payable in the currency of the claimant or in a freely convertible currency unless the Parties agree otherwise.

Article X

There may be joinder of claims where there is more than one claimant in respect of damage due to the same event or where more than one State is liable in respect of damage.

Article XI

1. In case of disagreement between the claimant and respondent, the two parties shall endeavour to arrive at a settlement through diplomatic negotiations.
2. If no settlement is arrived at within one year of the presentation of the claim, either party may invoke the provisions of the compulsory Protocol on the Settlement of Disputes, annexed to this Convention.

Article XII

1. This Convention which includes the Compulsory Protocols on International Organizations and Settlement of Disputes as integral parts shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Convention.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

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5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

6. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Annex I

Compulsory Protocol on International Organizations

The Contracting Parties,

Bearing in mind article XIII 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,

Taking note of the possibility that practical difficulties might arise, relating to the subject-matter of the present Convention, in so far as international organizations are concerned,

Desiring to establish an expeditious procedure for the solution of any such difficulties in the light of the relevant 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,

Agree as follows:

Article I

The provisions of this Convention shall apply, with the exception of articles XI to XIV, to each international inter-governmental organization which conducts space activities, provided that that organization declares its acceptance of the rights and obligations provided for in the Convention and a majority of the States members of that organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies.

Article II

General Rule

If an international organization to which article I of this Protocol applies is responsible in terms of the provisions of the Convention for damage caused by its space object, both the organization and its members are jointly and severally liable.

/...

Article III

Procedure

1. Claims in respect of damage due to the space activities of such an international organization shall be first presented to the organization. If the organization is unable to settle the claim within six months, the claimant may proceed against any one or more of the members of the organization which are also parties to the Convention.

2. The claim of an international organization to which article I of this Protocol applies may be presented directly to the respondent. If the latter so desires, the claim shall be resubmitted by one or more States members of the organization to be chosen by the organization itself.

Annex II

Compulsory Protocol on Settlement of Disputes

The Contracting Parties to the Convention on Liability for Damage Caused by Objects Launched into Outer Space,

Bearing in mind the provisions of article XI of the Convention, pertaining to the settlement of disputes,

Seeking to establish a procedure for the definitive settlement of disputes which may arise between claimants and respondents with regard to claims to compensation for damage,

Agree as follows:

Article I

Enquiry Commission

1. If a claim remains unsettled for more than six months after its presentation, the claimant and respondent shall establish an Enquiry Commission, on the basis of parity, within one month of a request by either claimant or respondent for its establishment.

2. The Enquiry Commission shall, taking into account the positions of the respective parties, make recommendations with regard to the settlement of the claim, within six months of its establishment.

3. The Enquiry Commission shall determine its procedure.

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Article II

Claims Commission

1. A Claims Commission shall be established upon request of either party if:
 - (i) the Enquiry Commission is not established as provided for in article I (1);
 - (ii) the Enquiry Commission is unable to arrive at any recommendations within the period specified in article II (2).

Article III

1. The Claims Commission shall be composed of one nominee each of the claimant and respondent and a third member, the Chairman, to be chosen by the claimant and respondent jointly. The nominees of the claimant and the respondent shall respectively be designated within two months of the request for the establishment of the Claims Commission. If no agreement is reached on the choice of the Chairman within four months of the request for the establishment of the Claims Commission, the Secretary-General of the United Nations may be requested by either party to nominate the Chairman. The nomination made by the United Nations Secretary-General shall be binding.

2. If one of the parties fails to designate its nominee within the stipulated period, the person appointed by the United Nations Secretary-General at the request of the other party shall constitute a single member Claims Commission.

3. Any vacancy which may arise in the Claims Commission by way of death, ill-health or resignation of one or more members shall be filled by the same procedure adopted for their original nomination.

4. The Claims Commission shall determine its procedure.

5. The Claims Commission shall determine the place or places where it shall sit and all administrative matters connected therewith.

6. All decisions of the Claims Commission shall be by majority vote, except in cases where a single member Commission is established.

Article IV

No increase in the membership of the Claims Commission shall take place where two or more claimants or respondents are joined in any one proceeding before the Commission. The claimants so joined shall collectively nominate one member of the Commission in the same manner and subject to the same conditions as would be the case for a single claimant. When two or more respondents are so joined, they shall collectively nominate one member of the Commission in the same way. If the

claimants or respondents fail to nominate their member within the stipulated period, the nominee of the Secretary-General of the United Nations shall constitute a single-member Commission.

Article V

1. The Claims Commission shall have competence only with regard to the specific claim before it. The Commission's sole function shall be, in the light of the respective contentions of the claimant and respondent and of the facts of the case as made available to it, to decide on the merits of the claim for compensation and to determine the amount of compensation payable, if any.

2. The Commission shall not have the competence to render an authoritative interpretation of the Convention.

Article VI

1. The Commission shall be guided by the provisions of article VI of the Convention in so far as the law to be applied by it is concerned.

2. The Commission shall state the reasons for its decision, which shall be final and binding.

Article VII

The expenses in regard to the Claims Commission shall be borne equally by the parties.

India: proposal (A/AC.105/C.2/L.32/Rev.1/Corr.1)

1. Insert after article XII the following articles:

Article XIII

Any State Party to the Convention may propose amendments to this Convention. Amendments will enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article XIV

A Contracting Party may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XV

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the **archives of the Depositary Governments**. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

2. In annex I, article I, replace the words "articles XI to XIV" by "articles XII to XV".

3. In annex II, article II, delete the number "1." and in sub-paragraph (ii) replace "article II (2)" by "article I (2)".

Working Paper submitted by the Italian delegation (A/AC.105/C.2/L.40)

Draft convention concerning liability for damage caused by the launching of objects into outer space

Preamble

The Contracting Parties,

Recognizing that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recalling 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,

Seeking to establish a uniform rule of liability and a simple and expeditious procedure governing compensation for damage,

Believing that the establishment of such a procedure will contribute to the growth of friendly relations and co-operation among nations,

Agree as follows:

Purpose of the Convention

Article 1

The purpose of this Convention is to govern the international liability of States for damage caused in the exercise of their space activities to another member State and the natural or juridical persons that it represents, in accordance with the Washington Treaty of 27 January 1967.

/...

Definitions (Launching State - Space Object - Damage)

Article 2

1. Launching State shall be understood to mean the State which launches or procures the launching of a space object, entered in its own registers or registered with the United Nations Secretariat (which must in any case be notified beforehand of the launching and be provided with all the information necessary to identify the object in question);

2. The State whose territory or facility is used for the launching shall be deemed to be the Launching State, if it does not state that it is the actual Launching State or if the latter is not a party to the Convention, even if the State whose territory or facility is used does not participate actively and substantially in the launching, transit control and descent of the space object;

3. The international organizations referred to in article 6 below shall be treated for the purpose in the same way as States;

4. Space object means any man-made object designed to reach outer space and to move there (either) naturally or by means of radio-electric signals or the control exercised by pilots on board;

5. For the purposes of this Convention, the component parts of space objects that become detached or are made to detach during transit, and objects thrown or launched from space objects, shall be deemed to be space objects;

6. Damage means loss of life, personal injury or impairment of health and destruction or damage to property caused by space objects.

Field of application of the Convention

Article 3

1. This Convention shall apply to all damage caused by space objects; (a) on the earth; (b) in the earth's atmosphere; (c) in outer space, including other celestial bodies;

2. However, the present Convention shall not cover damage caused in the territory of the Launching State and in particular damage sustained at the time and in the area of launching and return of space objects by persons playing a part in the operations related thereto, or damage sustained from endogenous causes by space objects and their personnel during launching, transit or descent. For this purpose, social labour legislation and agreements between the parties concerned shall be paramount in the assessment of compensation.

/...

Nature of and grounds for liability in the various
cases of damage on the earth, in the earth's
atmosphere and in outer space

Article 4

1. Damage caused on the earth, even in the case of circumstances beyond control shall constitute grounds for compensation by the very fact that the damage has occurred and was caused by a space object;

2. Damage caused in the earth's atmosphere to aircraft shall be presumed to be due to the fault of the space object; if, however, the damage is caused by one space object to another space object, it shall be presumed to be attributable to common fault.

Both cases shall be open to proof of the contrary;

3. In the case of damage caused by a space object in outer space, liability shall rest with the Launching State if a fault on its part is proved;

4. When two or more space objects have collided or interfered with each other in transit and damage to third parties on the ground has resulted, the damage shall be presumed to be attributable to the common fault of the said objects and the Launching States shall be jointly liable;

5. The Launching State which has had to pay the entire compensation shall have the right to appeal against the other jointly liable States.

Liability for damage (States)

Article 5

1. The Launching State shall be liable for the damage caused by a space object.

2. When the space object is jointly launched by several States or by States and international organizations (referred to in article 6), they shall be jointly and severally liable for the damage caused by the space object.

The sums paid to the victim of the damage shall be shared equally by the parties liable in accordance with previous agreements, and if no such agreements exist it shall also be apportioned equally.

Liability (International Organizations)

Article 6

1. If an international organization which conducts space activities has transmitted to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the present Convention, all the provisions

of the Convention, except articles 13, 16, 17 and 18, shall apply to the organization as to a State which is a Contracting Party.

2. Consequently, if the organization launches, or procures the launching of a space object, and that object causes damage, the organization, like any Launching State, shall be directly liable for the damage vis-à-vis the victims.

3. Should the organization fail to pay the amount of the compensation already agreed to or fixed, the States members of the organization can be called upon as guarantors within the period and under the conditions referred to in article 11 below.

Extinction or reduction of liability

Article 7

If the damage has been caused, either wholly or partially, by an act or omission on the part of the victim, the liability of the Launching State may be extinguished or reduced according to the gravity (fraud or fault) of the act or omission.

Assessment of liability

Article 8

The compensation which a State shall be liable to pay under this Convention for the damage it has caused shall be determined in accordance with applicable principles of international law, justice and in view of the singular nature of the matter, equity.

Rules of procedure; claims for compensation

Article 9

1. The State which has sustained damage (Applicant, (Presenting) (Claimant) State) can present a claim for compensation to the State that is liable, hereinafter called the Respondent State.

The same claim can be presented by the State for damage caused anywhere to its own nationals and to natural or juridical persons permanently domiciled in its territory;

2. The presentation of a claim under this Convention shall not require exhaustion of any remedies which might otherwise exist in the Respondent State;

/...

3. A claim shall be presented through the diplomatic channel within one year of the date when the damage and the State liable for it became known.*

4. The same procedure shall apply when the claim is presented by or against an international organization. The representation of the international organization, for the purposes of this diplomatic procedure, may then be assumed by one of the States members of the organization.

* NOTE: If it is desired to introduce a time-limit or an expiry date, the following formula can be adopted:

"In any case, three years after the date of the occurrence that caused the damage, the claim shall cease to be maintainable."

Arbitration Commission for the settlement of claims for compensation

Article 10

1. If a claim presented under this Convention is not settled amicably within one year from the date on which documentation is completed, the Applicant (Presenting) (Claimant) State may request the establishment of an arbitration commission to decide the claim.

The competence of such commission shall extend to any dispute arising from the interpretation or application of this Convention. The Respondent State and the Applicant (Presenting) (Claimant) State shall each promptly appoint one person to serve on the commission, and a third person, who shall act as chairman, shall be appointed by the President of the International Court of Justice.

If the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

2. No increase in the membership of the commission shall take place where two or more Applicant (Presenting) (Claimant) States or Respondent States are joined in any one proceeding before the commission. The Applicant (Presenting) (Claimant) States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Applicant (Presenting) (Claimant) State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way.

If the Applicant (Presenting) (Claimant) State or the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

3. The Commission shall take its decisions according to law in conformity with article 8 above. It shall determine its own procedure and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

/...

4. The decision of the commission shall be rendered expeditiously. It shall be final and binding upon the parties.

5. The expenses incurred in connexion with any proceeding before the commission shall be divided equally between the Applicant (Presenting) (Claimant) and Respondent States.

As an
alternative
to 2 above

If in the same dispute there are two or more Applicant (Presenting) (Claimant) States and (or) two or more Respondent States, they shall agree to appoint one person to represent them on the commission, which shall thus always comprise three members.

