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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Third Session (First Part)

Summary records of the 29th to 37th meetings
held at the Palais des Nations, Geneva,
from 9 to 26 March 1964

<u>Chairman:</u>	Mr. LACHS	(Poland)
<u>Secretary to the</u> <u>Sub-Committee:</u>	Mr. SCHACHTER	

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TWENTY-NINTH MEETING

Monday, 9 March 1964, at 3.25 p.m.

STATEMENT BY THE CHAIRMAN

The CHAIRMAN declared the third session of the Sub-Committee open.

On 13 December 1963 the General Assembly of the United Nations had adopted a Declaration of Legal Principles governing the Activities of States in the Exploration and Use of Outer Space. The nature and significance of the Declaration could not be underestimated. The part played by the Legal Sub-Committee in the elaboration of those principles should be stressed, for many useful and constructive proposals made by its members had found expression in the Declaration. The principles adopted by the General Assembly, while not covering all the field and leaving out some of the suggestions made in the Sub-Committee, would be of great importance for the future work of that body. Having reached that stage, the Sub-Committee ought to proceed further. There was no reason for relaxing efforts. As to the work of its current session, the Sub-Committee's terms of reference were laid down in General Assembly resolution 1963 (XVIII). As a first step, the Sub-Committee must therefore decide how to proceed with its work.

ADMISSION OF AN OBSERVER OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

The CHAIRMAN announced that ICAO had asked to be represented by an observer at the Sub-Committee's meetings, with the same status as the other specialized agencies. He suggested that the Sub-Committee should accede to that request.

It was so decided.

ORGANIZATION OF WORK

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the three questions before the Sub-Committee, which were set out in part I of General Assembly resolution 1963 (XVIII), were the following: consideration of incorporating in international agreement form legal principles governing the activities of States in the exploration and use of outer space; the preparation of a draft agreement on assistance to and return of astronauts and space vehicles; and the preparation of an international agreement on liability for damage caused by objects launched into outer space. The Sub-Committee's best course would be to begin with a general debate, which should not be too protracted. The reasons for doing so were obvious. After the adoption of the Declaration of Legal Principles, the Sub-Committee had reached a new stage in its work where reflection was necessary. Secondly, in paragraph 2 of

part I of resolution 1963 (XVIII), the General Assembly requested the Committee to study and report on legal problems which might arise in the exploration and use of outer space; it was obvious that an exchange of views was the most appropriate way of meeting that request. Thirdly, as the Sub-Committee was the only United Nations body dealing with the legal problems of outer space, it should not restrict its work to the consideration of draft agreements but should deal with the whole field of the law of outer space; the views expressed in the debate would undoubtedly be of value in the development of that law.

Mr. MEUKER (United States of America) pointed out that in part I, paragraph 1 of resolution 1963 (XVIII) the General Assembly recommended that consideration should be given to incorporating in international agreement form, in the future as appropriate, legal principles governing the activities of States in the exploration and use of outer space. It had adopted that resolution immediately after the adoption of resolution 1962 (XVIII) embodying the Declaration of Legal Principles on the same subject. In using the words "in the future as appropriate", the General Assembly had obviously wished to make clear that it was not asking the Committee to undertake immediately the preparation of an international agreement embodying those principles. On the other hand, in paragraph 2 of part I of resolution 1963 (XVIII), the General Assembly requested the Committee "in particular to arrange for the prompt preparation of draft international agreements on liability for damage caused by objects launched into outer space and on assistance to and return of astronauts and space vehicles". The General Assembly clearly wished those two subjects to be given first priority. The Sub-Committee should start work immediately on draft international agreements on those two subjects and endeavour to finish them by the end of the session. Other questions could be taken up later, possibly in a general debate, to which a meeting or two at the end of the session might be devoted.

Mr. BEIYI (Hungary) said that, although great progress had already been made towards the development of a law of outer space and towards the use of outer space for the benefit of mankind, much remained to be done. At the present time, it was of supreme importance to regulate the use and exploration of outer space, firstly to ensure that it would be used in the interest of the peoples of the world, and secondly because any confusion about the law relating to outer space would impede exploration. Both the USSR and the United States were to be congratulated on their achievements in the exploration of outer space and all countries must welcome the fact that the agree-

between the two countries concerning the exploration of outer space, the main outlines of which had been drawn at the time of the meeting of the two Sub-Committees of the Committee on the Peaceful Uses of Outer Space held at Geneva in May 1962, was beginning to be implemented. Man was making rapid progress towards the mastery of outer space, and Hungary hoped that that mastery and the knowledge of outer space would steadily be extended in the interest of international peace and for the common good of the world as a whole. It would co-operate to the utmost in achieving those purposes and in solving the difficulties which must inevitably arise.

Regarding the organization of work, he felt that in adopting the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (resolution 1962 (XVIII)), the General Assembly had set the United Nations on the path towards the codification of the law of outer space. The next step was to prepare international agreements which were binding on and acceptable to all countries. The preparation of an international agreement embodying the principles set out in the Declaration was of primary importance, for the Declaration in General Assembly resolution 1962 (XVIII) was only a recommendation and therefore not binding. Such an agreement would help to solve the legal problems relating to relations between States in matters of outer space. Having drafted that agreement, the Sub-Committee should prepare draft agreements on liability for damage and on assistance to and return of astronauts and space vehicles.

He agreed with the USSR representative that a general debate on all questions on the Sub-Committee's agenda was not only useful but necessary.

Sir Kenneth BAILEY (Australia) drew attention to part I, paragraph 3, of General Assembly resolution 1963 (XVIII), which requested the Committee on the Peaceful Uses of Outer Space to report to the General Assembly at its nineteenth session on the results achieved in preparing the agreements on liability for damage and on assistance to and return of astronauts and space vehicles. The General Assembly obviously attached primary importance to the preparation of those two draft agreements, and if the Sub-Committee was to make the best use of its time it should begin by preparing those drafts. The Sub-Committee already had before it two draft texts submitted by the United States (A/AC.105/C.2/L.8 and A/AC.105/C.2/L.9) and a Working Paper (A/AC.105/C.2/L.7) submitted by the Belgian delegation on liability for damage caused by space devices, and he understood that further proposals were expected. A sensible mode of procedure would be to ask the delegations submitting

proposals to explain the general principles on which the proposals were based. Two or three meetings could be devoted to a discussion of the principles, and the Sub-Committee could then set up working groups to consider the texts. His delegation hoped that the Sub-Committee would complete its work on the two agreements in time to take up the question of preparing an international agreement embodying the legal principles in the Declaration (General Assembly resolution 1962 (XVIII)). As the United States representative had pointed out, however, the General Assembly wished that question to be taken up only "as appropriate", which in the Australian delegation view meant after the work on the other two draft agreements had been concluded. If any time was left at the end of the session, a few days might be devoted to a general debate - which would certainly be useful - and to consideration of the question of preparing an agreement on legal principles. The primary consideration, however, was that the Committee should be able to report progress on the liability and assistance agreements to the nineteenth session of the General Assembly.

Mr. SILOS (Brazil) said that, while his delegation had no inflexible position on the procedural question, he would like to point out that the declaration of principles in resolution 1962 (XVIII) had been adopted by the General Assembly with important reservations on the part of certain States, including Brazil. It was essential that the Sub-Committee should study those principles and revise them in order to prevent their becoming unduly rigid.

Mr. KRISHNA RAO (India) expressed the view that a general debate before the discussion on the two draft agreements would prove useful in the work on those two drafts but that it should not be allowed to interfere with that work. He therefore suggested that the general debate should be limited to two or three days.

Miss GUTTERIDGE (United Kingdom) supported the United States and Australian representatives and urged the Sub-Committee to begin by working on the preparation of the two draft international agreements. That work would constitute the best means of building upon the legal framework of the principles set forth in resolution 1962 (XVIII). The two drafts would deal not with purely technical or procedural matters but with two important aspects of outer space law. The Sub-Committee's success in those matters would constitute a significant contribution to the progress of space law as a whole and to co-operation between States.

Mr. LIEVINE (Belgium) felt that it was not possible to interpret the General Assembly resolutions otherwise than had been done by the representative of Australia.

Mr. GLASER (Romania) expressed his delegation's satisfaction that the Sub-Committee was embarking on its work with greater prospects of success than when it had last met at Geneva, in 1962.

The General Assembly had stressed the basic importance of the legal principles governing the activities of States in the exploration and use of outer space by placing its recommendation for the formulation of international agreements on those principles in part I, paragraph 1 of resolution 1963 (XVIII), while its request for the preparation of draft agreements on two specific questions had been relegated to paragraph 2. It was therefore clear that the question of the legal principles could not be subordinated to those two questions. It would be logical, moreover, to discuss principles before details, for otherwise decisions regarding details might prove inconsistent with the principles ultimately adopted.

There was also a practical objection to the general debate being held at the end of the session: the Sub-Committee might find that the discussion of the two draft agreements had taken all its time and that it had no time left for a discussion of the general principles.

He suggested that the Chairman should consult delegations informally in order to work out a procedure acceptable to all.

Mr. GOLEMANOV (Bulgaria) urged the desirability of carrying the work already begun on general principles one stage further by drawing up a binding international agreement on the subject. He felt that if the procedure suggested by the United States Delegation were adopted, the Sub-Committee might find itself neglecting that task - which was the more important one - in order to deal with the two special questions of liability and assistance.

On the principle, therefore, of dealing with the more important problem first, he supported the USSR proposal with regard to procedure.

Mr. AEBROSINI (Italy) said that Italy, like several other States, had a codified system of law which was based on general principles. There was, however, no list of general principles of law laid down by legislation: they were formulated by legal writers who extracted them from the law of the land as a whole.

He felt that a discussion of general principles, although valuable and necessary, might prove time-consuming and detract from the work on the practical questions of liability and assistance.

For those reasons, he considered that, in accordance with the United States proposal, the Sub-Committee should deal first with the draft agreements on assistance and liability, and defer the debate on general principles until it had completed its consideration of the two drafts.

Mr. CALDERON FUIG (Mexico) said that it was clear from the very terms of paragraph 1 of part I, of resolution 1963 (XVIII) that the General Assembly did not consider that the time had come to incorporate the general principles of outer space law in international agreement form. Clearly that time would not come until the two space Powers were in agreement on the subject.

Meanwhile, as was indicated in the next two operative paragraphs, it was a matter of immediate practical interest to all States that draft instruments should be drawn up on the questions of liability and assistance. Those questions could arise at any moment for States other than the two space Powers, and the Committee had been given a clear mandate to deal with them promptly.

Mr. CSIECKI (Poland) supported the proposal for a general debate to precede the discussion of the draft agreements on two specific questions. A general debate on legal principles would shed light on those two questions.

Mr. MARSCHIK (Austria) suggested that the two proposals on procedure might be reconciled by the following formula: the Sub-Committee would, for a certain time, place both the general debate and the discussion of the two draft agreements on its agenda, on the understanding that at each meeting, after the list of speakers in the general debate had been exhausted, the Sub-Committee would immediately take up the other two items.

Mr. ZAV (Czechoslovakia) supported the proposal for a general debate, in the course of which members could deal also with the specific questions of liability and assistance.

Mr. SILOS (Brazil) supported the suggestion of the Austrian representative, pointing out that that procedure had been used successfully in the First Committee of the General Assembly.

The CHAIRMAN suggested that there should be a short recess for consultation.
The meeting was suspended at 4.55 p.m. and resumed at 6.10 p.m.

The CHAIRMAN said that the following suggestion had emerged from the informal discussions held during the recess: during the next two days, priority should be given to the general debate; at the meetings held on those days, any time over from the general debate would be available to speakers wishing to introduce drafts or to make preliminary statements on the other items - assistance and liability. On the following two days the position would be reversed: priority would be given to those two items, but any time not absorbed by them would be made available to members who had been unable to speak in the general debate on the first two days.

During the second week, the Sub-Committee's entire time would be devoted to the discussion of the draft agreements on assistance and liability. He hoped that by the end of the preliminary discussion in the first week the Sub-Committee would be in a position to make arrangements for working groups to consider those two questions.

If there were no objections, he would consider that the Sub-Committee agreed to the proposed organization of work.

It was so agreed.

In reply to a question by Mr. RAE (Canada), the CHAIRMAN said that, if the Sub-Committee so wished, a time-limit could be set for closing the list of speakers in the general debate.

Mr. AMBROSINI (Italy) suggested that no such time-limit should be set, since it was difficult to determine in advance which representatives would wish to speak in the general debate.

The CHAIRMAN said that, if there were no objections, he would consider that the Sub-Committee agreed to that suggestion, on the understanding that the general debate would in no event continue beyond the end of the current week.

It was so agreed.

The meeting rose at 6.30 p.m.

THIRTIETH MEETING

Tuesday, 10 March 1964, at 10.50 a.m.

INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: GENERAL DEBATE

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that, thanks to the conclusion of the Moscow Test Ban Treaty, the unanimous adoption by the General Assembly of the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (resolution 1962 (XVIII)) and the understanding arrived at by the USSR and the United States regarding the non-launching of objects with nuclear weapons on board, the Sub-Committee was meeting in an atmosphere of reduced international tension. The Sub-Committee, which had been largely responsible for working out the principles in the Declaration, should take advantage of the propitious circumstances and press forward with its work.

The world had embarked upon an age of headlong technological advance. In the past year, the USSR had established new records for manned orbital flight, and the profession of astronaut was no longer an exclusively masculine one. At the same time the USSR had continued its exploration of the upper atmosphere and space with the Kosmos series of unmanned satellites. Another outstanding achievement of the past year had been the successful launching of the manoeuvrable satellite Polyot 1. That was an achievement whose importance could hardly be exaggerated, for without manoeuvrable vehicles it was difficult to envisage the setting up of orbital space stations and all the other complex operations required to send manned spaceships to the planets and bring them back. Finally, the USSR had recently succeeded in launching two satellites - Elektron 1 and 2 - into different orbits with one and the same rocket; their function would be to facilitate the study of radiation at great heights in connexion with the protection of astronauts. Thus the USSR had done much to pave the way for man's next steps into space. The United States, too, had lately achieved substantial successes in that field.

There was now a solid practical basis for the exploration of space; the world was witnessing a constant expansion of space activities, and the launching of various kinds of space vehicle had become an everyday occurrence. It was therefore imperative that international legal norms to regulate outer space activities should be codified and adopted without delay. As many representatives had stressed, space flight must not be allowed to develop in a legal vacuum. Even in the absence of formal legal agreements, States should be guided by the principles of international law and the provisions of the United Nations Charter, and it was no accident that the General Assembly had recognized in resolution 1721 (XVI) that those principles and provisions should be extended to outer space and celestial bodies. Just as international law had been extended to keep pace with the development of sea and air travel, so must man's exploration of space be brought under proper legal control. The USSR had from the beginning of the space age urged a study of such matters; in 1962, Mr. Khrushchev had sent a letter to the late President Kennedy suggesting that the time was ripe for the USSR and the United States to seek a common approach to the problems of the space age, and in June of that year the USSR had placed before the Legal Sub-Committee its "draft declaration of the basic principles governing the activities of States pertaining to the exploration and use of outer space", which had been thoroughly discussed by the Sub-Committee. Those discussions had not been in vain, for they had culminated in the unanimous adoption by the General Assembly of the Declaration of Legal Principles - an international event of the first importance and a major step in the right direction.

