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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

SUMMARY RECORD OF THE FOURTEENTH MEETING

held at the Palais des Nations, Geneva,  
on Tuesday, 19 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)

Draft proposals by the USSR, the United States of America and India  
(A/AC.105/C.2/L.1, L.2, L.3, L.4, L.5 and Corr.1) (concluded)

Mr. CALDERON PUIG (Mexico) said that it appeared impossible in the time remaining to reach agreement on the question of assistance to and return of space vehicles and personnel, nor would it be useful to prolong the discussion on a draft declaration of principles, although his delegation was in favour of studying the matter at a future session.

The suggestions made by the Canadian representative at the 13th meeting were not only a praiseworthy conciliatory effort, but a realistic appraisal of the Sub-Committee's work. The subject of liability for space vehicle accidents was probably the least of those considered by the Sub-Committee, and he thought that the drafting of provisions for determining the liability of States whose devices caused damage should receive priority. The instrument which was to govern such matters should be drafted in the form of a binding international instrument.

He hoped that the Canadian suggestions would receive unanimous support and suggested that, if unanimity should not materialize, the Sub-Committee should submit to the Committee an objective report describing the discussions and the lack of common agreement.

Mr. GOLESTANEH (Iran) said that the Canadian representative's suggestions offered an objective and appropriate method of concluding the session, and, in the absence of agreement between the two Powers principally concerned, the Sub-Committee could go no further. His delegation hoped that the Canadian suggestions would meet with unanimous approval and form a basis for future progress.

Mr. TUNKIN (Union of Soviet Socialist Republics) said that he had listened very carefully to the statement of the Canadian representative, and to those made subsequently by other delegations, including particularly that of the United States representative.

By the terms of General Assembly resolution 1721 (XVI) and the decisions of the parent Committee, the Sub-Committee was not merely required to deal with secondary matters but had a broad task set for it. Resolution 1721A (XVI) laid down certain principles which were binding upon all States with respect to activities in outer space. The States Members of the United Nations had clearly shown, by their unanimous approval of the resolution, that they recognized the need to lay down binding legal principles. But surely such general principles

should not be confined to those laid down in the General Assembly resolution. The intention was that they should be supplemented by other principles, and his delegation had therefore considered it possible to study the question of formulating a declaration which would have legal binding force comparable to that of a treaty. It was therefore with deep regret that it had learned that the United States delegation had rejected the USSR proposal for such a declaration (A/AC.105/C.2/L.1).

His delegation had also proposed a draft agreement on the rescue of astronauts and spaceships (A/AC.105/C.2/L.2); that proposal, too, had met with United States opposition. That opposition was based on reasons not of form but of substance.

The United States delegation objected to both proposals because its Government was carrying out operations of an aggressive character. The statement made by the Soviet Government on 3 June 1962 concerning the American high altitude nuclear explosions contained an appropriate evaluation of United States activities in outer space, and the United States Government had still not renounced its avowed intention of carrying out such explosions. According to press reports, over 700 scientists, including United States scientists, had appealed once more to the President of the United States to abandon the proposed tests, which were a danger to mankind. The United States delegation had further objected to the reference to espionage in the Soviet Union's proposals.

The Canadian representative's suggestion was that the Sub-Committee should consider only the subject of liability for damage caused by space vehicles, a subject proposed by the United States delegation. Although the USSR delegation recognized the existence of the problem, it was not one of major importance for the maintenance of peace and security. In the case of damage caused by a space vehicle, even under existing law, compensation would undoubtedly be payable. The Sub-Committee's work could not be limited to such a narrow topic.

His delegation noted with regret that there was no unanimity concerning the questions with which the Sub-Committee should deal, or concerning its method of study. That being so, he would support the views of those representatives who had stated that the best that could be done was to submit an objective report on the discussions, leaving it to the parent Committee to review the situation and to draw its own conclusions.

Mr. ZEMANEK (Austria) said that his delegation had noted with regret that the promising spirit of co-operation which had characterized the earlier part of the proceedings had flagged since specific proposals had been submitted. He earnestly appealed to all delegations to use what remained of that spirit in an effort to achieve if not a fruitful result, at least an honourable one.

Three proposals of substance had been submitted, two of which had attracted strong objections, particularly from the parties most immediately concerned. The Soviet representative's statement showed that controversy to be as great as ever, and it seemed vain to hope for agreement on those proposals during the current session. He considered, however, that the Sub-Committee should not, for that reason, abandon also the third (concerning liability for space vehicle accidents) on which there was no controversy. It would seem quite feasible to set up a working group which would study the subject of liability on the lines indicated and report to the next session. Although his delegation did not wish to comment in detail on the topic of liability, it would like to put on record its opinion that the principles set forth in sub-paragraphs (a) (b) (c) and (d) of paragraph 3 of the relevant proposal (A/AC.105/C.2/L.4) were in line with recent developments in the rules of international law on related matters, such as the provisions prepared by the International Atomic Energy Agency on international liability for nuclear hazards.

With regard to sub-paragraph (e), he suggested, for the purpose of avoiding difficulties in connexion with that clause, that some other mode of judicial settlement might be agreed upon, for example, the treaty to be drafted might vest jurisdiction in disputes relating to its operation in a special arbitral tribunal.

His delegation supported the Canadian representative's suggestions.