Procedure relating to International Organizations
which do not pay compensation for damages

Article 11

1. If, within one year of the date on which compensation has been agreed upon or otherwise established pursuant to article 10, an international organization has failed to pay the amount of such compensation, the States members of the organization shall, upon service of notice of such default by the Applicant (Presenting) (Claimant) State within three months of such default, be obligated to pay the amount of compensation, each in proportion to its contribution to the budget of the organization: and if this contribution is not known, the member States shall be jointly liable for the entire compensation.

2. In no circumstances may the member States question the justification for or the amount of compensation due by the organization.

Procedure under ordinary law

Article 12

This Convention shall not prejudice the rights of victims to institute proceedings before the ordinary courts of the Applicant (Presenting) (Claimant) State or the Respondent State, or to choose any other international procedure, with a view to obtaining compensation for damage.

However, in such a case, the Applicant (Presenting) (Claimant) State may no longer have recourse to the procedures referred to in articles 9, 10 and 11 above; but the normal diplomatic intervention with a view to bringing about an amicable settlement between the parties to the dispute shall not be excluded.

/...

Settlement of disputes

Article 13

Any question arising from the interpretation or application of this Convention which is not previously settled by other peaceful means of their choice, may be referred by any Contracting Party thereto to the International Court of Justice for decision.

Amendments

Article 14

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on acceptance by a majority of the Contracting Parties, and thereafter for each remaining Contracting Party on acceptance by it.

Withdrawal

Article 15

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of the notification by the Secretary-General. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damages arising before withdrawal becomes effective.

Signature and accession

Article 16

This Convention shall be open for signature by all States. Any State which does not sign this Convention before its entry into force pursuant to article 18 below may accede to it at any time.

Ratification: Depositary

Article 17

This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Entry into force

Article 18

This Convention shall enter into force thirty days following the deposit of the fifth instrument of ratification or accession. It shall enter into force as to a State ratifying or acceding thereto upon deposit of its instrument of ratification or accession.

Obligation of depositary

Article 19

The Secretary-General of the United Nations shall inform all signatory and acceding States and all organizations which have made declarations under article 6, paragraph 1, of signatures, deposits of instruments of ratification or accession, declarations of acceptance referred to in article 6, paragraph 1, the date of entry into force of this Convention, proposals for amendments, notifications of acceptances of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to those States and organizations certified copies of each amendment proposed.

Article 20

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies of each to the Governments of all the signatory and acceding States.

Annex to the Draft Convention concerning the liability
of States for damage caused by space devices

submitted by the delegation of Italy

In preparing this draft, we took into consideration the four draft conventions on this subject known to us, namely, the three drafts (those of the United States, Belgium and Hungary) submitted at earlier sessions of the Legal Sub-Committee of the United Nations Committee on the Peaceful Uses of Outer Space, and the preliminary draft submitted by France to a working party established by the European Conference on Outer Space.

We selected the best ideas and formulations from these four drafts, most of them having been taken from the United States and French drafts, which in our opinion are fuller and more coherent.

The method chosen for formulating the articles of this draft is the one best suited to the legal tradition of Latin countries, namely, the adoption of general, comprehensive texts providing for the largest possible number of cases likely to arise in practice, while taking into account general legal principles.

We have also tried to "depersonalize" the draft as much as possible by including concepts and formulas put forward by delegations of other countries in various international forums, so as to meet as far as possible universal aspirations and desires and make the draft more generally acceptable.

To clarify these points further we have set out below some comments on the various provisions of the draft convention.

Preamble

The whole of the preamble has been taken from the United States draft, which has the merit of codifying "uniform rules of liability and a simple procedure".

Article 1 - Purpose of the Convention

None of the drafts at present being considered by international bodies contains such an article. However, this article seems necessary as the discussions held at the international level have given the impression of a lack of uniformity in the interpretation of the limits and character of international liability.

Article 2 - Definitions

1. Launching State. The purpose of this paragraph was to emphasize the now urgent need for precise individual identification of space devices (registration) and for codifying the procedure for notifying the United Nations Secretariat of the launching and of its characteristics.

2. This paragraph reproduces the principle embodied in the French draft (article 1 (3)) and is designed to permit in all cases the identification of the State responsible for the launching, on the basis of objective data.

Article 3 - Field of application of the Convention

2. This has been based on the corresponding articles of the United States draft, with some minor additions or changes.

Article 4 - Nature and basis of liability

This article involves the complete rejection of the system advocated in the United States draft, whereby the principle of objective liability is applied in all cases. This system is not only unfair, but can sometimes result in anomalies, as in the case of damage caused by collision or impact.

The French draft also rejects the principle of objective liability in all cases, but the system adopted in the present draft seems more comprehensive.

1. This paragraph reproduces the wording adopted in the conventions on air navigation.

3. The wording adopted is similar to that of the French draft.

Article 6 - Liability (international organizations)

1. The wording of the United States draft was adopted as it seemed to be the best.

Article 8 - Assessment of liability

This article reproduces the substance of article IV of the United States draft. However, the words "in view of the singular nature of the matter" have been added, to justify the reference to equity.

Article 9 - Rules of procedure: Claims for compensation

4. These rules were considered necessary, since it might be desirable for a member State to represent an international organization which has no headquarters or diplomatic representation stricto sensu.

Article 10 - Arbitration commission for the settlement of claims for compensation

This article reproduces, with some variations, article X of the United States draft, which is very long and perhaps unnecessarily detailed.

The possibility of simplifying it along the lines of the corresponding article in the French draft, or of the draft proposed by India might be worth considering.

Article 12 - Procedure under ordinary law

This article is based on the general principle of electa una via non datur recursus ad alteras.

Articles 13 to 20 - Final and formal clauses

The final and formal clauses of the United States draft have been adopted, with some modifications notably in articles XIII and XV of that draft.

In article 13 (XII in the United States draft) the opening phrase "subject to prior recourse to proceedings under article X" has been omitted for the following reasons:

(a) Even where no dispute exists, it would seem advisable at the request of a member State to obtain an authoritative interpretation of one or other of the articles of the Convention, which has given rise to dispute or has been interpreted in different ways.

(b) A final arbitral award may conflict with the different (authoritative) interpretation subsequently adopted on the basis of a new protocol.

/...

Article 16 (XV in the United States draft) reproduces the wording of the corresponding article 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 (better known as the Space Treaty or Washington Treaty) of 27 January 1967. With this wording the present Convention would be open for signature or accession by all States.

Working Paper submitted by the Italian delegation
(A/AC.105/C.2/L.40/Corr.1)

Corrigendum*

1. In article 1, line 3: delete the word "Washington".
2. (Affects French text only).
3. (Affects French text only).
4. In article 5, paragraph 2, line 4: delete the word "equally".
5. In article 9, paragraph 1, line 1: delete "(Applicant, (Presenting) (Claimant) State)".
6. (Affects French text only).

Working Paper submitted by the Italian delegation
(A/AC.105/C.2/L.40/Corr.2)

In article 17 of the draft convention submitted by the Italian delegation (A/AC.105/C.2/L.40), replace the sentence "Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations" by the following:

"Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are designated in this Convention as the Depositary Governments."

The other articles of the Italian draft referring to the Secretary-General of the United Nations should be amended accordingly. The purpose of this amendment is to bring the Italian draft into line with the corresponding provisions of the treaty of 27 December 1967 (article XIV (2)).

* This corrigendum applies also to the text reproduced in A/AC.105/C.2/W.2/Rev.4/Add.3.

United States of America: proposal (A/AC.105/C.2/L.34)

Field of application and exemptions from provisions of agreement

The Launching State shall not be liable under this Convention for damage caused to space objects of other Launching States, and their personnel, during launching, transit or descent, unless such damage is caused by the fault of the Launching State.

If the collision of space objects causes damage to third parties, the Launching States shall be individually and jointly liable for such damage. As between themselves, the Launching States shall share equally the burden of such compensation unless there is a showing of comparative fault, in which event the burden of compensation shall be apportioned between them accordingly.

France: revised proposal concerning the State liable and joint and several liability (A/AC.105/C.2/L.36/Rev.2)

1. A State which launches a space object or procures the launching by another State of a space object shall be liable for damage caused to persons or property during the launching, transit or descent of such space object, irrespective of the place in which the damage occurs.

2. Whenever several States launch or procure the launching of a space object as a joint project, they shall, jointly and severally, be liable for the damage caused.

3. The State whose territory or facilities were used for the launching of a space object shall be liable in the same manner as the Launching State if for any reason it does not identify the latter or if the latter is not a Party to this Convention.

United Kingdom: revised proposal (A/AC.105/C.2/L.37/Rev.1)

Field of application

An Applicant State may present claims in respect of damage sustained by its nationals or by persons permanently resident in its territory who are not nationals of the Respondent State and in respect of whom the State of nationality has not presented a claim or notified its intention of presenting a claim.

United Kingdom: proposal (A/AC.105/C.2/L.38)

Amend paragraphs 1 and 3 of the proposal of France (A/AC.105/C.2/L.36) to read as follows:

/...

/...

1. A State which launches a space object or which actively and substantially participates in the launching of a space object by another State shall be liable under the present Convention for damage caused to persons or property by the launching, transit or descent of such space object, irrespective of the place in which the damage occurs.

3. The State whose territory or facilities were used for the launching of a space object, but which has not actively and substantially participated in the launching, is liable in the same manner as the Launching State only if it does not for any reason identify the latter, or if the latter is not a party to the Convention.

Australia: proposal (A/AC.105/C.2/L.39)

"Launching Authority" means a Contracting Party that launches or actively and substantially participates in the launching of a space object, or an international organization that has transmitted a declaration to the Secretary-General of the United Nations under article... of this Convention and that launches or actively and substantially participates in the launching of a space object. It includes a Contracting Party from whose territory or facility a space object is launched,

(a) if that Contracting Party does not disclose the identity of the Contracting Party or international organization responsible for launching a space object from its territory; or

(b) if none of the States or international organizations responsible for the launching is a Party to this Convention.

Austria, Belgium, France, Sweden and United Kingdom:
proposal (A/AC.105/C.2/L.41)

International Organizations

Article ...

1. This Agreement shall apply, with the exception of articles ... and ..., in the same manner as it applies to a State, to each international inter-governmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Agreement, and if the majority of States members of the organization are Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Celestial Bodies, or notify their acceptance of the rights and obligations provided for in this Agreement in respect of the activities of the organization.

/...

2. An international inter-governmental organization to which paragraph 1 of this article applies and which has launched or procured the launching of a space object shall be liable for damage caused by that object. Any claim in respect of such damage shall be presented to the organization.

3. If within six months of the date of presentation of the claim the organization has not carried out its obligations, the States members of the organization who are referred to in paragraph 1 of this article shall be held individually and jointly liable for the obligations of the organization under this Agreement.

4. An international inter-governmental organization to which paragraph 1 of this article applies may present a claim, pursuant to the provisions of this Agreement, for damage caused to the organization by a space object.

Austria, Belgium, France, Sweden and United Kingdom:
proposal (A/AC.105/C.2/L.41/Add.1)

International Organizations

Article ...

Add Italy as co-sponsor of the proposal.

Australia and Canada: Working Paper (A/AC.105/C.2/L.42)

1. The General Rule

2. Joint Liability

If during its launching, transit or descent, damage is caused by a space object that has been launched by several Launching Authorities, those Launching Authorities shall be jointly and severally liable.

3. Liability for damage on earth and to aircraft

The Launching Authority shall be absolutely liable to pay compensation for damage caused on the earth or to an aircraft in flight and its occupants, during the launching, transit or descent of a space object.

/...

4. Liability for damage to space objects

A Launching Authority shall not be liable under this Convention for damage caused to space objects of other Launching Authorities and to the occupants of such space objects during launching, transit or descent unless the damage is caused by the fault of the first-mentioned Launching Authority.

5. Liability for damage to third parties

If space objects cause damage to third parties, the Launching Authorities shall be jointly and severally liable for such damage. As between themselves, the Launching Authorities shall share equally the burden of compensation unless there is comparative fault, in which event the burden of compensation shall be apportioned between them accordingly.