With the Declaration adopted, the Sub-Committee had concluded a first and important phase of its work. Crucial though it was, the adoption of the Declaration was only a beginning; the next step, as almost all representatives seemed to agree, was to incorporate the principles of the Declaration in an international agreement or treaty whose provisions would be binding on all parties. The Declaration, itself the fruit of compromise, constituted an

excellent basis on which to begin the elaboration of such a document. There was every reason to hope that in the propitious atmosphere now prevailing, the Sub-Committee would be able to make a successful start on that task and on the others set forth in part I of resolution 1963 (XVIII), at the present session.

The conclusion of a treaty governing the use and exploration of outer space was an urgent necessity indeed, but its provisions must be based on reality if it was to be effective. In drafting such a treaty, therefore, the Sub-Committee must necessarily draw on the experience of those States which had experience of outer space activities. That did not mean, however, that only the States which were directly involved in the exploration and use of outer space should participate in the drafting of the treaty, as some representatives had maintained. The number of States actively engaging in space activities was bound to grow and it could not be a matter of indifference to any State if outer space was allowed to become a further source of international tension rather than a new opportunity for human co-operation.

Mankind had reached a stage where there was no longer any alternative to the peaceful settlement of disputes through negotiation. It was imperative that the use and exploration of outer space should be formally governed by international law, for the alternative was anarchy and rising international tension which could only lead to disaster. What happened in space was of profound concern to the whole of mankind, as was universally recognized by States and by public opinion all over the world. The Inter-Parliamentary Union, for example, had recently recommended the adoption of an international agreement governing the use of outer space. It went without saying that not all space questions were yet ripe for definite legal formulation. Of course, it would be naive to think that it was possible immediately, at the present session of the Sub-Committee, to work out an international agreement governing all aspects of the activities of States in outer space; but it would be no less unfounded and wrong to postpone indefinitely the development of such an agreement. The sooner States

worked out an international agreement on principles for their activities in outer space, the better it would be for the cause of co-operation among them. The Sub-Committee could and should take the first steps towards drafting such a treaty at its present session.

The unanimous adoption of the Declaration showed that there was already a sound basis for such an initiative. There remained certain divergences of views but realistic and patient discussion would surely show the way to a solution.

As far as the agreements on rescue and return of cosmonauts were concerned, the Soviet delegation believed that now, after the adoption of the Declaration, the Sub-Committee should - parallel with the development of an international agreement on the legal principles for the activities of States in outer space - work on the preparation of the texts of those two agreements. The Soviet delegation was ready to participate actively in that work.

Mr. ZAK (Czechoslovakia) observed that the Legal Sub-Committee was meeting in a different atmosphere from that of previous years, owing to the adoption by the General Assembly of resolution 1962 (XVIII), without which no fruitful work would have been possible. Nevertheless, the Declaration of Legal Principles contained in that resolution did not include all the principles which it was desirable and necessary to lay down and some of the principles it did include were formulated in somewhat general terms. As it had stated in the First Committee of the General Assembly, his delegation considered the Declaration of Legal Principles to be a happy compromise.

The Czechoslovak delegation was convinced that while progressing towards a solution of the main problems it would be possible not only to draw up legal principles governing the activities of States in the exploration and use of outer space but to include in the Declaration other principles which would form a basis for a code in connexion with outer space. The task involved was part of a vast complex of codification of international law. In his delegation's view the first binding instrument was the Moscow Treaty imposing a partial ban on nuclear tests, which had been accepted by the great majority of States. That

Treaty had led to a relaxation of international tension and had eliminated a number of political problems which had hindered agreement between States in connexion with space activities.

Another important and relevant document was General Assembly resolution 1884 (XVIII), relating to the question of general and complete disarmament, which called upon all States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction. That resolution had been adopted by the General Assembly after the USSR and the United States had agreed to comply with its terms, thus manifesting a desire to contribute to the elimination of the danger of nuclear war in outer space.

Lastly, General Assembly resolution 1963 (XVIII) defined the tasks to be carried out by the Committee on the Peaceful Uses of Outer Space and by its Legal Sub-Committee and its Scientific and Technical Sub-Committee. The tasks before the Sub-Committee included the establishment of binding norms in space law. Many of the difficulties which in the past had prevented the Legal Sub-Committee from achieving positive results had been partly eliminated.

The recommendation in part I, paragraph 1, of General Assembly resolution 1963 (XVIII) was of particular importance. Paragraphs 2 and 3 also laid down specific tasks for the Sub-Committee. During the past two years various proposals had been made before the Sub-Committee, and at the present session further proposals had been made by the United States and by the Union of Soviet Socialist Republics. Other delegations would no doubt have proposals to make and his delegation urged that due attention should be given to the tasks outlined in part I, paragraph 2, of the resolution as a preliminary to drawing up an international agreement in accordance with paragraph 1.

The Czechoslovak delegation would do its utmost to make a useful contribution to the work of the session.

Mr. PARTLI (Hungary) observed that one of the difficulties of drawing up an international agreement on the legal principles governing the exploration and use of outer space was that it involved the solution of problems concerning which the natural sciences had so far been unable to provide appropriate solutions.

General Assembly resolution 1962 (XVIII) endorsed the principle that the exploration and use of outer space must be carried on in accordance with international law. The main principles having already been adopted by the General Assembly, the Legal Sub-Committee should concentrate its attention on the next step. The need for detailed regulations was emphasized in part I, paragraphs 1 and 2, of General Assembly resolution 1963 (XVIII). The General Assembly's decision that the rules of international law should extend to outer space should be regarded only as a first step.

The exploration of outer space was a new area of human activity, which called for regulation and the adoption of legal principles. In that connexion, his delegation considered that the following points should be borne in mind: firstly, the doctrine of the free use of outer space; secondly, the principle of the security of States; thirdly, equality of rights in connexion with space activities. The Committee on the Peaceful Uses of Outer Space had expressed concern about the possible results of space experiments and had urged that the peaceful exploration of outer space should not be hindered in any way. The principle of the free exploration of space was linked with that of the security of States. That apparent contradiction could only be settled by negotiation and not by means of unilateral acts based on the arbitrary interpretation of freedom of sovereignty. International co-operation would be theoretically more desirable and more effective in practice. The phrase "freedom of space" could not be interpreted as a sanction for espionage activities in outer space. Such espionage would be opposed to international law, which the General Assembly had declared to be applicable to outer space. His delegation considered that that view was implied in General Assembly resolution 1962 (XVIII).

He reiterated his delegation's conviction that the basic legal principles governing activities in outer space should be laid down in an international agreement having binding force.

DRAFT INTERNATIONAL AGREEMENT ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/L.9).

Mr. MEEKER (United States of America) drew attention to the United States delegation's draft international agreement (A/AC.105/C.2/L.9). An agreement of such a character could help to foster international co-operation in the peaceful uses of outer space by the development of agreed standards and procedures for dealing with every kind of eventuality. His delegation felt that there was general humanitarian concern with regard to assistance to and return of astronauts who landed in places far from where their landing had been planned. Probably all Members of the United Nations would agree that one of the first standards to be considered should be one establishing a duty of States to lend all possible assistance to astronauts in need of assistance.

Secondly, the draft agreement was designed to facilitate the return of space vehicles or parts of space vehicles. There was a shared scientific interest in the return of such objects. Scientists might be able, from the examination of the returned vehicles or parts of vehicles, to learn more about space science and engineering. If a project had somehow miscarried, an examination of the vehicle or parts of it might provide clues with regard to what had gone wrong.

He reviewed the various articles of the draft agreement and drew attention to particular points. The opening sentence of article 2, paragraph 1, was designed to make it quite clear that the primary responsibility in the situation referred to rested with the State of registry or international organization responsible for launching. If that authority wished to deal with the situation unaided, there would be no obligation on other contracting Parties to conduct search and rescue operations.

The provision embodied in article 2, paragraph 2, was based on article 25 of the Chicago Convention on Civil Aviation. Article 3, paragraph 2, was based on the last sentence of paragraph 7 of the Declaration of General Principles set forth in General Assembly resolution 1962 (XVIII). Article 3 of the United States text phrased the obligation a little more broadly with a view to including

international organizations engaged in activities in outer space. With reference to paragraph 2, he pointed out that the obligation to return objects launched into outer space would arise only upon the request being made by the State of registry or the international organization concerned.

Those three articles set forth the substantive obligations which in the view of the United States delegation should be included in an agreement on assistance and return.

The remaining articles were such as were frequently included in international agreements.

The procedure outlined in article 7 as to what States might become parties had been approved by the General Assembly for use in treaties prepared under United Nations auspices.

With regard to article 9, he observed that, unlike many other treaties, the draft agreement did not specify that there must be a substantial number of ratifications before it could enter into force. The United States considered that the agreement might come into force as soon as any two countries were prepared to adhere to it.

His delegation had submitted the draft agreement to provide ideas concerning the elements which might properly be included in an agreement on the subject of assistance and return. It would listen with interest to the comments and suggestions of other delegations.

The meeting rose at 12.35 p.m.

THIRTY-FIRST MEETING

Wednesday, 11 March 1964, at 10.50 a.m.

INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE. GENERAL DEBATE
(continued)

Mr. OSIECKI (Poland) agreed with previous speakers that the unanimous adoption by the General Assembly of the Declaration of Legal Principles (resolution 1962 (XVIII)) represented an indisputable success for the United Nations, provided it was regarded as no more than a first step towards drawing up the law of outer space. His delegation had worked hard to resolve the divergences of views which had stood in the way of agreement and was happy that an acceptable compromise had been arrived at.

Logic was of prime importance in the development of law in any field, including that of outer space; the method most appropriate to such development was deductive - to proceed from clear and unambiguous general principles to the codification of detailed rules. Experience had shown that legal instruments arrived at in such a manner had the merit of durability. Of course, circumstances sometimes made it necessary to abandon theoretical procedures in order to meet more urgent requirements; such was the case with regard to the question of international agreements on liability for damage and assistance to astronauts. The Sub-Committee was discussing those questions before arriving at a sufficiently precise definition of the principal norms of outer space law, as a result of which it had immediately encountered the first difficulty: the principle of universality, which must certainly be recognized as applicable.

In discussing the Declaration of Legal Principles, delegations had repeatedly pointed out that it was far from complete, for it failed to take into account certain principles, such as the need to prohibit war propaganda. There was now a double task facing the Sub-Committee: to improve and add to the principles in the Declaration, and to cast them in a more effective form. His delegation was far from questioning the Declaration's importance and it welcomed the statements of the USSR and United States Governments on the binding nature of that document. Nevertheless, it would prefer to see the principles in question take the form of a convention covering every aspect of the law of outer space.

The work had been well begun, but that was no reason to stop half-way. In the interests of more rapid progress, therefore, and if there was no other solution, his delegation was ready to discuss simultaneously both the detailed agreements on liability for damage and assistance to astronauts and the drafting of a comprehensive convention. Any progress in the field of outer space was of great importance for the whole of humanity; and the pace of technological development was such that the Sub-Committee must accelerate its efforts in order to create the most propitious conditions for further activities in that field.

Mr. DASHTSEREN (Mongolia) said that the period which had elapsed since the Sub-Committee's last session was marked by both technical and legal achievements. From the outset, Mongolia had strongly supported proposals that outer space activities should be regulated in the interests of all States and it therefore welcomed the General Assembly's unanimous adoption of the Declaration of Legal Principles. His delegation attached particular importance to operative paragraphs 1 and 9; although not itself a launching state, Mongolia would give every assistance to astronauts, the envoys of mankind, should the need arise.

The agreement between the USSR and the United States on the principles which should govern States' activities in outer space was a happy occasion which would doubtless open the way to further progress. That agreement had been preceded by other outstanding events, such as the conclusion of the test-ban treaty and the unanimous adoption of General Assembly resolution 1884 (XVIII) calling on all States to refrain from launching objects carrying nuclear weapons.

The growing spirit of mutual co-operation, which had manifested itself in various agreements between the USSR and the United States for joint scientific research involving satellites, would surely continue to prevail and would help the Sub-Committee to discharge the tasks imposed on it by General Assembly resolution 1963 (XVIII).

His delegation welcomed the statements made at the eighteenth session by representatives of both the space Powers to the effect that their countries would respect the Declaration. Nevertheless, that Declaration should be translated into an international agreement imposing firm legal obligations. His delegation considered that the Sub-Committee should start work on such an agreement at the present session, so that it could report positively to the Assembly at its nineteenth session.

Mr. GLASER (Romania) said that his delegation attached the greatest importance to a general agreement on the legal principles which must govern the activities of States in the exploration and use of outer space. Romania had promptly signed the Moscow Treaty, which was of special significance because of its favourable influence on the international atmosphere and the concrete contribution which it had made to the solution of problems which preoccupied the minds of all people. In the matter of the exploration and use of outer space, however, very little had yet been done. It was not only a matter of elementary logic to agree on the principles; they were the foundations on which the edifice of international legislation that the Sub-Committee had to build must be based. It had been said that a body responsible for drawing up international legislative instruments should not be concerned with principles in which doctrine was the decisive factor. He did not agree. The General Assembly had seen fit to affirm that the activities of States in the exploration and use of outer space should be carried on in accordance with international law, including the Charter of the United Nations, and had spelt out certain principles to that effect. Its instructions to the Committee on the Peaceful Uses of Outer Space in resolution 1963 (XVIII) constituted the Sub-Committee's authority for engaging in the task of drawing up international instruments governing the activities of States in the exploration and use of outer space. In so doing, the Sub-Committee would have to bear in mind the fact that contemporary international law and the Charter both recognized the principle of the sovereignty of national States, but that in outer space there could be no appropriation by States. Hence there could be no territorial sovereignty and the Sub-Committee would have to take other principles into account. The law of the sea and international road and rail conventions between States, too, specified the principles to be applied in the matters with which they dealt.

The Declaration in General Assembly resolution 1962 (XVIII) was in the nature of a compromise. Both sides had made concessions. His delegation, for instance, would have preferred the sixth preambular paragraph to appear in the operative part of the resolution. It was also of the opinion that it might have been better to go forward with the drafting of a convention, although Romania was

firmly resolved to be guided by the principles set out in the Declaration. It was not only the socialist countries which were in favour of international instruments which would bind Governments; the International Parliamentary Union had endorsed the idea in 1963. He accordingly urged the Sub-Committee to start on its task of drafting international instruments even if it was unable to complete that task.

He wished to submit for the Sub-Committee's consideration a number of ideas in respect of the principles on which any international instrument should be based. Firstly, cosmic law must ensure the maintenance of peace; that was indeed the essence of the Sub-Committee's task and had been recognized in the Declaration in resolution 1962 (XVIII), but it could bear repetition. It should accordingly be constantly borne in mind in the discussion of any proposals before the Sub-Committee. The second principle should be the universality of cosmic law. In his view, it would be contrary to the essence of the law governing the activities of States in outer space, as indeed it was in respect of international law generally, to discriminate against a few States. The principles should be acceptable to all States and the obligations arising from them acceptable to, and accepted by, all States. Paragraphs 4 and 9 of General Assembly resolution 1962 (XVIII) indeed postulated universality. Thirdly, the concept of the sovereign equality of States was fundamental to all international law and to the law which was beginning to be established with respect to outer space. While activities in outer space were at present the prerogative of only a few States, all States were likely to be affected by such activities and the time would come when many, if not all, States would be able to participate in them.

