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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
LEGAL SUB-COMMITTEE
SUMMARY RECORD OF THE SIXTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 6 June 1962, at 3.25 p.m.

Chairman:

Mr. LACHS (Poland)

Secretary:

Mr. SCHACHTER

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CONSIDERATION OF LEGAL PROBLEMS ARISING FROM THE EXPLORATION AND USE
OF OUTER SPACE (item 3 of the agenda) (continued)

General debate (continued)

Mr. COLLIER (Sierra Leone) welcomed the spirit of co-operation which had marked the discussions of the Committee and had been fittingly dramatized by the exchange of messages between Mr. Khrushchev and President Kennedy. Further significant evidence of willingness to co-operate had been given by many nations, particularly the Soviet Union and the United States.

At the threshold of the space age, with its limitless possibilities for the improvement of man's lot on earth, the United Nations had fittingly taken the initiative in stating principles to protect the rights and interests of individuals and nations which might suffer injury from space activities. However, any effort to draft a code of space law at once would be premature, and it would be better to deal with the developing problems as they arose rather than to make detailed rules without sufficient understanding of all the relevant scientific facts.

Nevertheless, in certain areas of space activity agreement was already necessary and possible. Liability for space vehicle accidents, and assistance to space vehicles and personnel and their return, were among the legal problems already referred to in General Assembly resolution 1472 (XIV), which had brought the Committee into being. His delegation hoped, therefore, that fundamental principles governing those specific matters would be stated in a draft resolution for the General Assembly to consider at its next session. That action would ensure general agreement in the shortest possible time.

His delegation believed that certain other more detailed and technical matters might be suitably referred to a smaller technical group for report and recommendations. Space law, like other branches of law, would of course have to be developed as scientific knowledge in the field grew and as hitherto unforeseen situations arose, requiring decisions on which action would be based.

Countries like his own, in Africa and elsewhere, small in size and population, were bound to be affected by the space activities of others. If a space vehicle landed accidentally in an African State, the government would immediately be faced with problems, quite apart from those of its co-operation in particular space activities.

His Government was therefore most anxious to co-operate in reaching agreement in the Sub-Committee and thus ensuring that a tremendous potential was fully used for peaceful purposes and the universal good of mankind.

Mr. DASHTSEREN (Mongolia) said that, although his country could not yet contribute much to the exploration of outer space, it was greatly interested in the use of space for peaceful purposes and for the benefit of all nations, and was proud of the great advances in space exploration which the Soviet Union had led. The unanimous adoption by the General Assembly of resolution 1721 (XVI) had established the fundamental principles of the law of outer space, and, together with the exchange of messages between Mr. Khrushchev and President Kennedy, presaged success for the Sub-Committee.

His delegation fully agreed that codification of space law would be premature, but considered that a declaration of the principles which should guide States in the exploration and use of outer space would be highly desirable and have great moral force. It also believed that the Sub-Committee should draw up rules governing assistance to astronauts and space vehicles and their return, and liability for damage caused by space vehicles. An appropriate international agreement should be concluded and opened to all nations for signature.

Concerning the United States proposal that the Acting Secretary-General should be asked to appoint a small panel of legal experts to draft an agreement on liability for injury resulting from space vehicle accidents (A/AC.105/C.2/SR.1, page 9), his delegation considered that an ad hoc committee should be set up, composed of members of the Sub-Committee deeply versed in the subject.

His delegation had learnt with regret of the decision of the United States Government to carry out nuclear tests at high altitudes. It fully endorsed the views expressed by the Government of the Soviet Union in its statement of 3 June, read at the Sub-Committee's fourth meeting.

His delegation hoped that the Sub-Committee's work would be crowned with success and result in the establishment of international co-operation between all States in the exploration and use of outer space for peaceful purposes.

Mr. GEORGIEV (Bulgaria) said that his delegation would strive to maintain the spirit of co-operation existing in the Sub-Committee. It shared the hope of the United States representative that collaboration in space exploration might lead to a political atmosphere in which the problems of disarmament would appear far less formidable and more readily soluble. Such an atmosphere was the aim of Bulgaria's foreign policy, based on the principle of peaceful co-existence. That principle did not exclude or eliminate conflicts of ideas or economic and scientific competition, but did ensure that they were pursued in conditions of peace. The very fact that the Sub-Committee had problems to solve meant that there was a conflict of ideas, and it must work in a spirit of friendly co-operation to remove the differences.

It would, however, never progress if it dared not seek the truth and accept the results of its search. Its members should not, merely because their work was specific and their competence limited, allow themselves to be reduced to legal robots. They should preserve their liberty as lawmakers. They had either to be creative, or to limit themselves to sterile argument. They were lawyers, they were diplomats, they were carrying out their Governments' instructions, but above all they were human beings. If members were guided by those or similar feelings, they would adopt a working method combining discussion of general and of specific problems. Any other method would be impracticable.

He agreed that they could not draw up a code of space law, and should deal with special questions such as assistance and liability. They would find those questions hard to study without first listing all the problems involved, determining how each was connected with the others, and establishing an order of priorities; but that should not perturb them; they should work to resolve the conflict. The general principles and the related subjects they studied during their discussion and solution of those questions would depend on the requirements of legal logic, the interests of members' countries, and each member's ability.

Resolution 1721 was also contradictory. It declared that celestial bodies were not subject to national appropriation and were subject to international law; but international law contained provisions relating to the occupation of objects belonging to no one.

A complicated and continuously-evolving system such as law, when confronted with a special problem to which it had to be applied, at first appeared contradictory. That appearance was corrected by progressing from the general principles to the substance, which was precisely the Sub-Committee's task.