6. Damage in respect of which compensation is not payable

Compensation shall not be payable under this Convention in respect of damage caused by a space object to:

(a) nationals of the Launching Authority; or

(b) foreign nationals in the immediate vicinity of a planned launching or recovery area as the result of an invitation by the Launching Authority.

Mexico: proposal (A/AC.105/C.2/L.43)

Field of application

An Applicant State may present claims in respect of damage sustained by its nationals and by persons permanently resident in its territory. If the Applicant State does not present a claim in respect of damage sustained by persons permanently resident in its territory, or notifies its intention not to do so, the State of nationality shall be entitled to present the corresponding claim, so long as such persons are not nationals of the Respondent State.

Canada: proposal (A/AC.105/C.2/L.44)

"Damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of their persons, natural or juridical, or to property of international organizations.

/...

Australia/United Kingdom

Working Paper (A/AC.105/C.2/L.47)

Applicable Law for Determination of Compensation

The amount of compensation payable in accordance with this Convention shall be determined in accordance with any national law which is agreed upon between the claimant and the respondent. If the claimant and respondent do not agree on a national law to be applied, the amount of compensation payable shall be determined in accordance with applicable principles of international law, justice and equity, and taking account of the national law of the State in whose territory the damage occurred.

Australia

Working Paper (A/AC.105/C.2/L.48)

Pursuit of Remedies in Respondent State or under
other international agreements

The following text is an amendment to article V (4) of the Indian draft A/AC.105/C.2/L.32:

"Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whose interests the claimant represents. Nothing in this Convention shall prevent a claimant or any natural or juridical person from pursuing a claim in the administrative agencies or courts of a respondent. But a claimant shall not be entitled to pursue claims under this Convention in respect of damage for which a claim is being pursued in the administrative agencies or courts of a respondent."

Argentina, Australia, Austria, Belgium, Brazil, Canada, France,
Japan, Sweden, United Kingdom and United States of America:
proposal (A/AC.105/C.2/L.51)

The foregoing delegations consider that Governments should, as a matter of urgency, concentrate their attention on the following important issues that have been discussed but not yet resolved by the Legal Sub-Committee:

- (i) whether the Convention should exclude nuclear damage;
- (ii) whether there should be any limitation of liability in amount;
- (iii) whether the Convention should provide compulsory third party settlement of disputes;

/...

- (iv) the relationship between international organizations and the Convention;
- (v) the law applicable to measure of damages;
- (vi) unresolved aspects of joint liability.

Union of Soviet Socialist Republics: Revised
Working Paper (A/AC.105/C.2/WP/1/Rev.2)

Damage caused by a space object from the time of its launching till landing shall be compensated for in accordance with the provisions of this Convention, irrespective of the place where such damage is caused.

Unless otherwise provided in this Convention, liability for damage caused by a space object shall be absolute.

Union of Soviet Socialist Republics: Working
Paper (A/AC.105/C.2/WP/2)

1. In the event of damage being caused to a space object or to persons or property on board a space object by the space object of another State, that State shall be held liable only if it was at fault or if persons for whom it is responsible were at fault.

2. If in the case referred to in paragraph 1, a claim is made by a third State, the States mentioned in paragraph 1 shall be held jointly liable. The amount of compensation shall be apportioned between those States in accordance with the extent to which they were at fault; if the extent of the fault of each of the parties cannot be established, the amount shall be apportioned equally between them.

India: Working Paper (A/AC.105/C.2/WP/3)

Revised text of article III of the Indian proposal
contained in document A/AC.105/C.2/L.32

Article III

1. Unless otherwise provided in the Convention, exemption from liability may be granted only in so far as the respondent produces evidence that the damage has resulted either wholly or partially from gross negligence on the part of the claimant or of natural or juridical persons it represents, or from an act or omission of such claimant done with intent to cause damage. No exemption from the principle of absolute liability will be granted in cases where the respondent has conducted activities which are not in conformity with the Charter of the United

Nations and with the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies /and other relevant international agreements/.

2. The provisions of this Convention shall not apply to damages sustained by:

- (a) nationals of the launching Authority;
- (b) foreign nationals in the immediate vicinity of a planned launching or recovery area as a result of an invitation by the launching Authority.

United States of America: proposal (A/AC.105/C.2/WP/4/Rev.1)

General Rule

A launching (authority) (State) shall be absolutely liable for damage caused by its space object whether during launching or thereafter, except as otherwise provided in this Convention.

Union of Soviet Socialist Republics: Working Paper
(A/AC.105/C.2/WP/5)

Where a space object launched from the territory or facility of one State has been entered in the register of another State, the latter shall compensate any damage caused by such object. If the State of registry cannot be determined or if the State of registry is not a Party to this Convention, the damage shall be compensated by the State from whose territory or facility the object was launched. The State which has compensated the damage shall be entitled to claim reimbursement from the other participants in a joint launching who are Parties to this Convention.

/...

/...

Comparative table (A/AC.105/C.2/W.2/Rev.4) of provisions contained
in the proposals submitted by Belgium (A/AC.105/C.2/L.7/Rev.3), the
United States of America (A/AC.105/C.2/L.19) and Hungary (A/AC.105/
C.2/L.10/Rev.1 and A/AC.105/C.2/L.24)

/...

CONVENTION ON THE UNIFICATION OF CERTAIN
RULES GOVERNING LIABILITY FOR DAMAGE
CAUSED BY SPACE DEVICES TO THIRD PARTIES
ON THE SURFACE OF THE EARTH AND TO
AIRCRAFT IN FLIGHT

Preamble

The Contracting Parties,

Recalling the terms of the Treaty,
signed on 27 January 1967, Governing the
Activities of States in the Exploration
and Use of Outer Space, including the
Moon and other Celestial Bodies,

Recognizing that activities in the
exploration and peaceful uses of outer
space may from time to time result in
damage,

Recognizing the need to establish
rules governing liability with a view
to ensuring that compensation is paid
for damage thus caused,

Have agreed as follows:

CONVENTION CONCERNING LIABILITY FOR
DAMAGE CAUSED BY THE LAUNCHING OF
OBJECTS INTO OUTER SPACE

The Contracting Parties,

Recognizing that activities in the
peaceful exploration and use of outer
space may on occasion result in damage,

Recalling 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 January 27, 1967,

Seeking to establish a uniform
rule of liability and a simple and
expeditious procedure governing
financial compensation for damage,

Believing that the establishment
of such a procedure will contribute to
the growth of friendly relations and
co-operation among nations,

Agree as follows:

CONVENTION CONCERNING LIABILITY FOR
DAMAGE CAUSED BY THE LAUNCHING OF
OBJECTS INTO OUTER SPACE

The Contracting Parties,

Recognizing the common interest of
mankind in furthering the peaceful
exploration and use of outer space,

Recalling the Declaration of Legal
Principles Governing the Activities of
States in the Exploration and Use of
Outer Space, adopted by the General
Assembly on 13 December 1963 as
resolution 1962 (XVIII),

Considering that the States and
international organizations involved in
the launching of objects into outer space
should be internationally liable for
damage caused by these objects,

Recognizing the need for establishing
international rules and procedures
concerning such liability to ensure
protection against damage caused by
objects launched into outer space,

Believing that the establishment of
such rules and procedures would facilitate
the taking of the greatest possible
precautionary measures by States and
international organizations involved in
the launching of objects into outer space
to protect against damage inflicted by
objects launched into outer space,

Have decided to conclude the present
Convention:

Article 2

Definitions

"Damage" shall be understood to mean
loss of life, bodily injury or damage to
property for which compensation may be
claimed and assessed under the national
law of the person injured, or if not,
under applicable principles of
international law.

"Launching" shall be understood to
mean an attempted launching or a launching
operation proper, whether or not it fulfils
the expectations of those responsible
therefore.

"Space device" shall be understood to
mean any device intended to move in space
and sustained there by means other than the
reaction of air, as well as any constituent
element of such device or of the equipment
used for its launching or propulsion.

"Launching State" shall be understood
to mean the State or States which carry out
the launching of a space device or, when the
Applicant State is not able to determine the
said State or States, the State whose
territory is used for such launching.

"Applicant State" shall be understood
to mean the State which has been injured, or
whose nationals, whether natural or juridical
persons, or whose permanent residents have
been injured, and which presents a claim for
compensation.

Article 1

Field of
application
and
exemptions
from
provisions
of agreement

- (a) The provisions of this Convention
shall apply to compensation for
damage caused to persons or property
by a space device or space devices.
They shall not apply to compensation
for damage caused in the territory
of the Launching State or suffered
by its nationals or permanent
residents, or for damage caused by
a space device to another space
device.

Article I

For the purposes of this Convention

(a) "Damage" means loss of life,
personal injury, or damage to property
whether partial or total.

(b) The term "launching" includes
attempted launchings.

(c) "Launching State" means a
Contracting Party, or an international
organization that has transmitted a
declaration to the Secretary-General
under Article V, paragraph 1, of this
Convention, that launches or actively
and substantially participates in the
launching of an object into outer
space, or from whose territory or
facility an object is launched into
outer space, or that exercises control
over the orbit or trajectory of such
an object.

(d) "Presenting State" means a
Contracting Party, or an international
organization that has transmitted a
declaration to the Secretary-General,
under Article V, paragraph 1, of this
Convention, that presents a claim for
compensation to a Respondent State.

(e) "Respondent State" means a
Launching State from which compensation
is sought under this Convention.

Article II

1. The Launching State shall be
absolutely liable to pay compensation
to the Presenting State, in accordance
with the provisions of this Convention,
for damage shown to have been caused
by the launching, transit or descent
of all or part of a space object.

Article I

1. The provisions of this Convention
shall apply to compensation for loss of life,
personal injury or other impairment of
health, and damage to property [hereinafter
called "damage"]:

Article II

A claim for damage may be advanced on
the ground of loss of profits and moral
damage whenever compensation for such damage
is provided for by the law of the State liable
for damage in general.

Article I

3. For the purpose of this Convention
"Space Object" means space ships, satellites,
orbital laboratories, containers and any
other devices designed for movement in
outer space and sustained there otherwise
than by the reaction of air, as well as the
means of delivery of such objects and any
parts thereof.

Article I

1. The provisions of this Convention
shall apply to compensation for loss of
life, personal injury or other impairment
of health, and damage to property [hereinafter
called "damage"]:

(a) caused by an object during its
launching into outer space;

or

Field of application and exemptions from provisions of agreement (continued)

Article II (continued)

3. There shall be no liability under this Convention for damage caused to persons and property within a launch facility or immediate recovery area for participation in or observation of the launch or recovery, or to space objects and their personnel during launching, transit or descent.

Article I (continued)

(b) Caused in outer space, in the atmosphere or on the ground by any manned or unmanned space vehicle or any object after being launched, or conveyed into outer space in any other way, but they shall not apply to nuclear damage resulting from the nuclear reactor of space objects.

2. Liability is also incurred even if, for any reason, the space vehicle or other object has not reached outer space.

Article VII

A State shall not be liable under this Convention for damage suffered by its own nationals or nationals of other Respondent States or by juridical persons beneficially owned by such nationals, to the extent of such ownership.

State or international organization liable

Article 3*

The Launching State shall be held liable for compensation for damage caused in the circumstances stated in article 1 and defined in article 2. If several States participate in the launching of a space device, they shall be held jointly liable.

* The Belgian delegation reserves the right to submit an amendment dealing with the principle enunciated in this article.

Article 2

"Launching" shall be understood to mean an attempted launching or a launching operation proper, whether or not it fulfils the expectations of those responsible therefore.

"Launching State" shall be understood to mean the State or States which carry out the launching of a space device or, when the Applicant State is not able to determine the said State or States, the State whose territory is used for such launching.

Article II

1. The Launching State shall be absolutely liable to pay compensation to the Presenting State, in accordance with the provisions of this Convention, for damage shown to have been caused by the launching, transit or descent of all or part of a space object.

Article VI

1. Liability for damage shall rest with the State or international organization which has launched or attempted to launch the space vehicle or object or has procured the launching, or with the State from whose territory or facility the launching was made.