The time was propitious for making a start on the drafting of international instruments of a binding nature. The climate was much more favourable than it had been in 1962. The Moscow Treaty and the various specific agreements between the Soviet Union and the United States relating to the exploration and use of outer space bore witness to a genuine desire for co-operation and proved that it was indeed feasible. Moreover, the need for such co-operation was greater than it had ever been because of the great strides which were being made in the scientific and technological fields. Even in a small country - by comparison with the Two Space

Powers - like Romania, scientific research was being conducted in the field of outer space and was yielding satisfactory results. In his view, the Sub-Committee should work on the drafting of internationally binding instruments concerning liability for damage caused by the launching of objects into outer space and assistance to and return of astronauts and objects launched into outer space, and at the same time should endeavour to draft an agreement on principles governing the activities of States in the exploration and use of outer space.

His delegation was prepared to support any constructive proposal which would contribute to the achievement of the aims to which he had referred.

Mr. KELLBERG (Sweden) recalled that at the Sub-Committee's first meeting, in June 1962, his delegation had expressed the view that it would be premature to try to codify the law of outer space; what was required was to consider the legal questions raised by space research and to decide what measures could or should be taken. His delegation had gone on to say that the Sub-Committee's first concern should be to establish the law regarding assistance and liability. His delegation had reiterated that view in April 1963 and still held it to be the correct approach, for the following reasons. Firstly, although Sweden was not a space Power, it was actively engaged in research into the upper atmosphere and was participating in the European Space Research Organization, for which purpose a large area had been set aside in Northern Sweden; his Government was therefore fully aware of the practical problems, such as rescue operations, with which any State might find itself confronted at any time. Secondly, the Declaration of Legal Principles, while not complete, had met the most urgent needs in the field of space law. Lastly, his delegation was confirmed in its view by the terms of resolution 1963 (XVIII), which requested the Committee on the Peaceful Uses of Outer Space to arrange for the "prompt preparation of draft international agreements" on liability and assistance, and to report to the General Assembly at its nineteenth session on the results achieved in that specific area. His delegation was not unmindful of the desirability of drafting an international agreement on the law of outer space in future, as appropriate, but would prefer to see the Sub-Committee seek practical results now in an area where much work had already been done by a number of delegations.

Mr. OGISO (Japan) expressed his delegation's satisfaction at the adoption of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)), which constituted a major step towards establishing law and order in space, and paid a particular tribute to the United States and the USSR, whose continued mutual co-operation was indispensable to further success. The Declaration had been clearly understood to be neither final nor complete, and his delegation had voted for it with two specific reservations.

Firstly, his delegation considered that the Declaration should be expanded as early as possible to include the principle that the utilization of space should be restricted to peaceful purposes. Most delegations presumably favoured that principle in substance, but preferred to wait until the international climate had improved to the point where its application would be a matter of mutual trust; the recent trend of international events indicated, however, that the time was not far off when all Members would be able to agree on the adoption of that and other outstanding legal principles governing activities in outer space.

The second reservation concerned the need for space Powers to register and notify every launching. There was nothing in international law at present obliging States to return space vehicles which might have landed in their territory, and if such an obligation was to be established it was essential to maintain the balance of interests between launching and non-launching States. Two conditions were conceivable to attain such a balance of interests: firstly, every launching State must assume liability for damage caused by objects launched into outer space in exchange for the right to claim the return of such objects; in that connexion, he welcomed the concrete proposal concerning liability put forward by the United States delegation in document A/AC.105/C.2/L.8. Secondly, obligation to return objects must be made conditional on provision by the launching State of appropriate information, either through some organization such as the United Nations or by public announcement.

Japan's space activities had steadily increased since 1957, when it had launched its first sounding rocket, and the Government was now considering the possibility of launching a satellite. Consequently, although Japan did not claim to rank among the big space Powers, it was quite possible that it might itself become a launching State; accordingly, Japan took a keen interest in the practical problem involving launching States and it had sympathy with, and understanding of, the position of those launching States.

Mr. GOLEMANOV (Bulgaria) observed that in recent times the world had witnessed the successes achieved by the Union of Soviet Socialist Republics in astronautics, science and technology, as also the considerable success achieved by the United States of America in the same field. Those achievements had opened up immense prospects for the exploration and utilization of space for the good of humanity. The scientific and technical progress made towards the conquest of space had raised the question of the establishment of legal principles governing the exploration and use of outer space, and it was the task of the Sub-Committee to contribute to drawing up such principles. It was clear that there was need for legal principles which would, firstly, consolidate peace and promote friendly co-operation between nations both on earth and in outer space and, secondly, contribute to the utmost to the development of science.

His delegation felt that there had been a certain delay in drawing up the principles, although it did not underestimate the results achieved so far. The Moscow Treaty and the various General Assembly resolutions on the subject were important steps forward, but much remained to be done. The Bulgarian delegation wholeheartedly endorsed the views expressed by the USSR representative at the previous meeting. It considered that the necessity of drawing up an agreement at the present session was dictated by the following factors: firstly, the terms of General Assembly resolution 1963 (XVIII); secondly, the unanimous adoption of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)), which had demonstrated that those principles were accepted by all Member States; thirdly, in view of the good will shown by all parties concerned, the solution of the problem should not be delayed; fourthly, the reluctance of certain western Powers to assume binding obligations had created a certain doubt about their real intentions; fifthly, the work of the Sub-Committee was being carried out in an atmosphere of decreased tension which encouraged the hope that it might be possible to make a further step forward in drawing up international agreements on legal principles and on responsibility for damage caused by the launching of objects into outer space. His delegation considered that there was need for binding regulations governing

activities in outer space which would be in accordance with the United Nations Charter and would contribute to the consolidation of friendly relations between States. To that end an agreement on legal principles should be concluded and should come into force in the near future. Such an agreement would strengthen mutual understanding and confidence between States and lay the foundation for international co-operation in the exploration and peaceful use of outer space.

Turning to the United States draft international agreement on assistance to and return of astronauts and objects launched into outer space (A/AC.105/C.2/L.9), he said that article 7 was not acceptable to his delegation because it discriminated against a number of States. Such an agreement, which was universal and humanitarian in character, should be open to signature by all States. Article 7 was a manifestation of the cold war; it would not help to reinforce confidence and co-operation between States and it was inconsistent with the spirit and letter of the Charter. It was the expression of an outdated conception of the relations between States.

Article 4, too, was unacceptable to his delegation. The position of the socialist countries with regard to the jurisdiction of the International Court of Justice was well known.

His delegation also had serious doubts with regard to article 2 and article 3. Thorough study should be given to the question of whether States and international organizations should be placed on an equal footing.

His delegation supported the revised draft agreement on the rescue of astronauts and spaceships in the event of accident or emergency landing, submitted by the USSR delegation (A/AC.105/C.2/L.2/Rev.1).

DRAFT INTERNATIONAL AGREEMENTS ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE AND ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/L.8, A/AC.105/C.2/L.9) (continued)

Mr. RAE (Canada) wished to make some preliminary remarks on the United States draft international agreement on assistance to and return of astronauts and objects launched into outer space (A/AC.105/C.2/L.9). He would have more detailed comments to make when that and other draft agreements were considered by a working group.

In the opinion of the Canadian delegation, the United States draft agreement covered most of the points which were appropriate for inclusion in such an agreement. He would suggest, however, that the agreement should include an article specifying that the State of registry or international organization responsible for launching should defray the expenses involved in returning to its territory objects launched into outer space or parts thereof that had returned to earth. Clearly the same principle should not be applied to expenses arising out of operations conducted to assist or rescue astronauts, whose safe recovery and return would be analogous to air and sea rescue operations. The general rule in such cases was not to claim for the cost of rescue operations in so far as they related to assistance to distressed persons. The return of a space vehicle which had fallen in a remote area would, however, have no humanitarian implications and might involve heavy costs. The Canadian delegation considered that expenses relating to the return of objects, as distinct from astronauts, should be borne by the State of registry or international organization responsible for launching.

The first sentence of article 2, paragraph 1, seemed to his delegation to be inconsistent with the second sentence. Presumably the first sentence was intended to cover, though not exclusively, landings of spacecraft on national territory. If that interpretation was correct, he would point out that no Government could accept any limitation on its right to conduct assistance and rescue operations on its own national territory. Moreover, his delegation was concerned by the implications of the notion that a State of registry might request that its astronauts who had come down on the high seas should not be rescued. If no ships or aircraft of a State of registry were in the vicinity of a fallen spacecraft, obviously the captains of ships or aircraft of other nations which were in the area would go to the rescue. His delegation felt that the paragraph should be revised, firstly, to place a simple obligation on the contracting parties to take all possible steps to assist or rescue personnel of spacecraft within their territory, and secondly, to make provision for all other eventualities.

With regard to article 1, he observed that presumably the notification of the Secretary-General was intended for situations in which the State of registry or responsible international organization was not known or in which some other contracting party did not wish to deal direct with the State of registry. His delegation considered that it would be preferable for the Secretary-General to be informed in all cases, in addition to the State of registry or responsible international organization. That would reduce the number of options, thereby limiting the risk of confusion, and at the same time ensure that the United Nations took an immediate interest in the rescue of astronauts or the return of objects launched into outer space that had returned to earth.

With regard to article 4, he urged that there should be a procedure for settling disputes over, for example, expenses incurred in finding or returning objects launched into outer space or parts thereof that had returned to earth. There might also be disputes regarding the ownership of objects that had returned to earth. Perhaps some arbitration procedure similar to that proposed in the United States draft convention concerning liability (A/AC.105/C.2/L.8) could be worked out, or if that were considered unnecessary the article should at least provide for some less formal means of settling disputes prior to reference to the International Court of Justice.

Mr. LEEKER (United States of America) submitted his delegation's draft convention concerning liability for damage caused by the launching of objects into outer space (A/AC.105/C.2/L.8), the aim of which was to provide agreed standards and procedures for the presentation of claims that might arise from damage caused by outer space activities. Thus the international community would have some assurance that the Powers which were already engaged in outer space activities were ready to meet their responsibilities and to compensate injured persons.

The United States delegation had first proposed, in the spring of 1962, that an international agreement on liability should be prepared, and it had presented a draft resolution proposing that a group of experts should be set up to work on a draft. In April 1963 the Belgian delegation had submitted a working paper on

liability (A/AC.105/C.2/L.7). Finally, the Declaration of Legal Principles adopted by the General Assembly in December 1963 (resolution 1962 (XVIII)) included provisions dealing with the subject of liability, among which were paragraph 8 and the concluding sentence of paragraph 5.

On the basis of drafts submitted at earlier sessions and of the Declaration of Legal Principles, the United States delegation had drawn up a draft convention concerning liability for the consideration of the Sub-Committee.

Referring to article I, he said that most space projects would probably be conducted by one country alone and that that State, which, according to the United States text, would be the State of registry, would obviously be responsible. There would also, however, be joint projects and in such cases it would probably be simpler and more expeditious to have one State designated as the authority to which claims might be presented, which would be known as the State of registry. Members of the group participating in the venture would make arrangements among themselves for sharing any loss that might occur, but the outside world would look to the State of registry as the State against which it would present its claims.

The definition of a State of registry was in two parts, the first designed to facilitate a procedure which would be simple and sure: a contracting party would declare that it was the State of registry by registering a space object in the same way that it would register an aircraft or a ship. It would also be necessary to provide for cases in which, for one reason or another, no individual State had made a registration; that possibility was dealt with in the second part of the definition. Thus a contracting party which had suffered damage would be assured that if no individual State had registered an object it could treat as the State of registry any one of the countries mentioned in the second part of the definition.

He further observed that registration in the United States draft meant national registration. It would be left to each State to determine the nature of the national registration process.

Article II set forth the basic principles of liability which the United States thought appropriate. First, the State of registry would be liable and undertake to pay compensation for damage caused by the launching of an object into outer space. Second, liability would arise from damage on the earth, in air space, and in outer space caused by such launchings. Third, liability would arise equally from damage caused by apparatus or equipment used in the course of launchings; the United States text made a State of registry liable for attempted as well as for successful launching.

Article III, paragraph 1, stated the fundamental principle that liability should be absolute; that was that an injured party would not have to prove negligence on the part of launching authorities. Two exceptions to that principle were spelled out in that article. First, paragraph 1 of that article was designed to cover the possibility of gross negligence; for example, although a State of registry had given warning of its intention of launching an object into space, during the limited period while the object and the booster were in transit an aircraft might be flown directly into the path of the space object. That could be regarded as negligence sufficiently serious to lead to the conclusion that the State of registry should not be fully liable or perhaps not liable at all, for any damage caused. A further exception to the principle of absolute liability was referred to in paragraph 2, dealing with collision of space objects. Such collisions were extremely unlikely, but if one should occur, it would be meaningless to say that each State of registry should be absolutely liable for damage caused to the other's space object.

Article IV set forth the procedure for the presentation of a claim. It called for presentation through the diplomatic channel. A third State might be asked to represent the interests of an injured State where the latter did not have diplomatic relations with the State of registry. Article IV also set a one-year time limit, beginning on the date on which the accident occurred, within which the claim must be presented.

Article V stated that the draft convention did not regulate the liability of a State to its own nationals. The United States text further provided that a presenting State could represent the interests of permanent resident dual nationals and stateless persons, as well as the interests of its own nationals.

Article VI stated the rule that the presentation of a claim under the convention would not require exhaustion of any remedies which might otherwise exist in the receiving State or under the terms of any other international agreement. An injured person who pursued local remedies, or remedies under another international agreement, would not be able to proceed under this convention; he must make a choice as to which path he would follow.

Article VII set forth a claims commission procedure under which a representing State could have recourse to a commission to decide the claim if, within one year after the presentation of the claim, it was dissatisfied with the progress being made in settling the claim. Each State would appoint one commissioner, and the third would be designated by the President of the International Court of Justice. The basic guidelines for the working of the commission were also set forth in Article VII.

Article VIII stated the rule that payments of compensation must be made in a readily convertible currency without there having been any loss of value.

Article IX suggested a limitation of liability. The figure for maximum liability had been left blank. The United States had no particular sum in mind and would be interested to hear the views of other members regarding the desirability of including such a provision and the amount they would consider appropriate.

In connexion with article X on peaceful settlement of disputes, he observed that the Canadian representative had made a constructive suggestion concerning the corresponding article in the draft agreement on assistance to and return of astronauts and objects launched into outer space (A/AC.105/C.2/L.9) which should be borne in mind also in considering the draft convention.

In conclusion, he said that his delegation recognized that the draft convention dealt with many difficult issues, a number of which would require thorough discussion. It looked forward with interest to hearing the views of the other members of the Sub-Committee.

The meeting rose at 1.10 p.m.

THIRTY-SECOND MEETING

Thursday, 12 March 1964 at 3.15 p.m.

DRAFT INTERNATIONAL AGREEMENTS ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE AND ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/L.2/Rev.1, A/AC.105/C.2/L.7, A/AC.105/C.2/L.8, A/AC.105/C.2/L.9
(Continued)

Mr. DELEAU (France), speaking on a point of order, expressed concern at the delay in the appearance of the French versions of the Sub-Committee's documents. At a later stage of the proceedings, delays of that kind might lead to the adjournment of meetings in order to enable representatives to study the documents in all the working languages.

Mr. SCHACHTER (Secretary to the Sub-Committee) expressed regret at the delay and said that he would take up the matter with the competent authorities.