Mr. EL-ERIAN (United Arab Republic) said that the Legal Sub-Committee was obviously confronted with difficulties which it had little time to resolve. Informal consultations had failed to produce agreement on the action which should be taken. His delegation had already commented on the praiseworthy initiative of the Indian representative in submitting compromise proposals (A/AC.105/C.2/L.5), and had also given its closest attention to the suggestions made at the previous meeting by the representative of Canada; but although the efforts made to break out of the impasse had been constructive, time did not permit consideration of the solutions proposed. It was unnecessary to take too pessimistic a view of the results of the Sub-Committee's work; an objective study of the summary records

would show that some positive progress had been made in identifying the legal problems bound up with the exploration and use of outer space, although owing to differences of approach and difficulties which had arisen, the Sub-Committee had not succeeded at that stage in determining what steps should be taken. His delegation therefore proposed that the Sub-Committee should turn its attention to its report, in which it would emphasize the positive aspects of its work in identifying the legal problems involved, and express the hope that further progress could be made at a later stage.

Mr. COMMAR (India) agreed that, in the circumstances, when the great Powers were unable to agree on any of the proposals submitted, it might be best for the Sub-Committee to adjourn after drawing up a sober report on the work it had accomplished.

Mr. CADIEUX (Canada) regretted that the Sub-Committee appeared unable to make progress; it should endeavour to find a way of ending its work in as satisfactory a way as possible.

Mr. SPACIL (Czechoslovakia) supported the suggestion of the representative of the United Arab Republic that the Sub-Committee should proceed to consider its report. His delegation regretted that the promising spirit of co-operation apparent early in the proceedings had vanished when concrete proposals had been put forward; such co-operation was vital in regard to the law of outer space. The prospects had darkened when the United States had failed to submit any proposals concerning the principles contained in General Assembly resolution 1721 (XVI). His delegation could not endorse the summary presented at the previous meeting by the Canadian representative, since it attempted to give an appearance of success which had unfortunately eluded the Sub-Committee. It would not suffice to state as the Sub-Committee's opinion that the question of general principles was important, but that more detailed consideration should be left to a later occasion, without any mention of the principles which should be established. Co-operation in regard to outer space should of necessity be based on a draft declaration such as that proposed by the Soviet Union. The Canadian statement of the situation also ignored the reluctance of the United States to conclude an international agreement on assistance to and return of space vehicles and their crews. The question of an international agreement on liability for space vehicle accidents should be taken up, but only after the establishment of the basic principles. Rather than submit, as the only concrete result of the

Sub-Committee's work, a decision to study the topic of liability for space vehicle accidents, it should not realistically that views differed but that the session had been useful in allowing an exchange of views, and leave to the parent Committee the task of considering the Sub-Committee's work and of studying the questions in more detail, and perhaps at another level. His delegation therefore strongly supported the course suggested by the representative of Mexico, and formally proposed by the representative of the United Arab Republic, viz, that the Sub-Committee should proceed to consider its report on the session.

Mr. MEEKER (United States of America) said that he had been discouraged to hear the statement by the representative of the Soviet Union, which contained a number of accusations of a political and, indeed, of a cold war character, which were hardly appropriate in the Sub-Committee and were not designed to advance its work constructively. It would be of great assistance to his delegation, in determining its view on the proposal of the representative of the United Arab Republic, if it could know whether the Soviet delegation was prepared at that stage to join in the establishment of a working group to study the subject of liability for space vehicle accidents, independently of other topics, and to prepare a draft international agreement; the group would not be given specific terms of reference and its composition would be in conformity with the suggestion made earlier in the discussion by the Soviet representative. All members of the Sub-Committee had seemed to agree that the subject should be studied, for it was of great interest not only to countries engaged in the exploration of outer space, but to all countries.

Mr. TUNKIN (Union of Soviet Socialist Republics) said that his views on that question should be clear from the Sub-Committee's discussions and that the statement he had just made should have removed all doubt. The United States representative continually stressed the importance of the question of liability and its interest for all countries. He could not seriously contend that it was more important than the urgent question of the establishment of basic principles, at a time when every country in the world was interested in the cessation of nuclear tests and when the opposition to the high-altitude nuclear tests carried out by the United States of America was widespread. The representative of the United States had accused him of making accusations of a political and cold war character. He would point out that some reaction was called for by the accusations made by the United States representative, at the seventh meeting of

the Sub-Committee, that his (Mr. Tunkin's) objective statement of the USSR's position with regard to the draft declaration of principles, and his explanation of the Soviet proposals concerning assistance to and return of astronauts and space vehicles, had injected political elements and propaganda into the discussion.

Since there was no further hope of progress at the current session, his delegation considered that the parent Committee and the General Assembly should examine the report of the Legal Sub-Committee so that, if all States represented in the Committee showed a real desire for co-operation, it might be possible to make tangible progress in solving the legal problems arising from the exploration and use of outer space.

Mr. MEEKER (United States of America) said that, since the Soviet representative's answer to his question had to be interpreted as negative, the United States delegation would accept the proposal of the representative of the United Arab Republic.

The CHAIRMAN suggested that the Committee should terminate its substantive discussion and should proceed at its next meeting to consider its report.

It was so agreed.

The meeting rose at 4.30 p.m.