Article I

(c) "Launching State" means a Contracting Party, or an international organization that has transmitted a declaration to the Secretary-General under Article V, paragraph 1, of this Convention, that launches or actively and substantially participates in the launching of an object into outer space, or from whose territory or facility an object is launched into outer space, or that exercises control over the orbit or trajectory of such an object.

Question of joint liability

Article 3*

The Launching State shall be held liable for compensation for damage caused in the circumstances stated in article 1 and defined in article 2. If several States participate in the launching of a space device, they shall be held jointly liable.

* The Belgian delegation reserves the right to submit an amendment dealing with the principle enunciated in this article.

Article III

1. If under paragraph 1 of Article II or paragraph 3 of Article V two or more Launching States would be liable to pay compensation, the Presenting State may proceed against any or all such States individually or jointly for the total amount of damages.

2. When the Presenting State proceeds against less than all possible Respondent States, the State or States proceeded against shall within three months give formal notice to any other Launching States which may be involved, and the States so notified shall also become Respondent States and shall participate in the settlement or other disposition of the claim.

3. When a claim has been presented to only one Launching State and it does not notify and join other Launching States under paragraph 2 of this Article, it shall pay the entire compensation which is found to be due. If any Launching States are originally joined, or if a Respondent State notifies and joins the other Launching States, any settlement, agreement or judgment shall specify the apportionment of liability among the several Respondent States.

4. If a number of Contracting States co-operate in a launching, and if they reduce the terms of their co-operation to writing and file a copy thereof with the Secretary-General of the United Nations, Presenting States shall be on notice as to those terms and shall be bound to observe the proportionate shares of liability assumed by the several Contracting States. If payment of the specified proportionate share has not been made by one or more Respondent States six

Article VI

2. Where liability may be laid upon more than one State or international organization, their liability towards the claimant shall be joint and several.

Question of
joint
liability
(continued)

Article III (continued)

months after the amount of over-all liability has been ascertained, a Presenting State may demand payment from any other Respondent State as provided in Article III, paragraph 6.

5. The amount recoverable by the Presenting State from any one Respondent State shall be reduced to the extent of any compensation received in respect of that claim by the Presenting State from any other Respondent State, so that in no case shall the aggregate of the compensation paid in respect of any one claim exceed the amount which would be payable under this Convention if only one Respondent State were liable.

6. If any one of several Respondent States fails to pay its proportionate share of the over-all liability within six months of the date of the ascertainment of the amount due, the Presenting State may demand payment from any or all of the other Respondent States.

7. A Respondent State which has not paid its proportionate share of the over-all liability to the Presenting State shall be obligated to reimburse the other Respondent States for their payments in excess of their proportionate shares.

8. The periods specified in this Article shall not be subject to interruption or suspension.

International
organizations
and the
Agreement

Article 6

International organizations which undertake to comply with this Convention shall have the same rights and obligations as States. The States members of the said international organizations shall be held jointly liable for the obligations of the latter, whether or not such States are parties to the Convention. The accession of an international organization shall be accompanied by a notification of the joint obligations so assumed by the States members of the organizations concerned.

Article V

1. If an international organization which conducts space activities transmits to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the provisions of the present Convention, all the provisions, except Articles XII, XV, XVI, and XVII, shall apply to the organization as they apply to a State which is a Contracting Party.

Article VII

If liability for damage rests with an international organization, the financial obligations towards States suffering damage shall be met by the international organization and by its member States jointly and severally.

International
Organizations
and the
Agreement
(continued)

Article 6 (continued)

The claims referred to in article 4 (a) may, in the case of the international organization, be presented through the Secretary-General of the United Nations.

Article V (continued)

2. The Contracting Parties to the present Convention undertake to use their best endeavours to ensure that any international organization which conducts space activities and of which they are constituent members is authorized to make and will make the declaration referred to in paragraph 1 of this Article.

3. If within one year of the date on which compensation has been agreed upon or otherwise established pursuant to Article X, an international organization fails to pay such compensation, each member of the organization which is a Contracting Party shall, upon service of notice of such default by the Presenting State within three months of such default, be liable for such compensation in the manner and to the extent set forth in Article III.

Question of
absolute
liability and (b)
exoneration
from
liability

Article 1

(b) The occurrence of the event causing the damage shall create a liability for compensation once proof has been given that there is a relationship of cause and effect between the damage, on the one hand, and the launching, motion or descent of all or part of the space device, on the other hand.

(c) If the damage suffered results either wholly or partially from an act or omission on the part of the Applicant State or of natural or juridical persons that it represents and such act or omission has been committed, either with intent to cause damage or rashly and in full knowledge that damage will probably result, the liability of the Launching State to pay compensation under this Convention shall, to that extent, be wholly or partially extinguished.

Article II

1. The Launching State shall be absolutely liable to pay compensation to the Presenting State, in accordance with the provisions of this Convention, for damage shown to have been caused by the launching, transit or descent of all or part of a space object.

2. If the damage suffered results either wholly or partially from a wilful or reckless act or omission on the part of the Presenting State, or of natural or juridical persons that it represents, the liability of the Launching State to pay compensation under paragraph 1 of this Article shall, to that extent, be wholly or partially extinguished.

3. There shall be no liability under this Convention for damage caused to persons and property within a launch facility or immediate recovery area for participation in or observation of the launch or recovery, or to space objects and their personnel during launching, transit or descent.

Article III

Unless otherwise provided in article IV and V, exemption from liability may be granted only in so far as the State liable produces evidence that the damage has resulted from natural disaster or from a wilful act or from gross negligence of the party suffering the damage.

Article IV

1. Wherever damage is done to a space object or to persons and property on board by another space object, no claim shall arise between each other, except in so far as the claimant State produces evidence that the damage has been caused because of the fault of the other State or of a person on behalf of whom the latter State might present a claim (article VIII).

2. If in the case mentioned in paragraph 1, a claim arises on the part of a third State, liability of the States liable for the space objects shall be joint and several.

Question of
absolute
liability and
exoneration
from
liability
(continued)

Article V

The State shall assume liability for damage caused on the ground, in the atmosphere or in outer space, if the damage occurred while exercising an unlawful activity in outer space or the space vehicle or object was launched for unlawful purposes, or if the damage has otherwise resulted from an unlawful activity. In such cases, the State liable shall be barred from any exoneration whatsoever.

Article II

A claim for damage may be advanced on the ground of loss of profits and moral damage whenever compensation for such damage is provided for by the law of the State liable for damage in general.

Article IV

The compensation which a State shall be liable to pay for damage under this Convention shall be determined in accordance with applicable principles of international law, justice and equity.

Article VIII

1. The liability of the Launching State or States shall not exceed _____ with respect to each launching.

2. If the total amount otherwise payable with respect to the claims presented exceeds the limit of liability provided by this Article, the following rules shall apply:

(a) If the allowable claims are exclusively in respect of loss of life or personal injury, or exclusively in respect of damage to property, such claims shall be reduced proportionately.

(b) If the allowable claims are both in respect of loss of life or personal injury and in respect of damage to property, three fourths of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury, and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed

Measure of
damages

Article 2

"Damage" shall be understood to mean loss of life, bodily injury or damage to property for which compensation may be claimed and assessed under the national law of the person injured, or if not, under applicable principles of international law.

Limitation
of
liability in
amount

Limitation
of
liability in
amount
(continued)

Article VIII (continued)

proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

Payment of
compensation
in
convertible
currency

Article 4

(d) Sums due in compensation for damage shall be fixed and payable either in the currency of the applicant State or in a freely transferable currency.

Article XI

Payment of compensation shall be made in the currency of the Presenting State or a currency convertible readily and without loss of value into the currency of or used by the Presenting State.

Presentation
of claims by
States or
international
organizations
and on behalf
of natural or
juridical
persons

Article 2

"Applicant State" shall be understood to mean the State which has been injured, or whose nationals, whether natural or juridical persons, or whose permanent residents have been injured, and which presents a claim for compensation.

Article 6

International organizations which undertake to comply with this Convention shall have the same rights and obligations as States.

The claims referred to in article 4 (a) may, in the case of the international organization, be presented through the Secretary-General of the United Nations.

Article VI

1. A Contracting Party which suffers damage referred to in Article II, paragraph 1, or whose natural or juridical persons suffer such damage, may present a claim for compensation to a Respondent State or States.

2. A Contracting Party may also present to a Respondent State a claim of any natural person, other than a person having the nationality of a Respondent State, permanently residing in its territory. However, a claim of any individual claimant may be presented by only one Contracting Party.

Article V

1. If an international organization which conducts space activities transmits to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the provisions of the present Convention, all the provisions, except Articles XII, XV, XVI and XVII, shall apply to the organization as they apply to a State which is a Contracting Party.

Article VIII

A claim for damage may be made by a State in whose territory damage has occurred or in respect of damage suffered by its citizens or legal entities whether in the territory of that State or abroad.

Joinder
of claims

Article 4

- (f) There shall be joinder of claims where there is more than one applicant in respect of damage due to the same event or where more than one State is liable and the damage was caused by more than one space device.

Article X

2. No increase in the membership of the commission shall take place where two or more Presenting States or Respondent States are joined in any one proceeding before the commission. The Presenting States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Presenting State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way. If the Presenting or Respondent States fail to appoint their member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

Presentation
of claims
for
compensation
through
diplomatic
channel

Article 4

- (a) Within two years after the occurrence of the damage, or after the identification of the State liable under article 1, the applicant State shall present through the diplomatic channel, to the State which it holds liable, all claims for compensation concerning itself and its nationals and residents. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with the Launching State.

Article VI

3. A claim shall be presented through the diplomatic channel. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with a Respondent State.

Article X

The claim shall be presented through diplomatic channels. The claimant State may request a third State to represent its interests in the event it has no diplomatic relations with the State liable.

Time-limits
for
presentation
of claims

Article 4

- (a) Within two years after the occurrence of the damage, or after the identification of the State liable under article 1, the applicant State shall present through the diplomatic channel, to the State which it holds liable, all claims for compensation concerning itself and its nationals and residents. A Contracting Party may request another State to present its claim and otherwise represent

Article VI

4. Notice of a claim must be presented within one year of the date on which the accident occurred or, if the Presenting State could not reasonably be expected to have known of the facts giving rise to the claim, within one year of the date on which those facts became known to the Presenting State even if the nature or extent of the damages may not be known to the Presenting State.

Article IX

A claim must be presented within one year of the date of occurrence of the damage, or of the identification of the State that is liable. If the applicant State could not reasonably be expected to have known of the facts giving rise to the claim, the claim must be presented within one year of the date on which these facts officially became known.

Time-limits
for
presentation
of claims

Article 4 (continued)

- its interest in the event that it does not maintain diplomatic relations with the Launching State.
(e) The periods specified in this article shall not be subject to interruption or suspension.

Pursuit of
remedies
available in
Respondent
State or
under other
international
agreements

Article 4

- (b) If the applicant State or a person represented by it brings an action for compensation before the Courts or administrative organs of the State receiving the claim, it shall no longer be able to present a claim for compensation for the same damage under the provisions of this Convention. The said provisions shall not be considered to require, by implication, the prior exhaustion of such remedies as may exist under the rules of ordinary law in the State receiving the claim.

Article IX

1. The presentation of a claim under this Convention shall not require exhaustion of any remedies which might otherwise exist in a Respondent State.

2. If, however, the Presenting State, or a natural or juridical person whom it might represent, elects to pursue a claim in the administrative agencies or courts of a Respondent State or pursue international remedies outside this Convention, the Presenting State shall not be entitled to pursue such claim under this Convention against such Respondent State.

Procedures
for
settlement
of claims
for
compensation

Article 4

- (c) If the State receiving the claim has not taken, within six months after being approached, a decision considered satisfactory by the applicant State, the latter may have recourse to arbitration.