He asked whether the Sub-Committee possessed general principles of law on the subjects of its discussion. Resolution 1721 contained principles, but the Sub-Committee had to decide whether or not it accepted them as principles of international law, and whether or not to regard the resolution as a source of international law. Unless members answered those questions, they could hardly continue their work. It was regrettable that the actions of the United States Government could not be regarded as providing a satisfactory answer. The United States representative had called the United Nations a valuable forum for the consideration of law for outer space. It seemed, therefore, that in the eyes of the United States the United Nations was no more than a meeting-place and its resolutions did not establish rules of international law. If the United States did not consider itself bound by the resolution, the Sub-Committee would have to recommence its work.

A comparison of the statements made by the representatives of the United States and the United Kingdom showed that the latter was more courageous, for it clearly stated that the United Kingdom Government fully supported the principles enunciated in resolution 1721, part A.

He asked whether the United States Government was ready and willing to sign an agreement embodying the principles contained in the resolution. If so, why was it preparing to make experiments in outer space? Of those experiments it had itself said no more than that they would probably have no harmful effects. He asked what the consequences would be if, when probability became reality, it conformed with the predictions of the USSR representative.

If the Sub-Committee was to fulfil its task, it would have to answer those questions. Its members were representatives of their governments and obeyed instructions; but certain possibilities were open to them. There were two types of democracy in the world, the capitalist and the socialist; but both could contribute to the development and progress of mankind. The Sub-Committee could not make any progress unless its members agreed on and declared certain general principles governing space law. Not only would that declaration have a greater legal effect on countries, but its moral and political effects would also be appreciable. The Moscow and Potsdam declarations, drafted by capitalists and socialists working in harmony, had made a deep impression on the world; a new declaration of a similar kind was needed.

Mr. SZTUCKI (Poland) noted with satisfaction the desire expressed by previous speakers for peaceful co-operation in work on outer space. Resolution 1721 (XVI) and the exchange of messages between Prime Minister Khrushchev and President Kennedy had created a favourable atmosphere for the discussion. Though understanding between the two major world Powers possessing full-scale resources for the exploration of space was an essential condition for any successful co-operation, other countries could contribute, since they were equally concerned that outer space should be used only for the betterment of mankind.

The principles enunciated in the resolution, already adopted unanimously, should be taken as fundamental principles and guidelines for the space activities of States. A further effort must now be made to embody them in more concrete form - in practice and in legal instruments.

The "exploration and use of outer space only for the betterment of mankind", and the application of the United Nations Charter to those activities, meant in terms of the political realities that States must refrain in their space activities from harmful interference with the interests of other States - from infringing their security and their equal right to free scientific exploration and peaceful use of space. International co-operation in that field would promote and strengthen the peaceful co-existence of States with different political systems.

The "exploration and use of outer space to the benefit of States irrespective of the stage of their economic or scientific development", and the application of the United Nations Charter to those activities, meant in terms of economic realities execution of article 55 and other articles of the Charter, the opening of vast technical and economic opportunities for all countries, and international co-operation raising living standards the world over.

Although international co-operation in space activities was undoubtedly technical and scientific at first, international law-making was an important and necessary ingredient. His delegation fully shared the view that the time had probably not yet come for drawing up a comprehensive code of law for outer space, since knowledge was apparently not yet sufficient. Moreover, the Sub-Committee was limited by the present international situation and the military implications of space techniques. It should not, however, merely await a change in the situation. On the contrary, much work on space law could and should be done immediately.

During the discussion on the method and programme of the Sub-Committee's work, the pragmatic approach had been compared with a more systematic one, the deductive approach with the inductive. All those approaches had their value, and none should be rejected if the Sub-Committee was to carry out the practical task before it in the best way and with the most fruitful results. His delegation therefore advocated that principles should be elaborated to the greatest extent possible under existing conditions of science and international politics; and at the same time it was ready to take up for consideration and solution the specific problems which already called for early settlement. It accordingly welcomed the proposal by the Soviet Union that the Sub-Committee's programme should include first of all the preparation of a set of principles, based on the resolution, to guide States in the exploration and use of outer space.

His delegation reaffirmed its support for the two essential legal principles stated in the resolution. Though important, however, they apparently did not represent the last word in the development even of the principles of space law; on the contrary, they were the very first words put in writing and in agreed form on an official level. It was the Sub-Committee's task, under paragraph 2 of the resolution, to take a step further and to submit to the General Assembly an expanded or more specific document of the same character.

There was also probably something to be added to the resolution. For instance, to specify what constituted freedom of exploration and use of outer space would have great value in promoting smooth and peaceful international co-operation. Something more specific and concrete should also be said about the conduct of States in the exploration and use of outer space, so that the basic requirement of the betterment of mankind and the benefit of all States might be adequately met. For all those reasons his delegation would be happy to participate in drafting a declaration of principles.

Among the specific problems calling for early settlement, assistance for astronauts and space vehicles in distress and their return could provide a good starting point for discussion and its importance had been stressed both by the United States and by the Soviet Union. The suggestion had been made that the solution might be given the form of a General Assembly resolution. His delegation would, however, prefer an international agreement. The proposition that people should

assist others in distress, or be honest and return other people's property, was self-evident and would hardly need confirmation even by a General Assembly resolution. The need was for the establishment of more specific and detailed standards of international conduct which could legitimately be expected and demanded by one State from another should an accident occur to which agreed provisions applied. For that purpose an international agreement seemed the most appropriate form; since the substance was not controversial, ratification should not cause undue delay.

His delegation was also ready to participate in the study of liability for damage and injury caused by space vehicles. Since the subject seemed to require careful and detailed consideration, it might be desirable to set up a small working group consisting of members of the Sub-Committee.

The meeting rose at 4.45 p.m.