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that before introducing his delegation's draft international agreement on the rescue of astronauts and spaceships (A/AC.105/C.2/L.2/Rev. 1), he wished to make it clear that in his statement in the general debate he had not suggested that the Committee should postpone the discussion of the draft agreements on assistance and liability in order to consider a draft convention on legal principles applicable to activities in outer space. He had suggested that all three subjects should be dealt with concurrently; in fact, the Sub-Committee could devote successive meetings to a discussion of each of the three drafts.

He recalled that the USSR had initiated the consideration of a draft agreement on the rescue of astronauts and spaceships in the message that Prime Minister Khrushchev had sent to the late President Kennedy in 1962 pointing out that, at the present stage of man's penetration of outer space, it was highly desirable to conclude an agreement on the subject. His delegation had submitted a draft on the subject to the Legal Sub-Committee at a previous session. The draft it was now submitting was a revised version of the earlier proposal, in which the comments and suggestions made by other delegations on the first draft had been taken into consideration.

In his introductory remarks he would dwell mainly on the guiding principles of his proposal and on its new elements, since the earlier text had been fully explained at the time of its introduction.

One of the ideas underlying the Soviet draft was that it was the humanitarian duty of all States to extend rapid and effective assistance to astronauts in the event of distress or accident. In line with that idea, article 6 of the Soviet

proposal provided that if the life of astronauts was in danger, assistance should be given to them before the space device itself was attended to. Another consequence of the same humanitarian conception was the provision in article 7 to the effect that the assistance to be furnished by one contracting State to another astronauts must in no way differ from the assistance furnished to its own.

Another guiding principle of the Soviet draft was the emphasis on the respect due to the principles of contemporary international law set forth in the United Nations Charter, and in particular to the principle of the sovereignty of States. Thus, while it was the duty of a State on whose territory a spaceship made a forced landing to lend every possible assistance to its crew, the principle of sovereignty meant that search and rescue operations must primarily be the responsibility of that State. If that State found that, for purposes of such search and assistance, it needed technical information and equipment which it did not possess, it was required to request the assistance of the launching State. That solution combined in a balanced manner the respect due to the principles of humanity and to the sovereignty of the State concerned. Those were the provisions which were new in comparison with the old text. Those provisions developed further the idea of respect for the Sovereignty of States.

Difficulties would arise in the event of its being necessary to search for astronauts on the high seas, since the legal régime of the high seas was very different from that of the territory of States. Article 2 of the 1958 Convention on the High Seas specified that the high seas were open to all nations. Accordingly, article 4 of the Soviet Union draft, dealing with emergency descent on the high seas, took into account the principle of the freedom of the high seas and made provision for a joint search by those contracting States to which the launching State made application. It specified, however, that actual salvage operations on the high seas would be directed either by the launching State itself or by the State to which the launching State made application for that purpose. That solution was logical since the launching State was the one chiefly concerned in the matter and had at its disposal more data on the distressed spacecraft than any other State.

The duty to lend assistance involved two inter-connected sets of obligations: those connected with the rescue and return of the crew and those connected with the rescue and return of objects launched into space. The Soviet Union draft

dealt with both problems. In connexion with article 9, setting forth the duty to return spaceships, satellites and capsules, he stressed that that duty applied only to devices launched for the peaceful exploration of outer space and only if the launching State had officially announced the launching and its purpose. The text thus took into account a number of comments made by other representatives during the discussion of the earlier USSR draft, in particular the Japanese representative's observation that it would not be fair to impose upon a sovereign State the duty to return the objects in question without making it possible for that State to ascertain what kind of devices were involved and for what purposes they had been launched.

His delegation fully realised that the duty to search for astronauts and space devices, the duty to lend assistance to astronauts and the duty to return them and the space devices could involve considerable expense for the State concerned. Accordingly, article 10 of the Soviet Union draft made provision for the reimbursement of such expenses by the launching State.

Article 12 of the draft made the agreement open to all States for accession. In view of the humanitarian nature and noble character of the agreement, there was no reason to limit the number of contracting parties or to lay down any prior conditions for accession. With regard to the entry into force of the Agreement, paragraph 1 of article 13 specified that the ratification or accession of States which had launched objects into outer space would be required, a provision which he felt was fully justified.

His delegation would welcome any comments and suggestions from other delegations on the proposed text.

The conclusion of such an agreement would constitute a remarkable example of co-operation in the exploration and use of outer space.

Sir Kenneth BAILEY (Australia) expressed gratitude to those delegations which had submitted drafts on assistance and liability. Those drafts had already proved invaluable in expediting the Sub-Committee's work and would do so even more in the forthcoming meetings.

For the present he would confine his remarks to assistance and return, on the basic principle of which there appeared to be no significant difference between the proposal of the Soviet Union (A/AC.105/C.2/L.2/Rev.1) and that of the United States (A/AC.105/C.2/L.9). Indeed, there could scarcely be any significant

difference, because the principle itself had been laid down by the General Assembly in operative paragraphs 7 and 9 of resolution 1962 (XVIII), which appeared to say almost everything that was needed on the matter. In resolution 1963 (XVII), however, the General Assembly had expressly requested the Committee to arrange for the prompt preparation of a draft agreement on the subject of assistance and return. It was a matter of putting into international agreement form one of the legal principles stated in the Declaration. Many decisions would have to be taken both on questions of principle and on matters of detail. It was, in the first place, essential to clarify the concept of the "State of registry" which the Declaration of Principles employed without either definition or context. Another matter that required clarification was the manner in which the duty of assistance and return was to be organized in the case of astronauts who made an emergency alighting on the high seas. Moreover, the relative role of the State of registry and what might be called the State of location would have to be more precisely determined.

Those and similar questions were answered in greater or lesser degree by both the Soviet Union and the United States proposals. As the United States proposal, being the later document, had had the full advantage of the discussions that had led to the adoption of resolutions 1962 (XVIII) and 1963 (XVIII), it might perhaps be the more appropriate text for the Sub-Committee to work upon, although it seemed to require both elaboration and clarification in some respects. In particular, a provision was needed, along the lines proposed by the Soviet Union, for the reimbursement by the State of registry of the expenses incurred in the return of a space object. It was also necessary to include provisions covering compensation for damage caused in the State of location and specifying that compensation would be payable before the obligation to return the space object became legally effective.

Moreover, the provisions dealing with the obligation to notify (article 1) and to assist (article 2) would have to be brought into line with the obligation to return (article 3). As the text now stood, the obligation to return astronauts applied only to those who had made an emergency landing, whereas articles 1 and 2 recognized that astronauts could be in foreign territory and be in need of assistance quite apart from any emergency landing.

With regard to article 2, he noted that the United States delegation had based the drafting of that article on article 25 of the 1944 Chicago Convention on International Civil Aviation. That article dealt with assistance to aircraft

in distress and was based on the principle that the territorial sovereign was in charge of all action taken in its territory; the passage in question read "Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable." The Australian delegation suggested that that text could be adopted verbatim in the present Convention.

The Soviet Union text and the United States text differed with regard to the States which could become parties to the convention. His delegation found the United States text acceptable; it was in strict conformity with much recent practice in United Nations conventions and it made participation potentially universal subject to the discretion of the General Assembly. In any event, however, that point was not suitable for decision by the Sub-Committee.

Mr. RAE (Canada) stressed that the task facing the Sub-Committee in the preparation of a draft international agreement on liability for damage caused by objects launched into outer space was a momentous one. The newer space vehicles would carry fuel loads equivalent to as much as 1,000 tons of TNT. In the future, the use of nuclear reactors in the propulsion and power systems of space vehicles would give rise to the possibility of substantially greater damage.

The problem of the scope of the damage that could be caused by defective or damaged nuclear reactors had been faced in the 1962 Brussels Convention on the liability of operators of nuclear ships, in which the liability of one operator with regard to one nuclear ship had been limited to the equivalent of approximately US\$108 million in respect of any one nuclear incident. The magnitude of that figure illustrated the grave responsibility which had been placed upon the Sub-Committee.

Both the Belgian (A/AC.105/C.2/L.7) and United States proposals constituted valuable contributions to the difficult subject of liability. With regard to compensation for damage, however, the two drafts suggested entirely different methods of assessment. The Belgian draft stated that liability and compensation would be governed by the national law of the injured person. The United States draft specified how the compensation would be measured; compensation was made subject to two conditions: that the obligation to pay compensation could be diminished or expunged in cases of gross negligence on the part of the claimant, and that the liability of the State of registry would not exceed, with respect to each launching, a maximum sum still to be determined. His delegation was

inclined to favour a provision in the convention itself specifying clearly the basis on which compensation would be paid in preference to leaving that matter to be determined by national law, except in so far as the damage was suffered by a national of the launching State.

With regard to the provision that gross negligence on the part of the claimant could diminish or expunge the obligation to pay compensation, his delegation felt that the term "gross negligence" was capable of being misconstrued and that it should be replaced by the words "wilful and reckless conduct".

Article 9, which embodied the concept of limitation of liability, raised two main problems: whether the State of registry should be permitted to have its absolute liability limited and, if so, what should be the limit of that liability. His delegation looked forward to hearing the views of other delegations on both those difficult questions before considering them further.

Mr. LITVINE (Belgium) said that the document submitted by his delegation (A/AC.105/C.2/L.7) was merely a working paper on the subject of liability. The Sub-Committee should not lose sight of the work which had been done on the subject by international and national organizations, such as the International Law Association, the Inter-American Bar Association, the Davies Memorial Institute of International Studies, the International Institute of Space Law (Dr. Hersczeg, Mr. Howford, Professor Korovin, Dr. E. Pépin), legal experts, such as Dr. Alonso Bauza Araujo, Dr. Smirnoff and many others, or the work of Governments, i.e. the proposals and suggestions submitted to the Sub-Committee and the work of the ad hoc committee formerly under the chairmanship of Professor Ambrosini.

The Belgian paper laid emphasis on the question of terminology, which was particularly important when legal problems were being approached from the point of view of different legal systems. The Belgian representative had pointed out the importance of that question on 4 December 1963 during the last session of the General Assembly. In that connexion, the remarks of the Canadian representative on the subject of the term "gross negligence" were particularly significant. Another example of misunderstanding deriving from unresolved terminology problems was provided by the French terms "faute lourde" and "dol" used in connexion with the liability of air carriers in the 1929 Convention for the Unification of certain rules relating to international carriage by air; at the time, the United Kingdom representative had been given to understand that those terms corresponded to "wilful misconduct". The misunderstandings which had later arisen in connexion

with the meaning of the terms in question had made it necessary to clarify the point in the 1955 Protocol on the same subject concluded at The Hague. Between 1929 and 1955, however, divergent interpretations had been given by the Courts of various countries to a term which was of vital importance with regard to the liability of carriers. In order to avoid such difficulties, it was essential to give full consideration to matters of terminology. Among other terms, "space device" and "State of registry" would have to be defined.

Apart from the question of terminology, the Belgian draft developed four main points: first, compensation governed by the national law of the State or person sustaining the damage; second, unlimited liability; third, the way of determining the defending State and fourth, procedural rules.

The question of the limitation of liability had given rise to considerable difficulty whenever it had been raised in connexion with carriage by sea or by air. Provisions on the limitation of liability were understandable in connexion with so-called contractual liability, i.e., in the relations between a carrier and persons using the means of transport made available by that carrier. Attempts to introduce limitation of liability with regard to third parties had not met with much success and the Belgian working paper embodied the principle of absolute liability.

Article 2 of the Belgian paper was intended to clarify the question of the State which was liable. Articles 5 and 6 provided for the procedure for bringing action for liability. Those clauses were supplementary to, and not exclusive of, direct recourse. But his delegation was also inclined to adopt a clause similar to article XX of the Brussels Convention of 25 May 1962. By way of guidance, it would suggest the following questions covering the problem of liability: first, how should spacecraft be defined as a cause of liability to third parties? second, who would be liable, a State or an international organization; which State, that where the launching took place, that operating the launching, or that which was the owner of the spacecraft, would be liable; should there be joint liability or not; should the procedure for registry be organized beforehand? third, had the liability to be limited or not, and if it was, according to what criterion, and how was the limited compensation to be allocated? fourth, what was the procedure to be followed, should it be supplementary or exclusive, and would existing procedure first have to be exhausted? fifth, how many ratifications would be required before the convention came into force? and sixth, what should be the connexion with the agreement on assistance to and return of astronauts?.

Mr. MARSCHIK (Austria) said that the adoption by the General Assembly of principles set forth in resolution 1962 (XVIII) had marked an important step in the development of the law of outer space. It was, however, only a first step: the principles needed to be supplemented as international co-operation grew and more experience was gained in the exploration and use of outer space. In addition, some of the principles needed to be embodied in international instruments; accordingly, resolution 1963 (XVIII) had asked for the prompt preparation of draft international agreements on the subjects of assistance and liability.

With regard to a draft convention on assistance and return, the provisions to be adopted should keep the obligations of contracting States within the limits of their capacity and their sovereign rights. The search and rescue of astronauts was fundamentally a prerogative of the State in whose territory such operations were necessary. If that State obtained assistance from launching States, provision would have to be made to ensure that all such operations were conducted under full control of its own authorities, and that States could reserve to their own authorities the sole right of search in certain prohibited areas. It should be remembered that operations of that kind could involve the deployment of large rescue parties of military or para-military character. The implications of that situation, especially for neutral countries, were obvious.

The obligation of a State to furnish assistance and to return space devices should entail a corresponding obligation on the part of the launching State to lend assistance on request. It was also important to make provision for the duty of the launching State to remove space devices, or components thereof, even if it was not interested in their return. Such objects could, for example, involve atomic radiation hazards. Moreover, the obligation to return space devices should give title to reimbursement of the expenses incurred in carrying out the obligation. Such an approach would be consistent with the solutions adopted in the international conventions on the subject of assistance to vessels in distress at sea.

Lastly, technical arrangements for rescue operations would have to be made in advance, because of the extremely limited time that would be available in the event of an accident.

Turning to the draft agreement on liability, he stressed the need to ensure maximum protection for the possible victims. Any international instrument should avoid curtailing in any way the rights and legal remedies available to claimants; it should rather provide them with additional protection. In particular, his

delegation would welcome the adoption of an expeditious compensation procedure. In that connexion the establishment of a system of financial guarantees, to meet the situation which would arise when less wealthy States embarked upon outer space projects, might be considered, particularly in view of possible provisions requiring that compensation should be paid in a currency that was readily convertible.

Additional problems would arise in the event of the launching of space devices by international organizations. It would have to be determined whether liability rested with the organization itself, with the individual member States, or jointly with the organization and the member States.

Mr. KRISHNA RAO (India) said that it would be useful to define the points in the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)) and in the drafts submitted by the United States (A/AC.105/C.2/L.9) and the USSR (A/AC.105/C.2/L.2/Rev.1) on which there was general agreement and those on which there was a divergency of views.

He felt that there was general agreement on the following: first, as specified in paragraph 7 of the Declaration of Legal Principles, the State on whose register an object launched into outer space was carried should retain jurisdiction and control over it and any personnel thereon; second, ownership of objects launched into outer space and of their component parts was not affected by their passage through outer space; third, such objects or component parts found beyond the limits of the State of registry should be returned to that State, which should furnish identifying data; fourth, one of the conditions for the return of an object to the State of registry was that that State should furnish identifying data; fifth, States should render all possible assistance to astronauts in the event of accident, distress or emergency landing; sixth, astronauts who made emergency landings should be returned to the State of registry of their space vehicle; seventh, the launching State should reimburse the State in which an emergency landing had been made for any expenses incurred - although that obligation was not specified in the Declaration, it was implicit in the text; eighth, all astronauts were entitled to the same treatment, regardless of their nationality and of that of their space vehicles.