Within ninety days of the date of the request addressed to it by the applicant State, the State receiving the claim shall appoint one arbitrator, the applicant State shall appoint a second and the President of the International Court of Justice a third. If the State receiving the claim fails to appoint its arbitrator within the prescribed period, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

Article X

1. If a claim presented under this Convention is not settled within one year from the date on which documentation is completed, the Presenting State may request the establishment of a commission to decide the claim. The competence of such a commission shall extend to any dispute arising from the interpretation or application of this Convention. The Respondent State and the Presenting State shall each promptly appoint one person to serve on the commission, and a third person, who shall act as a chairman, shall be appointed by the President of the International Court of Justice. If the Respondent State fails to appoint its member within three months, the person appointed by the

Article XI

1. In case the State liable does not satisfy the claim of the claimant State, the claim for compensation shall be presented to a committee of arbitration set up by the two States on a basis of parity. This committee will determine its own procedure.

2. Should the Committee mentioned in paragraph 1 not arrive at a decision, the States may agree upon an international arbitration procedure or any other method of settlement acceptable to both States.

Procedures
for
settlement
of claims
for
compensation
(continued)

Article 4 (continued)

The Arbitration Commission shall take its decisions according to law* and by majority vote. It shall make an award within six months after the date of its establishment and its decisions shall be binding.

- (d) Sums due in compensation for damages shall be fixed and payable either in the currency of the applicant State or in a freely transferable currency.
- (e) The periods specified in this article shall not be subject to interruption or suspension.
- (f) There shall be joinder of claims where there is more than one applicant in respect of damage due to the same event or where more than one State is liable and the damage was caused by more than one space device.

* An alternative might be "take its decisions *ex aequo et bono*".

Article X (continued)

President of the International Court of Justice shall constitute the sole member of the commission.

2. No increase in the membership of the commission shall take place where two or more Presenting States or Respondent States are joined in any one proceeding before the commission. The Presenting States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Presenting State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way. If the Presenting or Respondent States fail to appoint their member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

3. The commission shall determine its own procedure.

4. The commission shall conduct its business and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

5. The decision of the commission shall be rendered expeditiously and shall be binding upon the parties.

6. The expenses incurred in connexion with any proceeding before the commission shall be divided equally between Presenting and Respondent States.

Space object
not to be
subject to
sequestration
or enforcement
measures

Jurisdiction
of
International
Court of
Justice

Parties to
agreements,
signature,
accession
and
ratification

Article 5

This Convention shall be open for signature by States Members of the United Nations or any of the specialized agencies or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention. Any such State which does not sign this Convention may accede to it at any time.

This Convention shall be subject to ratification or approval by signatory States. Instruments of ratification or approval and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XII

Subject to prior recourse to proceedings under Article X, any dispute arising from the interpretation or application of this Convention, which is not previously settled by other peaceful means, may be referred by any Contracting Party thereto to the International Court of Justice for decision.

Article XV

The Convention shall be open for signature by States Members of the United Nations or any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party. Any such State which does not sign this Convention may accede to it at any time.

Article XVI

This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XIII

Claim for compensation for damage caused by a space ship of a foreign State shall not constitute ground for sequestration or for the application of enforcement measures to such space ship.

Article XIII

1. This Convention shall be open for signature to all States. It shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article XIV

After the Convention enters into force it shall be open for accession to other States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Entry into
force

Article 5

This Convention shall enter into force thirty days after the date of the deposit of three instruments of ratification, approval or accession. For each State which deposits its instrument of ratification, approval or accession after the entry into force provided for in the preceding paragraph, this Convention shall enter into force on the date of deposit of such instrument.

Article XVII

This Convention shall enter into force thirty days following the deposit of the fifth instrument of ratification or accession. It shall enter into force as to a State ratifying or acceding thereafter upon deposit of its instrument of ratification or accession.

Article XIII

2. It (the Convention) shall enter into force thirty days after the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification.

Article XV

With respect to each State which ratifies the Convention or accedes thereto after the deposit of the fifth instrument of ratification, the Convention shall enter into force thirty days after the date of deposit by the State of its instrument of ratification or accession.

Amendments

Article 8

This Convention may be amended or supplemented at the proposal of one or more Contracting Parties. Such amendments shall take the form of additional protocols which shall be binding on such Contracting Parties as ratify, approve or accede to them. Such protocols shall enter into force when the majority of the Contracting Parties to this Convention have thus accepted them.

Article XIII

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on acceptance by a majority of the Contracting Parties, and thereafter for each remaining Contracting Party on acceptance by it.

Withdrawal
from and
denunciation
of
agreement

Article 7

Each Contracting Party may notify the Secretary-General of the United Nations of its withdrawal from this Convention not less than five years after its entry into force. Such withdrawal shall take effect one year after receipt of the notice, which must be in writing. Such withdrawal shall not relieve the Contracting Party concerned of any obligation or liability arising from damage inflicted before its withdrawal takes effect.

Article XIV

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of the notification by the Secretary-General. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damages arising before withdrawal becomes effective.

Article XVI

Any Contracting State may denounce this Convention by notification to the Secretary-General of the United Nations. The denunciation shall take effect one year after the date on which the notification has been received by the Secretary-General of the United Nations.

Notifications
by Secretary-
General

Article 9

The Secretary-General of the United Nations shall inform signatory States, and those which ratify, approve or accede to this Convention, of signatures, the deposit of instruments of ratification, approval or accession, the entry into force of this Convention, proposals for amendments, notifications of acceptance of additional protocols, and notices of withdrawal.

Article XVIII

The Secretary-General of the United Nations shall inform all States referred to in Article XV and all organizations which have made declarations under Article V, paragraph 1 of signatures, deposits of instruments of ratification or accession, declarations referred to in Article V, paragraph 1, the date of entry into force of this Convention, proposals for amendments, notifications of acceptance of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to those States and organizations certified copies of each amendment proposed.

Article XVII

The Secretary-General of the United Nations shall notify all States concerning:

- (a) The signature of this Convention and the deposit of instruments of ratification or accession in accordance with articles XIII and XIV;
- (b) The date of entry into force of this Convention in accordance with articles XIII and XV;
- (c) Denunciations received in accordance with article XVI.

Authentic
text and
deposit of
agreement

Article 10

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies to all signatory States and to any State Member of the United Nations which so requests.

Article XIX

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies of each to the States mentioned in Article XV.

Article XVIII

The original of this Convention, of which the texts in the Chinese, English, French, Russian and Spanish languages are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified copies thereof to all States.

Addendum to comparative table (A/AC.105/C.2/W.2/Rev.4/Add.1)

India: proposal
(A/AC.105/C.2/L.32)

CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED
BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

/...

India: proposal
(A/AC.105/C.2/L.32)

CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED
BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

Preamble

The Contracting Parties

Recognizing the common interest of mankind in the peaceful exploration and use of outer space,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the United Nations General Assembly on 13 December 1963 as resolution 1962 (XVIII),

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kind of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Having regard to United Nations General Assembly resolutions 2260 (XXII) of 3 November 1967 and 2345 (XXII) of 19 December 1967 which inter alia called upon the Committee on the Peaceful Uses of Outer Space to complete urgently the preparation of the draft of an agreement on Liability for Damage Caused by the Launching of Objects into Outer Space,

Bearing in mind the Treaty on Principles Governing the Activities of States in Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, which came into force on 10 October 1967, and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, which was opened for signature on 22 April 1968,

Preamble
(continued)

Recognizing that activities in the exploration and use of outer space may from time to time result in damage,

Seeking to establish uniform rules of liability and a simple and expeditious procedure governing financial compensation for damage,

Agree as follows:

Definitions

DEFINITIONS

Article I

For the purpose of this Convention

(a) "Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or their persons, natural or juridical, or of international organizations.

(b) "Launching" includes "attempted launching" whether or not it fulfils the expectations of those responsible therefor.

(c) "Space Objects" mean space ships, satellites, orbital laboratories, containers and other devices designed for movement in outer space and sustained there by means other than reaction of air, as well as the means of delivery of such bodies and any part thereof.

(d) "Launching authority" means the State responsible for the 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 Convention and a majority of the States members of that organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

(e) "Claimant" means the State or other Contracting Party that presents a claim for compensation to a respondent.

(f) "Respondent" means a launching authority from which compensation is sought under this Convention.

Article II

1. The respondent shall be absolutely liable to pay compensation to the claimant in accordance with the provisions of this Convention, for damage caused in all environments except outer space by the launching, transit or descent of all or part of a space object.

Field of
application
and
exemptions
from
provisions
of agreement

/...

/...

Field of
application and
exemptions from
provisions of
agreement
(continued)

Article III

2. The provisions of this Convention shall not apply to damages sustained by:

- (a) nationals of the launching Authority;
- (b) foreign nationals in the immediate vicinity of a planned launching or recovery area as result of an invitation by the launching Authority.

State or
international
organization
liable

Article II

1. The respondent shall be absolutely liable to pay compensation to the claimant in accordance with the provisions of this Convention, for damage caused in all environments except outer space by the launching, transit or descent of all or part of a space object.

Article I

(f) "Respondent" means a launching authority from which compensation is sought under this Convention.

(d) "Launching authority" means the State responsible for the 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 Convention and a majority of the States members of that organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

Question of
joint liability

Article IV

If damage is caused as a result of the launching of a space object under a joint programme, the parties concerned shall, jointly and severally, be liable. Provided that nothing in this article shall preclude the conclusion of agreements on the apportionment of liability between two or more Contracting Parties.

/...

International
organizations
and the
Agreement

Article I

(a) "Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or their persons, natural or juridical, or of international organizations.

(d) "Launching authority" means the State responsible for the 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 Convention and a majority of the States members of that organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

Article VI

2. In cases where an international organization is liable under this Convention claims may be presented through the Secretary-General of the United Nations.

Article X

3. (Provision regarding mode of accession of international organizations to the Convention, their rights and duties and relationship with States parties to the Convention to be inserted).

Article II

1. The Respondent shall be absolutely liable to pay compensation to the claimant in accordance with the provisions of this Convention, for damage caused in all environments except outer space by the launching, transit or descent of all or part of a space object.

2. The claimant shall only be required to furnish evidence relative to the connexion between the damage suffered by it and the space object in question.

Article III

1. Unless otherwise provided in the Convention, exemption from liability may be granted only in so far as the respondent produces evidence that the damage has resulted either wholly or partially from a wilful act on the part of the claimant or of natural or juridical persons it represents which has been committed in full

Question of
absolute
liability and
exoneration
from liability
(continued)

knowledge that damage will probably result. Provided that no mitigation of the principle of absolute liability may be allowed in cases where the claimant or the natural or juridical persons which it represents, have not committed acts which are in contravention of the rules of international law. No exemption from the principle of absolute liability will be granted in cases where the respondent has conducted activities which affect the rights of other States under general international law.

2. The provisions of this Convention shall not apply to damages sustained by:

(a) nationals of the launching Authority;

(b) foreign nationals in the immediate vicinity of a planned launching or recovery area as a result of an invitation by the launching Authority.

Measure of
damages

Article I

(a) "Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or their persons, natural or juridical, or of international organizations.

Limitation of
liability in
amount

Article VIII

Payment of
compensation
in convertible
currency

Sums due in compensation for damage shall be fixed and payable in the currency of the claimant or in a freely convertible currency unless the Parties agree otherwise.

Presentation of
claims by
States or
international
organizations
and on behalf
of natural or
juridical
persons

Article V

1. A Contracting Party which suffers damage or whose natural or juridical persons suffer such damage, may present a claim for compensation to a respondent.

2. A claimant may also present to a respondent a claim of any natural or juridical person, permanently residing in its territory, other than a person having the nationality of the respondent.

Article I

(e) "Claimant" means the State or other Contracting Party that presents a claim for compensation to a respondent.

Joinder of
claims

Article IX

There may be joinder of claims where there is more than one claimant in respect of damage due to the same event or where more than one State or international organization is liable.

Presentation of
claims for
compensation
through diplomatic
channel

Article V

(3) A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.

Time-limits
for
presentation
of claims

Article VI

(1) A claim must be presented within one year of the date of the occurrence of the damage, or of the identification of the launching authority liable. If the claimant could not reasonably be expected to have known of the facts giving rise to the claim, the claim must be presented within one year of the date on which these facts officially become known.

Pursuit of
remedies
available in
Respondent
State or under
other
international
agreements.

Article V

(4) Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available in the Launching (Respondent) State. Provided that nothing in this Convention shall prevent the claimant or a natural or a juridical person from pursuing a claim in the administrative agencies or courts of a respondent. In such a case, the claimant shall not be entitled to simultaneously pursue claims under this Convention against the respondent.

Procedures for
settlement of
claims for
compensation

Article VII

(1) In case of disagreement between the claimant and the respondent, the two parties shall endeavour to arrive at a settlement through the recognized means of the peaceful settlement of disputes.

(2) If no settlement is arrived at within one year of the presentation of the claim the claimant may refer the matter to a Claims Commission as provided for in the Protocol annexed to this Convention.

/...

Space object not
to be subject to
sequestration or
enforcement
measures

Jurisdiction of
International
Court of
Justice

Parties to
agreements,
signature,
accession and
ratification

Entry into
force

Amendments

Withdrawal from
and denunciation
of agreement

Article X

(1) This Convention shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 4 of this article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

Article X

(4) This Convention shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Convention.

(5) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

Article XI

Any State Party to the Convention may propose amendments to this Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article XII

A Contracting Party may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Notification by
Depositary

Authentic text
and deposit of
agreement

Registration of
Agreement with
United Nations

Article X

(6) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

Article XIII

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

Article X

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

Article X

(7) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Addendum to comparative table (A/AC.105/C.2/W.2/Rev.4/Add.2)

TEXT OR POINTS ON WHICH AGREEMENT OR PROVISIONAL
AGREEMENT WAS REACHED AT THE SIXTH SESSION OF THE
LEGAL SUB-COMMITTEE

/...

Definitions

Definitions

(1) Text provisionally agreed upon

"Damage" means loss of life, personal injury or other impairment of health, or damage to property of States or of their persons, natural or juridical, or of international organizations.*

* No agreement was reached on the inclusion of indirect damage and delayed damage in the definition.

(2) Points on which agreement was reached

The term "launching" should include "attempted launching".

In defining the term "Launching State" the following elements should be included:*

1. the State which launches or attempts to launch the space object or the space device,
2. the State from whose territory the space object or the space device was launched,
3. the State from whose facility the space object or space device was launched.

* The question whether the State referred to in (2) and (3) above should be liable primarily, or only secondarily (if the State referred to in (1) above cannot be identified) was left for further consideration.

Field of application and exemptions from provisions of agreement

Field of application:

Points on which agreement was reached

A. The provisions of this Convention shall not apply to damages sustained by:*

- (a) Nationals of the Launching State;
- (b) Foreign nationals in the immediate vicinity of a planned launching or recovery area as the result of an invitation by the Launching State.

* No agreement was reached on whether the Convention should apply to damages sustained by:

- (a) Persons who are permanent residents but not nationals of the Applicant (Presenting) State;
- (b) A spacecraft and its personnel during launching, transit or descent.

B. The Launching (Respondent) State should be absolutely liable to pay compensation for damage caused on the surface of the Earth and to aircraft in flight.*

* No agreement was reached whether the Launching (Respondent) State should, on proof of fault, be liable to pay compensation for damage caused to space objects which have left the surface of the Earth.

International organizations and the Agreement Liability of International Organizations

Points on which provisional agreement was reached

International organizations that launch objects into outer space should be liable under the Convention for damage caused by such activities.*

* No agreement was reached on the question whether the liability of the States members of the international organization that are parties to the liability convention:

- (a) should be residual and arise only in the event of default by the international organization, or
- (b) should arise at the same time as the liability of the international organization.

Nor was agreement reached on the question of the rights of international organizations under the Convention. This problem requires further consideration.

Question of absolute liability and exoneration from liability A. Field of application

Points on which agreement was reached

B. The Launching (Respondent) State should be absolutely liable to pay compensation for damage caused on the surface of the Earth and to aircraft in flight.*

* No agreement was reached whether the Launching (Respondent) State should, on proof of fault, be liable to pay compensation for damage caused to space objects which have left the surface of the Earth.

/...

Presentation of claims for compensation through diplomatic channel

Presentation of claims

Points on which agreement was reached

1. A claim may be presented by the Applicant (Presenting) (claimant) State through the diplomatic channel.

Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available in the Launching (Respondent) State.

2. In the event the Applicant (Presenting) (claimant) State does not have diplomatic relations with the Launching (Respondent) State, the former may request a third State to present its claim and otherwise represent its interests.

Time-limits for presentation of claims

Time-limits for presentation of claims

Points on which agreement was reached

1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the party that is liable.

2. If the Applicant (Presenting) (claimant) State does not know of the facts giving rise to the claim within the aforementioned one-year period, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the Applicant (Presenting) (claimant) State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The above-mentioned time-limits shall apply even if the full extent of the damage may not be known. In this event, however, the Applicant (Presenting) (claimant) State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time-limits until one year after the full extent of such damage is known.

/...

Procedures for Arbitration in the event of dispute

settlement of
claims for
compensation

Points on which agreement was reached

If a claim presented under the Convention is not settled within six months from the date on which the Applicant (Presenting) (claimant) State completes its documentation, the Applicant (Presenting) (claimant) State may refer the matter to an arbitral commission.

Preamble

The Contracting Parties,

Recognizing that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recalling 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,

Seeking to establish a uniform rule of liability and a simple and expeditious procedure governing compensation for damage,

Believing that the establishment of such a procedure will contribute to the growth of friendly relations and co-operation among nations,

Agree as follows:

Purpose
of the
Convention

Article 1

The purpose of this Convention is to govern the international liability of States for damage caused in the exercise of their space activities to another member State and the natural or juridical persons that it represents, in accordance with the Washington Treaty of 27 January 1967.

Definitions

Article 2

1. Launching State shall be understood to mean the State which launches or procures the launching of a space object, entered in its own registers or registered with the United Nations Secretariat (which must in any case be notified beforehand of the launching and be provided with all the information necessary to identify the object in question);

Addendum to comparative table (A/AC.105/C.2/N.2/Rev.4/Add.3)

Italy: Proposal
(A/AC.105/C.2/L.40)

DRAFT CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED
BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

Working Paper submitted by the Italian delegation
(A/AC.105/C.2/L.40)

DRAFT CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED
BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

/...

/...

2. The State whose territory or facility is used for the launching shall be deemed to be the Launching State, if it does not state that it is the actual launching State or if the latter is not a Party to the Convention, even if the State whose territory or facility is used does not participate actively and substantially in the launching, transit control and descent of the space object;

3. The international organizations referred to in Article 6 below shall be treated for the purpose in the same way as States;

4. Space object means any man-made object designed to reach outer space and to move their (either) naturally or by means of radio-electric signals or the control exercised by pilots on board;

5. For the purposes of this Convention, the component parts of space objects that become detached or are made to detach during transit, and objects thrown or launched from space objects, shall be deemed to be space objects;

6. Damage means loss of life, personal injury or impairment of health and destruction or damage to property caused by space objects.

Article 3

Field of
application
and
exemptions
from
provisions
of agreement

1. This Convention shall apply to all damage caused by space objects; (a) on the earth; (b) in the earth's atmosphere; (c) in outer space, including other celestial bodies;

2. However, the present Convention shall not cover damage caused in the territory of the Launching State and in particular damage sustained at the time and in the area of launching and return of space objects by persons playing a part in the operations related thereto, or damage sustained from endogenous causes by space objects and their personnel during launching, transit or descent. For this purpose, social labour legislation and agreements between the parties concerned shall be paramount in the assessment of compensation.

Article 4

1. Damage caused on the earth, even in the case of circumstances beyond control shall constitute grounds for compensation by the very fact that the damage has occurred and was caused by a space object;

2. Damage caused in the earth's atmosphere to aircraft shall be presumed to be due to the fault of the space object; if, however, the damage is caused by one space object to another space object, it shall be presumed to be attributable to common fault.

Both cases shall be open to proof of the contrary;

/...

Field of
application
and
exemptions
from
provisions
of agreement
(continued)

3. In the case of damage caused by a space object in outer space, liability shall rest with the Launching State if a fault on its part is proved;

4. When two or more space objects have collided or interfered with each other in transit and damage to third parties on the ground has resulted, the damage shall be presumed to be attributable to the common fault of the said objects and the Launching States shall be jointly liable;

Art. 9 - (1) ...

The same claim can be presented by the State for damage caused anywhere to its own nationals and to natural or juridical persons permanently domiciled in its territory;

State or
international
organization
liable

1. The Launching State shall be liable for the damage caused by a space object.

2. When the space object is jointly launched by several States or by States and international organizations (referred to in Art. 6), they shall be jointly and severally liable for the damage caused by the space object.

The sums paid to the victim of the damage shall be shared equally by the parties liable in accordance with previous agreements, and if no such agreements exist, it shall also be apportioned equally.

Article 6

1. If an international organization which conducts space activities has transmitted to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the present Convention, all the provisions of the Convention, except articles 13, 16, 17 and 18, shall apply to the organization as to a State which is a Contracting Party;

2. Consequently, if the organization launches, or procures the launching of a space object, and that object causes damage, the organization, like any Launching State, shall be directly liable for the damage vis-à-vis the victims.

3. Should the organization fail to pay the amount of the compensation already agreed to or fixed, the States members of the organization can be called upon as guarantors within the period and under the conditions referred to in Article 11 below.

/...

State or
international
organization
liable
(continued)

Article 2

1. Launching State shall be understood to mean the State which launches or procures the launching of a space object, entered in its own registers or registered with the United Nations Secretariat (which must in any case be notified beforehand of the launching and be provided with all the information necessary to identify the object in question);

2. The State whose territory or facility is used for the launching shall be deemed to be the Launching State, if it does not state that it is the actual launching State or if the latter is not a party to the Convention, even if the State whose territory or facility is used does not participate actively and substantially in the launching, transit control and descent of the space object;

3. The international organizations referred to in Article 6 below shall be treated for the purpose in the same way as States;

Question
of joint
liability

Article 5 ...

2. When the space object is jointly launched by several States or by States and international organizations (referred to in Art.6), they shall be jointly and severally liable for the damage caused by the space object.

The sums paid to the victim of the damage shall be shared equally by the parties liable in accordance with previous agreements, and if no such agreements exist, it shall also be apportioned equally.

Article 4 ...

4. When two or more space objects have collided or interfered with each other in transit and damage to third parties on the ground has resulted, the damage shall be presumed to be attributable to the common fault of the said objects and the Launching States shall be jointly liable;

5. The Launching State which has had to pay the entire compensation shall have the right to appeal against the other jointly liable States.

International
organizations
and the
Agreement

Article 11

1. If, within one year of the date on which compensation has been agreed upon or otherwise established pursuant to Article 10, an international organization has failed to pay the amount of such compensation, the States members of the organization shall, upon service of notice of such default by the Applicant (Presenting)

/...

(Claimant) State within three months of such default, be obligated to pay the amount of compensation, each in proportion to its contribution to the budget of the organization: and if this contribution is not known, the member States shall be jointly liable for the entire compensation;

2. In no circumstances may the member States question the justification for or the amount of compensation due by the organization.

Article 6

1. If an international organization which conducts space activities has transmitted to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the present Convention, all the provisions of the Convention, except articles 13, 16, 17 and 18, shall apply to the organization as to a State which is a Contracting Party;

2. Consequently, if the organization launches, or procures the launching of a space object, and that object causes damage, the organization, like any Launching State, shall be directly liable for the damage vis-à-vis the victims.

3. Should the organization fail to pay the amount of the compensation already agreed to or fixed, the States members of the organization can be called upon as guarantors within the period and under the conditions referred to in Article 11 below.

Question of
absolute
liability and
exoneration
from
liability

Article 4

1. Damage caused on the earth, even in the case of circumstances beyond control shall constitute grounds for compensation by the very fact that the damage has occurred and was caused by a space object;

2. Damage caused in the earth's atmosphere to aircraft shall be presumed to be due to the fault of the space object; if, however, the damage is caused by one space object to another space object, it shall be presumed to be attributable to common fault.

Both cases shall be open to proof of the contrary.