On the other hand, there was no meeting of minds on the following points. First, paragraph 5 of the Declaration provided that international responsibility for national activities in outer space should be borne by governmental agencies,

non-governmental entities and international organizations: it was difficult to see which body would be legally responsible in any specific case; second, the USSR draft provided that in the event of astronauts making an emergency landing, the State in which they landed should employ every means at its disposal, including electronic and optical means of communication and rescue facilities; he wondered why there was no equivalent provision in the United States draft; third, the United States draft lacked another provision which was to be found in the USSR draft, namely, that the assistance to be furnished by one contracting State to another should in no way differ from the assistance which could be furnished to its own astronauts - article 2 of the United States draft merely specified that a State should take all possible steps to assist or rescue such personnel, without specifying the nature or extent of those steps; fourth, there was no clear agreement about notification by the launching State. Both drafts provided that in the case of accident or emergency landing of astronauts, the launching State should be notified, but the USSR draft made the return of the spacecraft dependent on three conditions: it should have identification marks; the launching State should have officially announced the launching; and only craft which had been launched for peaceful purposes should be returned. The USSR draft made no mention of the return of vehicles carrying devices for the collection of intelligence information, which was understandable. The United States draft, on the other hand, provided for the return of all vehicles unconditionally. He endorsed the comments made by the Canadian representative regarding article 2 of the United States draft.

There were a number of other points which might give rise to difficulties. A non-launching State was expected to return astronauts and space vehicles to the State of registry, but it was not clear whether they were to be returned to the launching State, an international organization, a non-governmental entity or the owner State if that was different from the launching State. In addition, it was not clear by whom or to whom the notification of the launching State and information regarding emergency landings and other such occurrences was to be given.

Several questions needed to be explored regarding the type of co-operation that was to be expected: they included the type of search and rescue operations, remuneration for services rendered - on which the United States draft was completely silent - the regulation of radio communications for the purposes of rescue and assistance, release from obligation in respect of rescue and assistance, territorial applicability, and the nationality of persons and spacecraft in distress.

In the event of joint programmes between an international organization and a State, separate provisions should be made for the responsibility of the governmental agencies, non-governmental entities and international organizations mentioned in paragraph 5 of the Declaration. Paragraphs 7 and 9 of the Declaration provided for the return of objects launched into outer space to the State of registry, but that might not be appropriate if the State of registry was not the launching State. The last sentence of paragraph 9 provided that astronauts who made an emergency landing should be returned to the State of registry of their space vehicle. That provision had been the subject of considerable criticism in the First Committee at the eighteenth session of the General Assembly. The wording was ambiguous and might give rise to difficulties of interpretation, as the Japanese representative had pointed out. It was not reasonable to expect non-launching States to return space vehicles and their components if they had not been given advance knowledge of the launching and information about the vehicles. The obligation to return such objects should be made conditional upon an equivalent obligation on the part of the launching State to provide adequate information, through registration with the United Nations or by any other appropriate means. The resolution on the legal régime of outer space adopted by the Institute of International Law at its Brussels session provided that there should be international agreement for the return to the State under the authority of which launching had taken place of space objects the launching of which had been officially notified, which bore identification marks showing their origin, and which on return had come into the possession of another State. That formula was much more adequate.

Paragraph 7 of the Declaration and article 3, paragraph 2, of the United States draft provided for identification data to be furnished "upon request". He could foresee difficulties. The non-launching State might not know from which State to request the identification data. It was therefore essential that launching States should provide such data in advance and there could be no obligation to return objects from outer space unless the data had been provided. As the Nigerian representative had pointed out in the First Committee, difficulties were bound to arise with regard to the identification of the origin of space vehicles and even of space vehicles themselves. Adequate provision must be made to meet that point.

Finally, many points remained to be cleared up regarding the recommendations of the Scientific and Technical Sub-Committee at its first session relating to international sounding rocket launching facilities. It had recommended that a

launching site was to be recognized as an international facility if the United Nations Committee on the Peaceful Uses of Outer Space so recommended; that it would be the responsibility of the country in which it was located, that the host Government was to make arrangements with user nations for the provision through voluntary agreement of funds or equipment or both, that the operating costs were to be apportioned among the users on an equitable basis, and that the host State would be responsible for the management and operation of the range; but no specific provisions had been adopted. In the event of a programme sponsored by the United Nations, similar difficulties with regard to notification by the host country and return to the host country might arise, particularly when the State of registry and the host country were not the same. As there was every probability that such programmes would be launched in the future, those points should be cleared up before they gave rise to difficulties.

Mr. CAMPORA (Argentina) said that the Sub-Committee now had before it three main legal questions: the consideration of the possibility of incorporating the principles of the Declaration contained in General Assembly resolution 1963 (XVIII) in an agreement, and the drafting of agreements on liability and assistance. It was clear from the wording of resolution 1963 (XVIII), part I, paragraph 2, that the General Assembly wished to give priority to the draft agreements on liability and assistance.

He wanted, however, to take the opportunity of commenting briefly on the question of an international agreement incorporating the principles of the Declaration. While the Declaration was an important step forward, the text did not cover all the legal problems which arose in connexion with outer space activities and it could not therefore be considered final. New principles should be added and the formulation of the ones it now embodied should be improved. The idea 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, which now formed part of the preamble to the Declaration, should be expanded and worked out in detail, so that it might play a part analogous to the peaceful uses of atomic energy in the field of international co-operation. The work of embodying the principles in a binding agreement, however, must be approached with caution if the agreement was not to be obsolete almost before it had been drafted as a result of the rapid development of modern technology.

For that reason, the Sub-Committee should devote most of its time at the present session to the drafting of the two agreements specifically requested by the General Assembly. Argentina would co-operate to the full in that task.

Regarding the draft agreement on assistance, he said that the law applying to navigation by sea and air, which had already been developed, might be considered applicable to outer space. Assistance to distressed mariners and shipping was based on the same humanitarian and moral principle as that which the General Assembly had had in mind when it had asked for the preparation of an agreement on assistance. Both the USSR and the United States had submitted draft agreements on the subject, but for the time being he would restrict his remarks to the United States draft (A/AC.105/C.2/L.9). The law governing assistance to aircraft and shipping in distress contained two elements: firstly, States were under an obligation to render assistance; secondly, they were entitled to the reimbursement of any expenses incurred. The United States draft included the former point but not the latter. Some consideration should be given to rectifying that omission.

Article 4 of the United States draft provided for the compulsory jurisdiction of the International Court of Justice for the settlement of disputes. Argentina had always been anxious to ensure the peaceful settlement of disputes and had submitted various questions to international courts, but the decision to do so had been made on the merits of each case. Article 4 would not be acceptable to Argentina unless it provided that disputes were to be referred to the Court only with the consent of both parties.

Without prejudice to the attitude his delegation would finally adopt, he wished to formulate two objections to article 2, paragraph 1, of the United States draft. Firstly, it was unwise and might cause confusion to include in the same provision matters relating to the high seas and to Antarctica. It was possible that the confusion might even affect the interests of certain States. Argentina was ready to assume the obligations arising from the agreement under consideration, with respect to its entire territory, without distinction. Secondly, thought must be given to the activities undertaken as a result of the Treaty on Antarctica, which provided for the study of proper standards for assistance in Antarctica. For that reason it would be better to delete the reference to Antarctica in article 2 of the draft.

INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: GENERAL DEBATE
(continued)

Mr. AMBROSINI (Italy) said that the statement he had made at the opening meeting appeared to have been misinterpreted by some delegations. When he had said that a discussion of general principles might prove time-consuming, he had not meant that it would be a waste of time. On the contrary, general legal principles, which were a guiding light for all jurists, were worthy of the utmost respect.

The adoption of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)) had been a historic act in the development of the law of outer space. It laid down three fundamental principles: firstly, that outer space should be a res communis accessible to all; secondly, that outer space and celestial bodies should not be subject to national appropriation; thirdly, that the exploration and use of outer space should be carried on in accordance with international law including the Charter of the United Nations. All the legal problems arising in connexion with outer space could be solved by applying those three principles.

The Declaration was not, however, entirely satisfactory. It lacked the legal force of an international instrument and was weaker than the resolution adopted by the Sub-Committee in 1961, which had affirmed that all international law should apply to outer space. As the Belgian representative had pointed out, however, much work had been done in the Sub-Committee on the law of outer space, which must be borne in mind in future work. The USSR representative had stressed practical considerations and had warned the Sub-Committee against enunciating abstract principles, and the Argentine representative had rightly said that the Sub-Committee must proceed with caution. At the present time, only the United States and the USSR had carried out any exploration of outer space, but other countries, including his own, were eager to follow in their steps. Italy had hopes of doing so in the near future.

He agreed with the USSR representative that more experience was required. It would be unwise to embody the Declaration in an agreement too soon, for the principles should remain flexible so that they could be adjusted in the light of later experience. For the present, until an agreement applying the principles could be drawn up, the Sub-Committee should be content with the Declaration. In any event, there were not the same reasons for an agreement on outer space as

there had been for agreements on sea and air traffic. The Chicago Convention which had established the International Civil Aviation Organization (ICAO) had been a great step forward, but it was much more than a mere enumeration of principles; it covered the whole field of public law relating to civil aviation. The fundamental agreement on outer space should be just as comprehensive.

In the meantime, agreements on specific aspects of outer space such as liability for damage and assistance to astronauts and spacecraft could be drawn up, but the most practical procedure was to apply to outer space the international law that was already in force. The draft agreements on liability and assistance could not be complete at the present time, but they might contribute to the formulation of the law of outer space which was now emerging and they were therefore to be welcomed.

Mr. OSMAN (United Arab Republic) welcomed the fact that the Sub-Committee was beginning its work in an atmosphere of decreased international tension, in which the partial test ban treaty and General Assembly resolution 1884 (XVIII) had played their part. It was encouraging that some impediments to the Sub-Committee's work had been removed and that it had been able to adopt the Declaration of Legal Principles appearing in General Assembly resolution 1962 (XVIII). At the same time, it had gained a clearer knowledge of its task.

The Sub-Committee had three main questions on its agenda. The first was to continue to study and report on legal problems which might arise in the exploration and use of outer space, which was a general and continuing task that would occupy it for some time. His delegation was particularly interested in the problem of ensuring that outer space should be used for peaceful purposes only. Faced with public concern about the matter, the international community had already banned the use of nuclear weapons in outer space and nuclear explosions in the atmosphere. It was time to go one step further and to lay down the principle that outer space should be used for peaceful purposes only. The use of outer space for peaceful purposes already involved considerable risks, the gravity of which could be measured by the urgency with which the General Assembly had requested draft agreements on assistance and liability. If mankind was to continue to be hopeful about the future of the exploration of outer space, the danger of its use for military purposes must be banished for ever. It was clearly the Sub-Committee's duty to press for the adoption of such a principle by the General Assembly.

The Sub-Committee's second task was to consider incorporating in international agreement form legal principles governing the activities of States in the exploration and use of outer space. In the view of his delegation, that was only a special aspect of the first task he had already mentioned. Great efforts had been put into the preparation of the Declaration of Legal Principles, but no one could deny that it was limited in scope. His delegation had pointed out, at the 1342nd meeting of the First Committee of the General Assembly, that the Declaration was inadequate and had expressed the hope that a better and more complete set of principles could be adopted in the near future. The Declaration was only one step on the long road to the formulation of the law of outer space. There was room for considerable improvement, both in form and substance. The form decided upon by the General Assembly was an international agreement; as to substance, it was the Sub-Committee's duty to define, expand and complete the contents of the present Declaration.

Although the Sub-Committee had been able to adopt certain basic principles, it had a long way to go before establishing a system of law covering activities in outer space. That system must be based on the common interest of mankind and not on any selfish national interest. It must also be based on fruitful co-operation and must fit into the United Nations framework. Finally, it must be firmly based on the principles of peace, justice and equality. If the law of outer space was not to lag behind developments, the Declaration of Legal Principles must be improved and included in an international agreement.

Thirdly, the Sub-Committee had been asked to prepare agreements on assistance and liability, for which drafts had already been submitted. He would comment on the texts at a later date.

Mr. DELEAU (France) said that the French position with regard to the law of outer space was that no such law yet existed. Existing international law did not necessarily apply to outer space without certain adaptations. In addition, the legal principles governing the use of outer space and celestial bodies had yet to be defined. It was for the Sub-Committee to give them precise formulation in draft agreements, for the principles would never become binding on States until they were embodied in international agreements accepted by States. The resolutions which had been adopted could not give rise to legal obligations for Member States; they had no binding force and were no more than declarations of intention. It was now for the Sub-Committee to prepare the legal instruments which would later become the law of outer space.

The law of outer space should be elaborated progressively, taking into account developments in the field of science. It was already possible to introduce some clarity and order into the ideas relating to the use of outer space for peaceful purposes. The ideas embodied in General Assembly resolution 1963 (XVIII), valuable as they were, did not cover all the problems. A clear distinction should be drawn at the outset between two categories of questions. Firstly, there were the problems connected with the terrestrial consequences of outer space activities. The two draft texts dealt largely with those. His delegation felt that in that field it was essential to keep closely to the rules of international law which were generally applicable: the agreements which the Sub-Committee was to draft should therefore provide for special applications of rules of international law which already existed, or for the clarification of points which were not clear. Care must be taken not to include over-specialized provisions which might not be in harmony with other legal principles which were generally applied in international relations. Many different kinds of law had emerged in recent years, and there was a danger of conflict between them or with traditional law. The Sub-Committee had to consider the questions of liability for damage and of assistance to and return of astronauts and spacecraft, although the French delegation was not convinced that they should have absolute priority. In any event, they would lead to a realisation of the need for rules in other fields, such as international regulations for the registration of space vehicles, without which the application of the two specific draft agreements might be extremely difficult.

Even if all the problems raised by the terrestrial consequences of space activities were solved, another category of problems - those of the effects in outer space of those activities - would still have to be considered. That was where the true law of outer space really began. It had already been agreed that outer space and celestial bodies were not subject to national appropriation, for which there was a strong precedent in the law of the sea. So, in the matter of liability in outer space the injured State would no longer be the one in which the accident occurred, but the one which controlled the damaged object. There were other problems, too, to be envisaged: how was assistance to be extended to astronauts in outer space? What was to be done to prevent the contamination or pollution of celestial bodies? How was the exploitation by one State of part of a celestial body to be harmonized with the principle that celestial bodies were free for use by all States?

A glance at the questions which would arise showed the value of the late Mr. Jacques Patey's proposal that a list of the legal problems which arose in connexion with the exploration and peaceful use of outer space should be drawn up.

Mr. HAKIM (Lebanon), speaking of the Sub-Committee's programme of work, recalled that at the eighteenth session of the General Assembly, his delegation had expressed satisfaction in the First Committee at the progress made by the United Nations in the promotion of international co-operation in outer space. In the legal field, the outstanding event had been the adoption by the General Assembly of the Declaration of Legal Principles in resolution 1962 (XVIII), which was an important step forward.