3. In the case of damage caused by a space object in outer space, liability shall rest with the Launching State if a fault on its part is proved;

/...

4. When two or more space objects have collided or interfered with each other in transit and damage to third parties on the ground has resulted, the damage shall be presumed to be attributable to the common fault of the said objects and the Launching States shall be jointly liable;

Article 7

If the damage has been caused, either wholly or partially, by an act or omission on the part of the victim, the liability of the Launching State may be extinguished or reduced according to the gravity (fraud or fault) of the act or omission.

Measure of
damages

Article 8

The compensation which a State shall be liable to pay under this Convention for the damage it has caused shall be determined in accordance with applicable principles of international law, justice and in view of the singular nature of the matter, equity.

Article 10 ...

3. The Commission shall take its decisions according to law in conformity with Article 8 above. It shall determine its own procedure and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

Limitation
of liability
in amount

Payment of
compensation
in convertible
currency

Presentation of
claims by States
or international
organizations
and on behalf of
natural or
juridical
persons

Article 9

1. The State which has sustained damage (Applicant, (Presenting) (Claimant) State) can present a claim for compensation to the State that is liable, hereinafter called the Respondent State.

The same claim can be presented by the State for damage caused anywhere to its own nationals and to natural or juridical persons permanently domiciled in its territory;

/...

Joinder of
claims

Article 10 ...

2. No increase in the membership of the commission shall take place where two or more Applicant (Presenting) (Claimant) States or Respondent States are joined in any one proceeding before the commission. The Applicant (Presenting) (Claimant) States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Applicant (Presenting) (Claimant) State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way.

If the Applicant (Presenting) (Claimant) State or the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

As an
alternative
to 2 above

If in the same dispute there are two or more Applicant (Presenting) (Claimant) States and (or) two or more Respondent States, they shall agree to appoint one person to represent them on the commission, which shall thus always comprise three members.

Article 9 ...

3. A claim shall be presented through the diplomatic channel within one year of the date when the damage and the State liable for it became known.

4. The same procedure shall apply when the claim is presented by or against an international organization. The representation of the international organization, for the purposes of this diplomatic procedure, may then be assumed by one of the States members of the organization.

Article 12

This Convention shall not prejudice the rights of victims to institute proceedings before the ordinary courts of the Applicant (Presenting) (Claimant) State or the Respondent State, or to choose any other international procedure, with a view to obtaining compensation for damage.

However, in such a case, the Applicant (Presenting) (Claimant) State may no longer have recourse to the procedures referred to in Articles 9, 10 and 11 above; but the normal

/...

diplomatic intervention with a view to bringing about an amicable settlement between the parties to the dispute shall not be excluded.

Time limits for
presentation of
claims

Article 9 ...

3. A claim shall be presented through the diplomatic channel within one year of the date when the damage and the State liable for it became known.*

*NOTE: If it is desired to introduce a time limit or an expiry date, the following formula can be adopted:

"In any case, three years after the date of the occurrence that caused the damage, the claim shall cease to be maintainable."

Pursuit of
remedies
available in
Respondent
State or
under other
international
agreements

Article 9 ...

2. The presentation of a claim under this Convention shall not require exhaustion of any remedies which might otherwise exist in the Respondent State;

Article 12

This Convention shall not prejudice the rights of victims to institute proceedings before the ordinary courts of the Applicant (Presenting) (Claimant) State or the Respondent State, or to choose any other international procedure, with a view to obtaining compensation for damage.

However, in such a case, the Applicant (Presenting) (Claimant) State may no longer have recourse to the procedures referred to in Articles 9, 10 and 11 above; but the normal diplomatic intervention with a view to bringing about an amicable settlement between the parties to the dispute shall not be excluded.

Procedures for
settlement of
claims for
compensation

Article 10

1. If a claim presented under this Convention is not settled amicably within one year from the date on which documentation is completed, the Applicant (Presenting) (Claimant) State may request the establishment of an arbitration commission to decide the claim.

/...

The competence of such commission shall extend to any dispute arising from the interpretation or application of this Convention. The Respondent State and the Applicant (Presenting) (Claimant) State shall each promptly appoint one person to serve on the commission, and a third person, who shall act as chairman, shall be appointed by the President of the International Court of Justice.

If the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

2. No increase in the membership of the commission shall take place where two or more Applicant (Presenting) (Claimant) States or Respondent States are joined in any one proceeding before the commission. The Applicant (Presenting) (Claimant) States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Applicant (Presenting) (Claimant) State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way.

If the Applicant (Presenting) (Claimant) State or the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

As an
alternative
to 2 above

If in the same dispute there are two or more Applicant (Presenting) (Claimant) States and (or) two or more Respondent States, they shall agree to appoint one person to represent them on the commission, which shall thus always comprise three members.

Procedures for
settlement of
claims for
compensation
(continued)

3. The Commission shall take its decisions according to law in conformity with Article 8 above. It shall determine its own procedure and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

4. The decision of the commission shall be rendered expeditiously. It shall be final and binding upon the parties.

5. The expenses incurred in connexion with any proceeding before the commission shall be divided equally between the Applicant (Presenting) (Claimant) and Respondent States.

/...

Space object
not to be
subject to
sequestration
or enforcement
measures

Jurisdiction of
International
Court of Justice

Article 13

Any question arising from the interpretation or application of this Convention, which is not previously settled by other peaceful means of their choice, may be referred by any Contracting Party thereto to the International Court of Justice for decision.

Parties to
agreements,
signature,
accession and
ratification

Article 16

This Convention shall be open for signature by all States. Any State which does not sign this Convention before its entry into force pursuant to Article 18 below may accede to it at any time.

Article 17

This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Entry into
force

Article 18

This Convention shall enter into force thirty days following the deposit of the fifth instrument of ratification or accession. It shall enter into force as to a State ratifying or acceding thereto upon deposit of its instrument of ratification or accession.

Amendments

Article 14

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on acceptance by a majority of the Contracting Parties, and thereafter for each remaining Contracting Party on acceptance by it.

/...

Withdrawal
from and
denunciation
of agreement

Article 15

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of the notification by the Secretary-General. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damages arising before withdrawal becomes effective.

Notifications

Article 19

The Secretary-General of the United Nations shall inform all signatory and acceding States and all organizations which have made declarations under Article 6, paragraph 1, of signatures, deposits of instruments of ratification or accession, ~~declarations of acceptance referred to in Article 6, paragraph 1,~~ the date of entry into force of this Convention, proposals for amendments, notifications of acceptances of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to those States and organizations certified copies of each amendment proposed.

Authentic text
and deposit of
agreement

Article 20

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies of each to the Governments of all the signatory and acceding States.

/...

ANNEX II

PROPOSALS CONCERNING QUESTIONS RELATIVE TO THE DEFINITION
OF OUTER SPACE AND THE UTILIZATION OF OUTER SPACE AND
CELESTIAL BODIES, INCLUDING THE VARIOUS IMPLICATIONS OF
SPACE COMMUNICATIONS

France: proposal (A/AC.105/C.2/L.45)

Draft convention concerning the registration of objects launched
into space for the exploration or use of outer space

The Governments signatories of this Convention,

Considering that the registration or entry in a register of objects launched into outer space is mentioned in several 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,

Considering the advantages, at the international level, of the establishment of common rules governing the registration of objects launched into space for the exploration or use of outer space,

Have agreed on the following provisions:

Article 1

Any object launched into space for the exploration or use of outer space shall be registered by entry in a register kept by a service under the supervision of one or more Governments Parties to this Convention. Each Government shall inform the Depositary Government of the establishment or termination of the services under its supervision.

There shall be only one registration of each object, but the registration may be transferred from one service to another.

Article 2

Each Contracting Party, acting separately or, in the case of a joint service, together with the other Contracting Parties exercising supervision over that service, shall determine the rules of law applicable to registration.

However, the entry in the register concerning each object shall include at least:

- (a) the registration number;
- (b) where applicable, the name of the object;

/...

(c) the name and address of the governmental or inter-governmental agency or non-governmental entity procuring the launching;

(d) the external specifications of the object, such as total weight, shape, dimensions and external component parts;

(e) the law applicable to the object and to the persons carried in it when an inter-governmental agency or a group of natural or juridical persons, referred to in sub-paragraph (c) hereof, procures the launching.

Each Contracting Party undertakes to provide any other Contracting Party with any information requested by the latter regarding the particulars referred to in sub-paragraphs (a) and (c) of the preceding paragraph concerning any object registered by a service under its supervision, whether such supervision is exclusive or shared with other Governments.

The registers of services functioning in the territory of any State whose Government is a party to this Convention shall be, so far as possible, be accessible to the public.

Article 3

The registration number shall be composed of:

(a) the letter C, followed by a dash;

(b) the mark of the registration service, chosen from among the symbols assigned by international telecommunications regulations as identifying radio call signals to the State or States exercising supervision over the service which keeps the register. This mark shall be followed by a dash;

(c) the registration mark, consisting of Roman capital letters, Arabic numerals or a combination of such letters and numerals. This mark must be clearly distinguishable from those reserved for aircraft or for distress or emergency signals.

This number shall be displayed in at least two places on the object and on opposite sides thereof, if the size of the object permits. It shall be repeated as frequently as possible in order to permit identification, in case of accident, of portions or component parts of the object. The height of the characters shall be determined by technical considerations. The number shall be shown on at least one identification plate inside the object. The processes and materials used for reproduction of the registration number and manufacture of the identification plate shall be such, having regard to the conditions in which the object will be used, as to provide the best possible guarantee that the registration number will be identifiable as speedily as possible if the object or its component parts are found.

/...

Article 4

At two-year intervals, on the proposal of the Government Depositary of this Convention, a Conference shall be convened in order to consider in the light, inter alia, of scientific and technical advances, measures which could be adopted with regard to the questions dealt with in articles 2 and 3 of this Convention.

At such a conference, it may be decided by unanimous vote of the Contracting Parties represented and voting that the said common rules may at subsequent Conferences be adopted by a two-thirds majority of the Contracting Parties represented and voting and be binding upon all the Contracting Parties.

The first conference shall take place in the third year after the date of entry into force of this Convention.

Article 5

Any Contracting Party may propose amendments to this Convention.

For this purpose, it shall transmit the text of the amendment to the Depositary Government, which shall communicate it to all the other Governments Parties. If at least one third of the latter state that they consider it necessary to discuss the proposal, a review conference shall be convened as soon as possible on the proposal of the Depositary Government.

Amendments adopted by the majority of the Contracting Parties represented and voting shall enter into force for the Governments ratifying, approving or accepting them one month s after one half of the Contracting Parties, at the date of adoption of the amendment by the conference, have deposited the instrument of ratification or the notification of approval or acceptance concerning them with the Government Depositary of this Convention. They shall enter into force for any other Government one month s after that Government has deposited the relevant instrument or notification.

If, after the Depositary Government has informed the other Governments Parties to this Convention of the text of a proposed amendment, at least two-thirds of the Contracting Parties intimate that the amendment can be adopted without the convening of a review conference, the said amendment shall enter into force, for those Contracting Parties, one month s after the last reply from one of them has reached the Depositary Government. The amendment shall enter into force for any other Contracting Party one month s after its reply has reached the Depositary Government.

Article 6

No reservation may be made in respect of this Convention.

*
* *

(followed by the formal provisions)

Czechoslovakia: proposal (A/AC.105/C.2/L.46)

The Legal Sub-Committee,

Having in mind the increasing significance of space communications and the technical development in this field;

Taking into account the useful activity of the International Telecommunication Union in the field of space communications;

Recalling the resolution of the General Assembly of the United Nations 2222 (XXI);

Decides to put on the agenda of its next session, in connexion with the item

"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",

the question:

"The utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based."

Sweden: proposal (A/AC.105/C.2/L.49)

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

Having in mind paragraph 13 of General Assembly resolution 2260 (XXII), Report of the Committee on the Peaceful Uses of Outer Space,

Conscious of the importance and urgency of the problem of the potentialities of the operation of direct broadcasting satellites,

Recommends to the United Nations Committee on the Peaceful Uses of Outer Space that the question of direct broadcasting satellites be placed on the agenda of the Scientific and Technical Sub-Committee as a separate item with a view to preparing a study of the technical problems involved, enlisting whenever appropriate the assistance of the competent specialized agencies of the United Nations.