In the debate in the General Assembly, however, his delegation had drawn attention to a serious shortcoming of the Declaration, namely, the absence of a general principle restricting the use of outer space to peaceful purposes. His delegation deplored the fact that the Committee on the Peaceful Uses of Outer Space had not seen fit to recommend such a principle to the General Assembly. The first principle, however, namely that the exploration and use of outer space should be carried on for the benefit of mankind, could not be conceived except in the context of the promotion of peaceful activities and, therefore, of the prohibition of military activities in outer space. Accordingly, his delegation would continue to press for the formulation of a general legal principle to that effect.

It was clear from the foregoing that his delegation did not consider the Declaration entirely satisfactory; it needed to be completed and improved. It recognized, however, that the Declaration provided a good basis for the formulation of the law of outer space and that it had a legal status and authority of its own. Building on those foundations, the Sub-Committee could make progress along various lines. To begin with, it could formulate new legal principles for inclusion in the Declaration. Two other lines were indicated in General Assembly resolution 1963 (XVIII): consideration of the incorporation in an international agreement of the principles contained in the Declaration, and the prompt preparation of two draft agreements, one on liability and the other on assistance. The preparation of those two draft agreements was the Sub-Committee's main task.

The preparation of an international agreement incorporating the principles of the Declaration raised the question of the extent to which those principles could be translated into binding legal obligations. As principles 8 and 9 were to be the subject of separate draft agreements, only seven remained to be put into

legal form. The Sub-Committee should consider whether any of those seven principles might not be embodied in separate agreements.

A fourth line of progress might be the elaboration of special declarations amplifying the principles of the Declaration and providing detailed guidance for States in their outer space activities. An obvious subject for such a declaration would be the limitation of the use of outer space to peaceful purposes. The General Assembly had already taken action in that direction by adopting resolution 1884 (XVIII) calling upon States to refrain from using nuclear weapons in outer space. Another special declaration might be drawn up on international co-operation and mutual assistance in outer space (paragraph 6 of the Declaration). His Government pledged its co-operation in all such efforts.

The meeting rose at 6.15 p.m.

THIRTY-THIRD MEETING

Friday, 13 March 1964, at 11 a.m.

DRAFT INTERNATIONAL AGREEMENTS ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE AND ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/L.2/Rev.1, A/AC.105/C.2/L.7, A/AC.105/C.2/L.8, A/AC.105/C.2/L.9)
(continued)

Miss GUTTERIDGE (United Kingdom) observed that the two draft agreements on assistance and return (A/AC.105/C.2/L.2/Rev.1 and A/AC.105/C.2/L.9) had a number of features in common. In certain respects the differences were only differences of wording and arrangement; after discussion in the Working Group one or the other might be preferred, or it might prove possible to combine two similar provisions. She would, not, however, go into those detailed drafting points for the time being.

The intention expressed in the preambles of both drafts was evidently the same, but her delegation felt that there should be a reference - as there was in the United States draft (A/AC.105/C.2/L.9) - to General Assembly resolution 1962 (XVIII), since paragraph 9 of that resolution specifically referred to assistance to and return of astronauts in the event of accident, distress or emergency landing on the territory of a foreign State or on the high seas, and that was a principle which the Sub-Committee was required under operative paragraph 2 of General Assembly resolution 1963 (XVIII) to embody in an international agreement. Article 1 of the USSR draft (A/AC.105/C.2/L.2/Rev.1) repeated that general principle in effect and indicated the means that might be used to render such assistance. Article 1 of the United States draft, on the other hand, went straight to the obligation to notify when personnel of a spacecraft had met with an accident or were experiencing conditions of distress. The United States draft envisaged that international organizations as well as States might be responsible for launching space vehicles and it contemplated notification of the Secretary-General. Her delegation considered, however, that the term "State of registry" used in the United States draft would have to be defined.

Her delegation thought that article 2 of the United States draft could with advantage be reformulated to make clearer the distinction between assistance or rescue operations within a State, which must be the responsibility of the territorial sovereign, and rescue operations on the high seas, where a joint

search by several contracting Parties might be the most appropriate method unless the State of registry wished to conduct the search alone. In that connexion her delegation associated itself with the reservation that had been expressed regarding the reference to Antarctica.

Her delegation preferred the language used in article 3 of the United States draft to that of article 9 of the USSR draft, since it reflected more closely the language used in the last sentence of General Assembly resolution 1962 (XVIII).

Article 10 of the USSR draft had no counterpart in the United States draft. Her delegation felt that it would be useful to include a provision under which the expenses of returning to the State of registry objects launched into outer space, or parts thereof, would be reimbursed, but it did not consider that such reimbursement would be equally appropriate in the case of expenses arising from the carrying out of the humanitarian obligations of the agreement.

Her delegation would like a provision to be included for the settlement of any disputes arising from the interpretation or application of the agreement. While not, of course, ruling out recourse to the International Court of Justice in the last resort, it considered that it would be preferable for the contracting parties first to seek settlement of such disputes by other peaceful means of their own choice. It therefore felt that article 4 of the United States draft might be reformulated.

Both article 7 of the United States draft and articles 11 and 12 of the USSR draft dealt with participation in the agreement. The formula used in the United States draft was that recently approved by the United Nations General Assembly and was similar to those found in other covenants and agreements concluded under United Nations auspices. That formula would appear to be more workable than that in the USSR draft, but the Legal Sub-Committee was not called upon to settle that point, which might eventually have to be decided by the General Assembly.

With regard to the question of liability, she would draw the Sub-Committee's attention to a relevant problem to which the United Kingdom delegation attached great importance: the place of international organizations in any formulation of space law relating to liability.

It was undeniable that the exploration of outer space was already an immensely expensive business and there seemed little doubt that its scope, complexity and cost would steadily increase. Hence, only the largest and wealthiest nations were

likely to be able to contribute enough to the mass exploration of outer space. There was, however, one way in which smaller nations could participate and that was by pooling their resources and co-operating in an international organization set up for that specific purpose. Such international co-operation was, of course, good in itself; it had many precedents in other fields of scientific endeavour and it was specifically commended in the preamble to General Assembly resolution 1962 (XVIII). In that connexion she drew attention to the last sentence of paragraph 5 of that resolution.

Since the majority of countries participating in outer space exploration would do so through international organizations, international agreements concerning outer space must make proper provision not only to safeguard the rights of such organizations but to enable them to fulfil obligations such as, for example, the obligation to pay compensation for damage. Her delegation looked forward to participating in the formulation of a convention which would apply not only between States but also between States and international organizations, which although consisting of Member States must also be considered to have an independent juridical existence for certain purposes.

In the preamble to the United States draft convention concerning liability (A/AC.105/C.2/L.8), she would prefer the words "financial protection against damage" to be replaced by "compensation for damage."

She felt that, under the definition of States of registry given in article I (e), a presenting State might have considerable difficulty in determining who should pay compensation, and in what proportion, if the object causing damage had been launched but not registered either by an international organization or by a number of States participating in a joint venture.

With regard to article III, her delegation considered that a case could arise in which a collision in space might arise from wilful or reckless conduct. In such a case it would not be equitable for the injured party to have no redress. Her delegation would therefore like article III, paragraph 2, to be amended to make it clear that liability would be expunged only in the case of a collision which was purely accidental and attributable neither to negligence nor to wilful or reckless conduct.

She considered that article II would be clearer if the phrase "caused by the launching of an object into outer space" were explained so as to leave no doubt that the damage referred to included not only damage caused by the launching of an object into outer space but also damage caused by that object while in outer space or on its return to the earth.

With regard to article IV, paragraph 3, while appreciating that the limit of one year from the date of damage was intended to secure prompt settlement of claims, her delegation had certain doubts whether a year was a sufficiently long period, particularly in cases in which the damage caused or the nature of the damage could not be immediately apparent. She had in mind, for example, the possibility that space vehicles might in the future have some form of nuclear propulsion, and that any biological injuries which might arise from nuclear radiation would take a considerable time to become apparent. The recent Brussels Convention on nuclear ships envisaged a period of ten years for the presentation of claims from the date on which an accident had occurred.

With regard to article VIII, her delegation thought that problems of rates of exchange, convertibility and loss of value could be avoided if compensation were simply to be paid in the currency of the presenting State or a currency acceptable to the presenting international organization. At the appropriate time it would propose an amendment to that effect.

In making those general comments, her delegation had intended to contribute to a constructive discussion on the draft agreements. There would, of course, be other and more detailed points which it would raise in the course of discussion in the Working Group.

Mr. ZAK (Czechoslovakia) expressed the view that an agreement on assistance to and return of astronauts and objects launched into outer space would constitute a further step on the way towards the codification of outer-space law. It would also contribute to a further promotion of peaceful co-existence and international co-operation in that field. His delegation agreed with other members of the Sub-Committee that the time had come to deal with questions pertaining to assistance to astronauts and spacecraft, as had been done at an earlier era in the field of maritime and aviation law.

In comparing the United States and the USSR draft agreements, his delegation assumed that a legal regulation of any subject must be in harmony with the principles of peaceful co-existence and international law. Outer space, which had already become the subject of relations among States, could not be excluded from that principle. His delegation had come to the conclusion, after careful consideration, that the USSR draft (A/AC.105/C.2/L.2/Rev.1) provided a good basis for the Sub-Committee's deliberations. It dealt with the complex problems involved in a detailed manner and included a number of important points with regard to assistance to astronauts and spacecraft launched into outer space. His delegation considered that the USSR draft satisfactorily formulated the idea embodied in paragraph 9 of General Assembly resolution 1962 (XVIII) that States should regard astronauts as envoys of mankind in outer space and should render them all possible assistance. The draft also included a number of other principles enunciated in the Declaration, for example, the principle expressed in paragraph 4 that the activities of States in the exploration and use of outer space should be carried on in accordance with international law and in the interest of maintaining international peace and security, and the principle embodied in paragraph 2 with regard to the ownership of objects launched into outer space and the obligation to return them to the State which had launched them.

The United States draft (A/AC.105/C.2/L.9), on the other hand, devoted only a few articles to the substance of the problem as stated by a number of speakers at the previous meeting. That was an additional reason why his delegation preferred the USSR draft, which gave more attention to questions pertaining to the protection of human lives and spacecraft. Moreover, some of the provisions in the United States draft were unacceptable to the Czechoslovak delegation, which would deal with them during the debate in the Working Group. There were, for instance, the problems of the return of objects launched into outer space, the compulsory jurisdiction of the International Court of Justice, the participation of States in the agreement and other points.

In conclusion, he associated himself with other representatives who had expressed the wish that the Sub-Committee should elaborate the legal principles contained in the Declaration at its current session. That would be another step towards the drafting of an international agreement on legal principles governing the activities of States in the exploration and use of outer space.

Mr. KELLBERG (Sweden), referring to the United States draft agreement, (A/AC.105/C.2/L.9), said that his delegation felt there should be a clause covering the question of expenses, particularly in the case of rescue operations undertaken by private bodies or involving loss of life among the rescuers. His delegation entirely agreed that expenses for the rescue of spacecraft crews should not have to be reimbursed, though in some instances it might be difficult to draw the line between costs for rescuing the crew and for salvaging the craft. The Swedish delegation agreed with the Australian delegation on the question of attachment of craft as security for costs.

With regard to the problem of prohibited areas, every State must have the right to refuse representatives of a foreign State entry to areas which were of military importance or otherwise vital to the security of the State. Moreover, it should be at the discretion of the State on whose territory the object had landed to lay down conditions in each case for the admission of another country's rescue staff.

With regard to article 4, Sweden was and always had been a staunch supporter of the judicial settlement of legal disputes, through arbitration or through the International Court of Justice, and was in favour of the article, perhaps with some additions. Nevertheless, recognizing that some delegations might have difficulty in accepting the article as it stood, his delegation would be prepared to consider a re-wording, possibly on the lines of article 11 of the Antarctica Treaty. There might perhaps be an optional protocol regarding compulsory settlement of disputes.

Under the terms of article 5 the entry into force of an amendment might be postponed for a long time, since the number of contracting parties forming a majority might increase after the proposed amendment had been submitted.

He also concurred in the Australian representative's views on article 7, but in his opinion the question dealt with in that article was not within the Sub-Committee's terms of reference.

With reference to the USSR draft (A/AC.105/C.2/L.2/Rev.1), he was glad to note that the question of reimbursement of a rescuing State was clearly set forth but he would like an addition concerning the necessity of dealing promptly with claims for reimbursement and a provision that costs should be paid in the currency of the rescuing country. Furthermore, there was no mention of the role that could be

played by international organizations. As the United Kingdom representative had stated, it was natural that small States should pool their financial resources, techniques and knowledge and set up inter-State machinery.

With regard to the question of judicial settlement of disputes, for which no provision was made in the USSR draft, he would merely refer to what he had said in connexion with the United States draft agreement.

It might be useful to add to the USSR draft a provision for amendment and possibly addition.

Turning to the United States draft convention concerning liability for damage (A/AC.105/C.2/L.8), he said that since the keystone of the draft was the registration of objects launched into space, the Sub-Committee would have to discuss the obligation for States and international organizations to keep registers and to give advance information of any launching, perhaps to the Secretary-General of the United Nations.

He shared the hesitation expressed by the Canadian delegation with regard to article III. In submitting the draft the United States representative had referred to a possible situation in which due warning of a launching had been given and had gone unheeded. He suggested that that possibility should be inserted in the convention as the only accepted exemption from strict liability outside the field of wilful acts, which should of course also be covered.

In cases such as those referred to in article III, paragraph 2, the State of registry should bear its own responsibility. He understood that paragraph to mean that no compensation would be paid for damage or destruction of the objects or for loss of crew. He also understood that if, as the result of such a collision, property or life on earth, in air space or in outer space belonging to a third party were damaged or destroyed, compensation should be paid. The same sub-paragraph placed States of registry and international organizations on the same footing as far as non-liability in case of collision was concerned. Mention of international organizations in that context seemed to presuppose that they could not only put forward a claim but that they could be liable and have to pay compensation. Other articles, however, ran counter to that. His own view was that the dual capacity of an international organization had many advantages.

All members were aware of the complexity of the problems dealt with in article IV. In his view a reference to the problem of dual nationality was unnecessary. Stateless persons were in a special category and should be treated as nationals of the country in which they habitually resided.

Article VI, paragraph 2, would present certain difficulties for his delegation. It would be difficult to prevent individuals from seeking further compensation from the State concerned if remedies were available within the State. In his view, once compensation had been settled and paid, States should not exercise jus protectionis on behalf of nationals and corporate bodies who were dissatisfied with the compensation paid.

With regard to article IX, it was perhaps impossible to make any estimate of sums involved. He was inclined to favour the solution proposed in article 4 of the Belgian working paper (A/AC.105/C.2/L.7).

As far as articles X and XI were concerned, he referred to his remarks with reference to the draft agreement on assistance and return.

Mr. DOBELL (Canada) said that he would set forth his delegation's general views on the USSR draft agreement on the rescue of astronauts and spaceships (A/AC.105/C.2/L.2/Rev.1).

It appeared to his delegation that there was some discrepancy between the obligations of contracting parties under article 1 and the limitations imposed by articles 4 and 5. It would be in order for the ships and aircraft of a State of registry to lead the search for a foreign spacecraft which it had registered provided its ships and aircraft were in the vicinity, but if no ships or aircraft of the State of registry were in the vicinity, humanitarian considerations would oblige the captains of any ships or aircraft of other nations in the area to come to the rescue. His delegation felt that those considerations should be expressed in any convention that was adopted on assistance and return.

The USSR draft employed the term "launching State" throughout and assigned certain duties and rights to that State. The United States draft used the term "State of registry" in corresponding clauses. The term "launching State" was ambiguous and in his delegation's opinion should not be retained unless it were defined so as to remove all ambiguity.

He assumed that it was through an oversight that no specific mention was made in article 9 of the USSR draft of the return of parts of objects launched into outer space. He would also suggest that there should be a reference to boosters or parts of boosters. His delegation would be interested to know more precisely what the USSR delegation envisaged by the words "if the launching State has officially announced the launch of these objects and the purposes of launching." He would like to know when the announcement would be made and whether it would be in the form of national registration or of international registration, perhaps with the United Nations.

His delegation considered that the number of accessions need not be as large as was specified in article 13 and that the phrase "including the instruments of ratification or accession of the States which launch objects into outer space" was too imprecise. The qualification was perhaps intended to ensure the accession of the two major space Powers, for obviously a convention to which neither the United States nor the USSR had acceded would have very limited value. Owing, however, to the ambiguity of the wording and to the fact that the number of launching States might grow, and in view of the problems that would arise if international organizations were to undertake launchings, it introduced uncertainty into an article which ought to be completely explicit.

His delegation welcomed the inclusion of article 10, but would like to see a reference in the preamble to the Declaration of Legal Principles, (General Assembly resolution 1962 (XVIII)), as also an article laying down procedures to be followed for the settlement of disputes.

He supported the suggestion made by the Austrian representative that a State that had launched into outer space an object which had subsequently returned to earth should be under the obligation to recover the object if requested to do so by the State on whose territory it had landed. That was an omission that should be rectified in both the United States and the USSR drafts.

Mr. DASHTSEREN (Mongolia) said that, of the two draft agreements concerning assistance to and return of astronauts, the USSR draft (A/AC.105/C.2/L.2/Rev.1) more clearly reflected the principles contained in the Declaration of Legal Principles. As the USSR representative had pointed out when introducing his delegation's draft, it reflected the two key principles of humanitarianism and respect for the sovereignty of States. It also took into account the observations

made by a number of delegations during the present discussion. The USSR draft would thus serve as a good basis for detailed elaboration of the topic.

The United States draft (A/AC.105/C.2/L.9), on the other hand, contained a number of unacceptable provisions. Article 7 for instance, was at variance with the Charter and irreconcilable with the principle of universality, which was a necessary condition of any agreement such as the one under discussion. In adopting the 1963 Declaration, the States Members of the United Nations had solemnly declared that "outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law" and that "States shall regard astronauts as envoys of mankind in outer space"; article 7 of the United States draft was clearly incompatible with those noble principles. There were also practical difficulties; it was not impossible, for instance, that an astronaut might be obliged to land in the territory of a State banned under article 7 from participating in the agreement and hence under no obligation to rescue or return. That article was therefore of a clearly discriminatory nature.

Article 4, too, raised serious doubts, since no more than a mere thirty-eight of the 115 States parties to the Statute of the International Court of Justice regarded its decisions as having binding force. At the eighteenth session of the General Assembly, the representatives of many African and Asian States in the Sixth Committee had warned against exaggerating the importance of the International Court and spoken against any enlargement of its powers. As the Ghanaian representative had pointed out, many States were reluctant to have recourse to the process of law and preferred to choose freely among the "peaceful means" mentioned in Article 33 of the Charter, the more so as geographical representation in the Court was so heavily biased in favour of Western jurists and judicial systems.

Mr. PARTI (Hungary) said that one of the most important tasks before the Sub-Committee was to provide a legal framework for the prevention of dangerous situations arising in connexion with space flight and for assistance to astronauts, the "envoys of mankind in outer space". There could be no possible objection to those humanitarian aims, and his delegation endorsed the view that a world-wide rescue network, with all the technical and legal arrangements that implied, should be established as soon as possible under an international convention, which would be the legal expression of the common will of humanity and binding on all parties.

There could be no doubt that the Sub-Committee was competent to undertake such a task. Not only would a convention of that kind protect the lives of the space-age pioneers; it would constitute an important step in the field of legislation imposed by technical and scientific development.

As in the early days of flying, astronauts faced a multitude of hazards, any one of which could be fatal; just as in the case of aviation, therefore, it was necessary to draw up legal regulations to govern the safety of space flight. The organization of efficient telecommunication facilities was of particular importance for rescue operations; now that the world stood at the threshold of the space age, his delegation would stress the importance of such facilities, just as, years before, it had taken the initiative in proposing that a wider range of frequencies should be assigned to aerial navigation in order to increase the safety of civil aviation.

The existing international law governing telecommunications, especially the provisions concerning the saving of human life, and the law of the sea and air in the same field, could greatly facilitate the task of drawing up a convention on assistance to astronauts. No sooner had wireless telegraphy been put to use by maritime States at the beginning of the century than jurists had proposed the conclusion of appropriate international agreements, and those same agreements had also constituted the first international legislation in the field of rescue operations. The international telecommunications convention in force today still required priority to be given to distress signals, irrespective of their source. A series of multilateral conventions designed to save human life had been concluded in the first half of the twentieth century and had proved so useful that they had constantly been brought up to date and were respected throughout the world. The experience gained in those various fields could surely be put to use in laying the foundations of space law. Like the exploration of space itself, the rescue of astronauts must of necessity be an international concern, for spacecraft might land at any point on the globe. The corresponding legal framework must therefore be virtually universal, based on a convention whose obligations would be binding.

The maintenance of world-wide rescue facilities would be a costly business. A General Assembly resolution would not be a sufficient basis for such a system, since such resolutions were not binding; what was needed was a declaration of

sound general principles by the General Assembly and a multilateral convention under United Nations auspices ratified and applied by the signatories, like other conventions in the matter of sea and air rescue. The greater the number of signatories the more effective and universal such a system would be. The technical operations involved in a world-wide rescue system would be carried out in accordance with the prevailing international conventions in the fields of telecommunications and radio.

Hungary being a small country, there was relatively little danger of a space accident in Hungarian territory. Nevertheless, his delegation considered it its duty to take part in the drafting of a convention on assistance to astronauts, for that was a noble humanitarian and urgent task. Achievement of that goal would call for the close co-operation of many States on the basis of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)). The conclusion of an agreement on assistance to astronauts would constitute a new, prime source of international law in accordance with Article 13 of the Charter; it would also contribute greatly to the safety of human life and the development of space law.

His delegation fully approved of the USSR draft agreement on the rescue of astronauts and spaceships (A/AC.105/C.2/L.2/Rev.1). The corresponding United States draft (A/AC.105/C.2/L.9), on the other hand, contained many provisions unacceptable to his delegation, which would expatiate on its objections in the Working Group.

Mr. CGISO (Japan) said that his delegation had already explained its position with regard to the obligation of launching States to register every launching with the appropriate international organization. He would not, therefore, dwell on that subject at the present stage.

His delegation associated itself with the views expressed by others with respect to the reimbursement of expenses incurred in rescue activities. A provision on the lines of that in the USSR draft might perhaps be included.

He agreed with the remarks made by the representatives of Austria and Sweden with regard to article 2, paragraph 2, of the United States draft agreement on assistance and return (A/AC.105/C.2/L.9).

With regard to the question of review, his delegation considered that since outer space was a new area of human activity and that the agreement on assistance and return, if successfully concluded, would constitute an entirely new precedent

in international treaties, it was necessary to stipulate the need to review it after a certain period of time so that its provisions could be adapted to any new situation which might arise in the future. Article 5 of the United States draft agreement appeared to be intended to deal with that problem, but the procedure it suggested had certain drawbacks. It would take a long time for amendments to come into force, since their entry into force would be conditional upon acceptance by the majority of the contracting parties. Under that provision different amendments might be proposed at different times and different texts might be applicable among various Member States. His delegation therefore felt that the usual pattern should be followed, to avoid possible legal complications.

The provision in the United States draft concerning the coming into force of the agreement had the advantage over the USSR draft that it would secure its early entry into force. It seemed to his delegation, however, that the United States proposal was unprecedented. On the other hand, the adoption of the USSR formula might mean that the entry into force of the agreement would be considerably delayed. It was to be hoped that some appropriate and practical compromise might be reached by the Working Group.

Although the conclusion of an agreement on liability was important, it must be kept in mind that an effort should be made by launching States or agencies to take precautionary measures against accident. If the Sub-Committee could not agree to include some such provision in the agreement itself, it might perhaps be drafted in the form of a special resolution. His delegation suggested the following formula:

"The State of registry or international organization responsible for launching should make every effort to ensure that the objects are made of such materials or equipped with such devices as to enable them to be burned up or destroyed before landing on earth or water, in order to avoid damage on land or sea."

While the term "gross negligence" in article III, paragraph 1, of the United States draft convention concerning liability might be clear to those familiar with Anglo-Saxon legal systems, it was less clear to others. If the term was to be retained, his delegation hoped that it would be accompanied by a precise definition or explanation.

With regard to the reference to "stateless persons" in article IV, paragraph 1, his delegation felt that it implied a departure from the general principle

concerning nationality of claims, which required that, from the time of occurrence of an injury until the making of an award, a claim must belong continuously and without interruption to a person or group of persons having the nationality of the State by which the claim was put forward. If, however, a majority of members accepted the present formula, his delegation would concur, while reserving its position on the general principle.

In connexion with article VII, his delegation felt it might be advisable to make provision for the commission's expenses.

With regard to article IX, his delegation considered that it would be premature to set a limit on liability at the present stage. There was not yet sufficient technical data available to determine the possible extent of damage; as had been pointed out, accidents involving nuclear-powered spaceships might well cause damage on an enormous scale. In that connexion, his delegation would like to know whether "personal injury" was intended to include the latent effect of radioactive contamination; such effects required considerably longer than one year to make themselves felt, and his delegation therefore supported the United Kingdom suggestion for an extension of the time-limit for the submission of claims stipulated in article IV, paragraph 3. A further consideration which would affect that time-limit and to which attention should be devoted in the Working Group was the fact that it might not always be possible immediately to identify the State of registry.

As his delegation had already urged, there should be a clear relationship between the liability and assistance agreements, and all launching States should assume liability for damage in exchange for the right to claim the return of space vehicles. He hoped that a provision to that effect would appear in any agreement on assistance.

Mr. HAKIM (Lebanon) said that it had become apparent in the course of previous statements that one problem would have to be faced before any agreement on assistance or liability could be concluded: the problem of identifying the launching State or State of registry. It was clear that most States would not for some time be capable of launching objects, and for them the problem of identification was indeed crucial. Both the USSR and the United States draft agreements would require States in whose territory a spaceship landed to notify the launching State. As, however, there must be equality of obligations on the

part of contracting parties to such agreements, the Sub-Committee should seriously consider making provision for advance international registration of all launchings. Moreover, a launching State should be required to furnish any further information necessary for the purposes of identification subsequent to launching. His delegation recognized that the inclusion of such a provision in the agreements themselves might raise complex technical problems; in that case, it would call for a special separate convention to that effect.

INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: GENERAL DEBATE (continued):

Mr. CALDERON PUIG (Mexico) said that the adoption by the General Assembly of the Declaration of Legal Principles (resolution 1962 (XVIII)) constituted a decisive step towards the establishment of space law. That Declaration, which was the fruit of compromise, represented the maximum agreement possible at the present time.

There was undoubtedly a need for a binding international agreement setting forth the general standards governing space activities, not only those contained in the Declaration of Legal Principles but other vital principles, such as those embodied in General Assembly resolution 1884 (XVIII).

It appeared, however, that there was not yet a consensus of views on whether or not the time was ripe for the drafting of such a convention. That being the case, the Sub-Committee should make the best use of the limited time at its disposal by carrying out the task entrusted to it by the General Assembly of preparing draft international agreements on liability and assistance. It was right that they should enjoy priority, the agreement on liability for reasons of justice, and the agreement on assistance and return for humanitarian and scientific reasons - considerations by which the Sub-Committee should be guided in its work.

Of course, States enjoyed the sovereign right to conduct search and rescue operations in their territories for and by themselves. Naturally, if a State carried out operations to the advantage of another State, the latter should bear the costs incurred.

As far as the draft agreement on liability was concerned, his delegation agreed with previous speakers who had stressed the necessity to arrive at a satisfactory definition of the term "space objects". It was likewise important

to specify the nature and scope of responsibility and to establish clearly which State should be considered responsible.

His delegation was thus in agreement with much that had already been said. In a century which had seen the liquidation of colonialism, it would be unthinkable to initiate an imperialist age in outer space. His Government hoped that all agreements reached by the Sub-Committee would be unanimous and would reflect as their highest priority the supreme interest of mankind; in the present instance, the utilization of outer space for peaceful purposes. Any agreement which was arrived at as a mere compromise between the two space Powers, and which failed to serve the interests of the whole international community, would be incompatible with the Sub-Committee's mandate.

The meeting rose at 1 p.m.

THIRTY-FOURTH MEETING

Friday, 13 March 1964, at 3.15 p.m.

DRAFT INTERNATIONAL AGREEMENTS ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE AND ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/5; A/AC.105/C.2/L.2/Rev.1, A/AC.105/C.2/L.7, A/AC.105/C.2/L.8, A/AC.105/C.2/L.9) (continued)

Mr. AMBROSINI (Italy) said that he wished to make a number of comments of a general nature on the draft international agreements on assistance to and return of astronauts and space vehicles and on liability for damage caused by objects launched into outer space.

His first point concerned international organizations. Two such organizations in Europe were engaged in exploration of outer space. They had juridical personality and, in his view, should be treated in the same manner as member States, i.e., they should be responsible for any damage caused by space vehicles launched by them on their return to the earth. Space vehicles belonging to them should be internationally registered. He thought that either the United Nations or one of its specialized agencies, most probably the International Civil Aviation Organization, (ICAO), should be entrusted with the task of registering space vehicles.

His second point related to the costs of rescue. Under maritime law no remuneration could be claimed for the rescue of persons but there was provision for remuneration when property was salvaged. On the other hand, in the case of air transport a draft convention which was at present being studied by ICAO made provision for remuneration even for the rescue of persons. Since assistance to and return of astronauts to the State responsible for the launching was a humanitarian act, he thought a simple provision might be inserted in the draft international agreement to the effect that no remuneration or reimbursement of costs was due. The USSR revised draft agreement on the rescue of astronauts and spaceships (A/AC.105/C.2/L.2/Rev.1) made provision for the launching State to reimburse a Contracting State for the expenses it incurred in rescuing astronauts or salvaging spaceships, satellites and capsules, but he did not think there should be reimbursement for rescuing human beings.

He was of the opinion that distinct and separate rules should be laid down to cover cases of collision, whether between two spaceships or between a spaceship and an aircraft. His delegation could not support the provision in article III, paragraph 2, of the United States draft convention concerning liability (A/AC.105/C.2/L.8)

that if objects launched into outer space collided, there should be no liability as between States of registry or international organizations involved in the launching of such objects; in its opinion that should not be so if there was proof that the collision had not occurred through a mutual fault. It was a point which might be discussed in the Working Group.