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France: proposal (A/AC.105/C.2/L.50/Rev.1)

I

The Legal Sub-Committee,

Desiring to continue its studies on the definition of space,

Recommends to the Committee on the Peaceful Uses of Outer Space to place consideration of the question of the definition of outer space on the agenda of the next session of the Legal Sub-Committee.

II

The Legal Sub-Committee,

Desiring to obtain the technical and scientific documentary material necessary for consideration of the question relating to the peaceful uses of outer space,

Considering the technical and scientific competence of the specialized agencies and the International Atomic Energy Agency in respect of the peaceful uses of outer space which come within their terms of reference,

Considering the need to give effect to Article 58 of the United Nations Charter in order to promote co-ordination among the various specialized agencies concerned with certain aspects of the peaceful uses of outer space,

Recommends to the Committee on the Peaceful Uses of Outer Space:

(a) to request the specialized agencies and the International Atomic Energy Agency to examine the particular problems which arise or may arise from the use of outer space in the fields within their competence and to report their findings to it;

(b) to place on the agenda of the next session of the Legal Sub-Committee, under the item concerned with the study of the peaceful uses of outer space, consideration:

of the draft convention on the registration of objects launched into space for the exploration or use of outer space;

of the results of the investigations which the specialized agencies and the International Atomic Energy Agency will have communicated to it, in order to give effect to Article 58 of the Charter concerning co-ordination among the various specialized agencies.

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ANNEX III

PAPER PRESENTED BY THE INTERNATIONAL TELECOMMUNICATION UNION

DIFFICULTIES LIABLE TO ARISE FROM THE LAUNCHING AND/OR OPERATION OF A SPACE
OBJECT THROUGH NON-COMPLIANCE WITH INTERNATIONAL REGULATIONS GOVERNING THE
USE OF THE RADIOFREQUENCY SPECTRUM

The launching of a rocket designed to place a space object (an earth satellite or a space probe) in orbit involves the use and the efficient operation of a whole series of radiocommunication facilities for guiding the rocket and transmitting telemetry data. Moreover any space object launched in this way, whether it is a communication satellite or not, is equipped with radio equipment, which is used for determining its position, for remote control from the earth of the equipment on board and for the exchange of information with the earth.

The successful launching of a space object and its operation once in orbit thus depend to a very large extent on the proper use of radiocommunications, i.e. essentially on the absence of harmful interference on the radiofrequencies used, to ensure which very thorough precautions are taken from the outset, particularly as regards the coding of the information transmitted and received.

The fact nevertheless remains that the incorrect use of radiofrequencies by any station under the jurisdiction of a country other than that responsible for the space object and for its launching may cause harmful interference to the radiocommunications used for that purpose and thus give rise to considerable difficulties in, or even lead to the complete failure of, the launching or operation of a space object. It is quite conceivable, for example, that improper command signals transmitted on the frequencies used could result in damage to the rocket and the space object and also cause harm to persons or property.

The use of radiofrequencies is regulated by the International Telecommunication Union and specifically by the Radio Regulations drawn up by it, which it revises from time to time and which are annexed to the International Telecommunication Convention, which binds the 134 member countries of the ITU. The fundamental purpose of the Radio Regulations is to ensure that harmful interference does not occur in the transmission medium which is common to all. These Regulations contain provisions specifying measures to be taken to eliminate interference and others relating to the allocation of the frequency spectrum among the various services (aeronautical, maritime, space, etc.) and the co-ordination of frequency usage by the various countries.

But the case must be envisaged of failure by stations to comply fully with the provisions of the Radio Regulations, e.g. when a station belonging to a country other than the one responsible for the space object and its launching causes - by accident or otherwise - harmful interference to the radiocommunications used by the launching country, thus giving rise to damage. Such emissions might originate in the territory

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of this other country or from a ship or aircraft belonging to that country or a space object launched by it. The interfering station might well be operated, not under the direct authority of the country concerned, but under licence issued by this country to a non-governmental operator. Nor can the possibility be ruled out a priori that the station responsible for the interference causing the damage might come under the jurisdiction of the country in which the damage was sustained.

The representatives of the ITU feel it necessary to draw the attention of this meeting, which is responsible for preparing legislation in the field of space law, to the various possible causes of damage to persons and property which may arise and which could be the subject of international agreements: such is the purpose of the present declaration.

17 June 1968

ANNEX IV

LIST OF DELEGATIONS, OBSERVERS AND SECRETARIAT

Chairman: Mr. Eugeniusz Wyzner (Poland)

Delegations

ARGENTINA

Representative:

S.E. Mr. José María Ruda
Representante Permanente de la República
Argentina ante las Naciones Unidas en Nueva York

Alternate:

*Mr. Luís José Buceta
Consejero de Embajada

AUSTRALIA

Representative:

Mr. Bernard J. O'Donovan
Senior Assistant Secretary
Attorney General's Department
Canberra

Alternate:

Mr. David W. Evans
First Secretary
Permanent Mission of Australia
to the United Nations
New York

Adviser:

Mr. Stanley B. Murphy
Second Secretary
Department of External Affairs
Australian Embassy
Vienna

AUSTRIA

Representative:

Mr. Karl Zemanek
Professor at University of Vienna

Alternate:

*Mr. Kurt Herndl
Deputy Permanent Representative of Austria
to the United Nations Office at Geneva

* Accompanied by wife.

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BELGIUM

Representative: M. Max Litvine
Professeur de droit aérien et de droit de
l'espace à l'Université libre de Bruxelles

Alternate: M. A.J. Vranken
Inspecteur général au Ministère des Affaires
étrangères et du Commerce extérieur, Bruxelles

Adviser: M. Erik Bal
Premier Secrétaire d'Ambassade
Ministère des Affaires étrangères et du Commerce
extérieur

BRAZIL

Representative: M. Renato Bayma Denys
Ministre conseiller à la Délégation permanente
du Brésil à Genève

Alternates: M. Alcides da Costa Guimaraes
Premier Secrétaire d'Ambassade

M. Luiz Felipe Lampreia
Secrétaire d'Ambassade
Délégation permanente du Brésil à Genève

Adviser: M. Paulo Fernando Telles Ribeiro
Secrétaire d'Ambassade
Ministère des Affaires étrangères, Rio de Janeiro

BULGARIA

Representative: *S.E. Monsieur Méthodi Popov
Ambassadeur
Représentant permanent de la République populaire
de Bulgarie auprès de l'Office des
Nations Unies à Genève

Alternate: M. Hristo Kossev
Deuxième Secrétaire, Délégation permanente de la
République populaire de Bulgarie auprès de
l'Office des Nations Unies à Genève

* Accompanied by wife.

CANADA

Representative: Mr. John Alan Beesley
Head of Legal Division
Department of External Affairs, Ottawa

Alternate: Mr. David Miles Miller
Legal Division
Department of External Affairs, Ottawa

Advisers: Mr. Richard McKinnon
First Secretary
Permanent Mission of Canada to the
United Nations, Geneva

Mr. Jacques Corbeil
Third Secretary
Permanent Mission of Canada to the
United Nations, Geneva

CZECHOSLOVAKIA

Representative: Mr. Jaroslav Ríha
First Secretary of Embassy
Ministry of Foreign Affairs, Prague

Alternate: Mr. Vladimír Cebis
Third Secretary of Embassy
Ministry of Foreign Affairs, Prague

FRANCE

Representative: M. Olivier Deleau
Conseiller au Ministère des Affaires
étrangères

Advisers: M. Robert Lemaître
Conseiller juridique au Ministère des Affaires
étrangères

M. François Renouard
Conseiller juridique des Affaires étrangères

M. Jean-Louis Vencatassin
Attaché à la Division des Affaires
internationales du Centre national d'Etudes
spatiales

/...

HUNGARY

Representative: M. Gyula Eörsi
Corresponding Member of the Hungarian Academy
of Sciences

Alternate: Mr. Rezső Palotás
Second Secretary
Permanent Mission of Hungary to the
United Nations Office at Geneva

INDIA

Representative: Mr. K. Krishna Rao
Ambassador
Joint Secretary and Legal Adviser
Ministry of External Affairs, New Delhi

Alternate: *Mr. N. Krishnan
Consul-General of India
Consulate-General of India, Geneva

Advisers: Mr. S.N. Sinha
Law Officer
Ministry of External Affairs, New Delhi

Mr. Dalip Mehta
Vice-Consul of India
Consulate-General of India, Geneva

IRAN

Representative: M. Sadegh Azimi
Ministre Conseiller de la Délégation
permanente de l'Iran à Genève

Alternates: M. Ali Kheradmeh
Conseiller de la Délégation permanente de
l'Iran à Genève

M. Mehdi Ehsassi
Premier secrétaire de la Délégation permanente
de l'Iran à Genève

M. Ebrahim Djahannema
Deuxième Secrétaire de la Délégation permanente
de l'Iran à Genève

* Accompanied by wife.

ITALY

Representative: *M. Antonio Ambrosini
Professeur émérite de l'Université de Rome
Faculté des ingénieurs aéronautiques et spatiales

Alternate: *M. Emiliano Guidotti
Conseiller d'Ambassade
Représentant permanent adjoint d'Italie auprès
de l'Office des Nations Unies à Genève

JAPAN

Representative: Mr. Shigeru Tokuhisa
Counsellor
Permanent Delegation of Japan to International
Organizations in Geneva

Alternates: Mr. Toshijiro Nakajima
Chief, Treaties Section, Treaties Bureau
Ministry of Foreign Affairs

Mr. Atsuhiko Yatabe
Chief, Scientific Affairs Section
United Nations Bureau
Ministry of Foreign Affairs

Advisers: Mr. Soji Yamamoto
Professor, Seikei University

*Mr. Masatoshi Ohta
First Secretary
Permanent Delegation of Japan to International
Organizations in Geneva

Mr. Shigeo Iwai
Second Secretary
Permanent Mission, New York

LEBANON

Representative: S.E. M. Suleiman el Zein
Ambassadeur extraordinaire et plénipotentiaire
Représentant permanent du Liban auprès de
l'Office des Nations Unies à Genève

Alternate: Madame Rubi Homsy
Premier secrétaire

* Accompanied by wife.

/...

MEXICO

Representative: Mr. Bernardo Sepúlveda Amor
Legal Adviser
Department of International Organizations
Ministry of External Relations

MONGOLIA

Representative: Mr. D. Erdembileg
Counsellor, Ministry of Foreign Affairs

Alternate: Mr. Z. Erendo
Ministry of Foreign Affairs

MOROCCO

Representative: S.E. M. Nacer El Passi
Ambassadeur extraordinaire et plénipotentiaire
Représentant permanent du Royaume du Maroc
auprès de l'Office des Nations Unies à Genève

POLAND

Representative: Mr. Cezary Berezowski
Professor, Law Faculty,
University of Warsaw

Alternate: Mr. Slawomir Dabrowa
Second Secretary
Permanent Mission of Poland to the United Nations
Office at Geneva

ROMANIA

Representative: M. Paul Gogeanu
Maître de conférences à l'Université de Bucarest
Rédacteur en Chef de la revue
"Revista romana de drept"

Alternate: Mme Florica Dinu
Attaché à la Mission permanente de la République
Socialiste de Roumanie auprès de l'Office des
Nations Unies à Genève

SWEDEN

Representative: Mr. Folke Persson
Head of Department
Ministry of Foreign Affairs, Stockholm

UNION OF SOVIET SOCIALIST REPUBLICS

Head of Delegation: Mr. Alexandre S. Piradov
Professor, Academy of Sciences
Moscow

Members of Delegation: Mr. Yuri M. Rybakov
Ministry of Foreign Affairs
Moscow

Mr. Vladimir Aldoshin
Ministry of Foreign Affairs
Moscow

Adviser: Mr. August Rubanov
Professor, Academy of Sciences
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UNITED ARAB REPUBLIC

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Mr. S. Chetverikov
Deputy Secretary of the Sub-Committee

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