Nor could his delegation agree with the provision in the USSR revised draft agreement (A/AC.105/C.2/L.2/Rev.1) that the launching State might reserve the exclusive right to carry out, by its own means and with its own personnel, operations for the finding and rescue of astronauts and spaceships in a zone of the high seas designated by itself. It would be quite wrong to prevent an organization or a State from undertaking a search for and the rescue of the personnel of a spaceship. Under Italian legislation even private persons were obliged to make efforts to rescue anyone in distress, while under maritime law every ship was obliged to rescue and succour ships and persons in danger on the high seas.

Another point which would cause difficulties for some States was the United States proposal in Article VII of its draft convention concerning liability. States which were not parties to the Statute of the International Court of Justice would hardly find the proposal acceptable. Moreover, he could not see why the right to apply to the ordinary courts of justice either in their own country or in the other country concerned should not be granted to the victims. That was the generally recognized rule in international law. It was moreover far simpler and less costly than the procedure which the United States proposed. The fact that a State might claim immunity to jurisdiction could be dealt with, as in aviation, by a provision that States should renounce that right in advance in respect of damage caused by the launching of objects into outer space.

Another point which he wished to raise concerned the term "gross negligence" used in article III, paragraph 1, of the United States proposal (A/AC.105/C.2/L.8). It had been the subject of interminable discussions in various fields. The Convention for the Unification of Certain Rules relating to International Carriage by Air introduced the concept of gross negligence which corresponded to the concept of wilful misconduct in Anglo-Saxon countries. He thought it would be preferable to omit the word "gross" in the United States draft. The State or organization which was responsible for the damage would then be able to request the attenuation or setting aside of its liability if there had been negligence or gross negligence, on the part of the victim. It would be for the judge to decide the gravity of the negligence and its implications.

He did not think it was necessary to include a definition of the term "damage" in the convention concerning liability. The definition in the United States draft, to the effect that "damage" meant loss of life or personal injury and destruction or loss of property, did not cover the case of radioactive contamination or other maladies.

He was of the opinion that the agreement should provide for the limitation of liability. It existed in maritime and air law. Those who pursued activities in the field of outer space for the benefit of mankind should enjoy that privilege in a certain measure. It was difficult to decide precisely what the limit should be but conventions which already existed with respect, for instance, to radioactive contamination occurring in the course of maritime transport and to the liability of the carriers, should provide guidance.

Article VII of the United States draft convention provided that if a claim was not settled within one year from the date of presentation, the presenting State might request the establishment of a commission to decide the claim. A number of representatives had considered the period too short and would have preferred two years. In certain civil aviation conventions a time-limit of two years was laid down but there were provisions that when the victim was unable to ascertain the author of the damage the time-limit would not apply: it was prolonged. There was, however, always a statute of limitations. He thought similar provisions should be included in the United States draft, irrespective of whether a period of one or two years was decided upon.

The United Kingdom representative had suggested that the best way for the Sub-Committee to conduct its business would be to start in the Working Party by comparing the United States and USSR texts and to endeavour to harmonize them. He felt, however, that neither draft was general and complete in scope, as was clear when they were compared with similar conventions in the fields of maritime and air law, although he recognized that an incomplete convention was preferable to no convention at all.

Sir Kenneth BAILEY (Australia) said that the incorporation in an agreement on liability of the relevant provisions of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)), namely paragraph 8 and the last sentence of paragraph 5, would entail an immense amount of legal work. The fact that the two drafts submitted by the United States (A/AC.105/C.2/L.8) and Belgium (A/AC.105/C.2/L.7) were so widely different gave some indication of the difficulty of the task.

The question of determining, by means of an international convention, the question of liability for damage caused by spacecraft was complicated by the existence of international organizations created for the purpose of conducting space activities by co-operative arrangements between a group of States, but having distinct juridical personality. There were serious objections to making an international organization party to an agreement on the same footing as the contracting States. The fact was, however, that space activities were increasingly likely to be carried on by international organizations. The Declaration placed such organizations on exactly the same footing as States with regard to liability, and the convention on liability, should do the same.

Neither of the two drafts he had mentioned, however, did so; both provided for liability to be borne only by the State or States concerned with launching. Under both drafts, the liability was not joint but several; that point was stated expressly in the Belgian draft and seemed to be implicit in article VII of the United States draft. In cases where two or more States were concerned in a joint launching, both drafts left it to the States concerned to determine, by indemnity arrangements wholly collateral to the United Nations convention, how a liability to which any one of them was assessed under the convention was to be apportioned. That arrangement was entirely acceptable to his delegation and in conformity with the Declaration.

Regarding provision for the liability of an international organization as such, he pointed out that such an organization might have a juridical personality of its own and conduct its own launchings. That was the position with regard to the European Launching Development Organization (ELDO). Australia was a party to the Convention establishing ELDO and it had signed an agency agreement with ELDO under which it had undertaken to provide facilities for the launching of spacecraft. The question whether or not the convention on liability provided for the separate liability of an international organization was therefore of direct concern to Australia.

The United States draft took account of the likelihood that some launchings would be undertaken by international organizations. It conferred on international organizations the same right as States to claim compensation, but it did not impose direct liability on such organizations for damage done by spacecraft. Article III, paragraph 2, of that draft seemed to imply that there should be liability as between States of registry or international organizations because it expressly said

that in the event of a collision between objects launched into outer space, there was no liability. That was meaningless unless such a liability existed. There might be juridical obstacles to the idea that the contracting parties to the convention could impose liability on an entity which was not itself a contracting party, and of which one or more of the component States might not be parties to the convention, but those obstacles might not be insuperable and consideration should be given to some procedure for overcoming them.

Two steps might perhaps be considered. Firstly, the convention might impose liability on an international organization that notified the Secretary-General of its acceptance of the provisions of the convention; that idea had a parallel in the Convention on the privileges and immunities of international organizations. It would apply not only to future international organizations, but also to those already in existence. The convention, however, could not itself confer on an international organization the capacity to accept international legal obligations of that kind; that capacity could derive only from the charter given to the organization by its constituent States.

The second step to be considered followed upon the foregoing; the convention should contain a provision to ensure that all international organizations conducting space activities would in fact be authorized by their respective charters to accept the obligations of the convention. It could, for example, be provided that the contracting parties would undertake to use their best endeavours to ensure the inclusion of the appropriate authorization in the charter of any international organization of which they were members, or even that they would undertake not to become or to remain members of any such organization which was not authorized to accept the obligations of the convention.

He would give his delegation's views on a number of matters of legal detail and of drafting, in particular on the provisions of the United States text regarding the State of registry, in the Working Group.

Turning to more general matters, he associated himself with the view expressed by the representative of the United Arab Republic at the 32nd meeting, namely that consideration of the incorporation in an international agreement of the principles governing the space activities of States was an integral part of the Sub-Committee's continuing study of the problems that might arise in the exploration and use of outer space. His delegation did not wish to be understood as derogating from that task in any way, but it felt that the Sub-Committee must decide when and how the

matter could appropriately be taken up. It was already clear from the debates at the present session that the subject could not be taken up immediately without prejudicing the prompt preparation of the two draft agreements that had been expressly requested by the General Assembly. The discussions of those two drafts showed that a great deal of preliminary work was necessary before there was any likelihood of even a general discussion being fruitful. Some at least of the other paragraphs of the Declaration presented exactly the same problems, or at any rate, problems of the same order of difficulty. Paragraph 6 of the Declaration was only one illustration, dealing as it did with rules to ensure that the exploration and use of outer space took place only in the common interest of mankind. That was perhaps a good example of the kind of thing that the representative of Lebanon had had in mind in his statement at the previous day's meeting. The Sub-Committee would have to make careful provision in advance for preliminary studies before further effective progress could be made in the task of incorporating in international agreement form the legal principles governing the activities of States in outer space.

Mr. CAMFORA (Argentina) pointed out that the launching of objects into outer space, like aviation in its early days, entailed unforeseeable risks. It was therefore essential that the matter of liability should be regulated in clear and precise terms. At the present stage of progress of outer space activities, his delegation was of opinion that the matter should be governed by the principles of objective liability (responsabilité objective), which placed the main emphasis on the results of the event that caused the damage.

With regard to the question of participation in the agreement on liability, his delegation urged that international organizations should be enabled to become parties to it, since the treaty-making capacity of those organizations was recognized and since a number of them were already engaged in outer space activities.

Turning to the United States draft (A/AC.105/C.2/L.8), he said that his delegation, in addition to favouring the doctrine of objective liability, had some other reservations. Under article III, paragraph 2, in the event of the collision of two space devices, there would be no liability as between the two launching States or organizations. That article needed to be supplemented by a provision specifying that liability subsisted in the event of damage to third parties resulting from the collision.

With regard to article IV, he shared the view of the delegations which felt that a contracting State should be able to present a claim for compensation in the event of damage suffered by a dual national - if one of the two nationalities involved was that of that contracting State - or by a stateless person resident in its territory.

His delegation had reservations regarding the scope and effect of article VI; he urged that an exhaustive examination should be made of all the implications of its provisions. He saw no reason for including the provisions of article VI, which were inconsistent with the general principles of international law on the jurisdiction of the domestic courts of States.

Article X provided for the compulsory jurisdiction of the International Court of Justice over disputes arising from the interpretation or application of the agreement. As he had stated at the 32nd meeting in connexion with the similar clause in the United States draft on assistance (A/AC.105/C.2/L.9), that type of clause was unacceptable to the Argentine delegation unless it was amended to specify that jurisdiction over a dispute could be conferred upon the International Court of Justice only by agreement between the parties to the dispute.

The question of the jurisdiction of the International Court of Justice in the interpretation of treaties had already been raised at a number of international conferences and the problem was one on which the views of States were well known. The Australian representative had pointed out at the 32nd meeting that the question of the participation clause was not one for the Sub-Committee to decide; that remark applied with equal force to the jurisdictional clause. It would therefore be advisable for the Sub-Committee to leave those questions to the General Assembly or the conference of States that would take the final decision on the text of the agreement.

Mr. BENYI (Hungary), introducing the draft agreement concerning liability for damage submitted by his delegation^{*/} recalled that at the previous session his delegation had expressed the view that the elaboration of rules on liability was of primary importance for future procedure in outer space matters. In Hungary, which was small but densely populated, protection from damage caused by objects from outer space was almost impossible. It was therefore a matter of concern to his country that such rules should be drawn up as soon as possible. It was also in the interest of international peace and security that they should be established.

^{*/} Later circulated as document A/AC.105/C.2/L.10.

The lack of law governing outer space activities could not but lead to friction and tension between States. The elaboration of such a body of law was an intricate matter, for the legal systems of different countries differed from each other and there were no traditions or precedents for the law of outer space. Furthermore, the national liability systems did not guarantee an equitable solution. It was with those considerations in view that his delegation had submitted its draft agreement.

He went on to draw attention to the main points covered by his delegation's text. In article II, paragraph 1, it left the Sub-Committee to decide the maximum amount of liability. Paragraph 2 of that article reflected the fact that in many States the concept of moral damage was unknown. In the following articles, the principle that the launching State was responsible for damage had been assumed, except in article V. In article VII, paragraph 2, the question of responsibility for joint launchings was covered. Articles IX and X dealt with claims for damage; the provisions were intended to be just to both parties. As there were no limits to activities in outer space, the agreement could provide complete guarantees only if it was open for signature or accession by all States; that principle was laid down in articles XIII and XIV. The closing articles contained the usual clauses for entry into force, notification etc.

His delegation trusted that the draft agreement would be acceptable to all States, for it was imperative to lay the foundations for codified international law on liability for damage caused by objects from outer space.

INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF OUTER SPACE: GENERAL DEBATE (continued)

Mr. GOLLESTANEH (Iran) said that those who had felt pessimistic at the close of the Sub-Committee's first session could now feel proud of the progress that had been made. The General Assembly had laid down the principle of the peaceful use and exploration of outer space in the Declaration of Legal Principles submitted by the Sub-Committee and embodied in General Assembly resolution 1962 (XVIII). That measure of agreement had been made possible largely by the fact that the United States and the USSR had been ready to co-operate. He trusted that the Sub-Committee could continue to count on their co-operation.

He did not wish to repeat the points which had already been made in the debate regarding the draft agreements on assistance and liability but he would like to make the position of his delegation clear on two specific points. Firstly, Iran held that outer space should be used only for peaceful purposes and for activities for

the benefit of mankind. While the arms race continued, there would be obvious difficulties in applying such a principle, but the two draft agreements to be prepared by the Sub-Committee should be a step in the right direction. He endorsed the remarks on that point made by the representatives of Japan, Austria, India and Mexico. The point was also mentioned in article 9 of the USSR draft agreement (A/AC.105/C.2/L.2/Rev.1). Secondly, regarding signature and accession, he could not accept articles 11 and 12 of the USSR draft, to which article 7 of the United States draft (A/AC.105/C.2/L.9) was preferable. It would be illogical for a United Nations body to provide for the signature and accession of States outside the Organization without the approval of the General Assembly.

There were some ambiguities in the United States draft convention concerning liability for damage (A/AC.105/C.2/L.8). For instance, article I (e) defined the "State of registry" as firstly a contracting party which had registered an object for launching into outer space and secondly a contracting party which had not registered such an object. He trusted that such points would be clarified in the Working Group. He felt that the two draft agreements would provide a sound basis for the progressive formulation of principles governing activities in outer space.

Mr. SILOS (Brazil) said that his delegation still had the same reservations regarding the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)) as it had expressed in the Committee on the Peaceful Uses of Outer Space and in the First Committee at the eighteenth session of the General Assembly. The General Assembly itself was apparently aware of the shortcomings of the Declaration, since in resolution 1963 (XVIII) it had recommended that consideration should be given to incorporating the principles in international agreement form. Part I, paragraph 1, of the resolution gave the Committee a clear mandate to undertake that work; if the Sub-Committee felt that it should not embark on the task at present, it should state its reasons for that view.

Regarding the draft agreements on assistance and liability, his delegation wished to put forward the following points. Firstly, the main features of the texts should be dictated by humanitarian considerations. Secondly, the texts should be well balanced so as to take into account the interests, duties, obligations and sovereign rights of all States. Thirdly, operations for the rescue of astronauts or spacecraft should be undertaken by the State on which they landed, not by the launching State. Fourthly, assistance on rescue operations should be granted by the

launching State to the State where the landing occurred, at the latter's request. Fifthly, the preamble to the agreements should not contain any reference to the Declaration of Legal Principles, which had been approved only with strong reservations on the part of some States.

Mr. PERSIN (International Telecommunication Union), speaking at the invitation of the Chairman, drew attention to the fact that ITU had already made a beginning in the adoption of provisions of space law when the Extraordinary Administrative Radio Conference, held at Geneva from 7 October to 8 November 1963, had revised certain provisions of the Radio Regulations; those Regulations had been originally adopted at Geneva in 1959 and annexed to the International Telecommunication Convention. The revised provisions would enter into force on 1 January 1965.

The Extraordinary Conference had been convened to allocate frequency bands for space radiocommunication purposes. The new provisions, however, covered more than the utilization of the new methods of telecommunication resulting from the use of space techniques, which at the present stage meant the use of telecommunication satellites. In fact, the new regulations conditioned the utilization of radio-communications in all space techniques; since every one of those techniques involved the utilization of radiocommunications, the provisions that would become binding on 1 January 1965 were of basic importance to all uses of outer space.

In thus discharging its responsibilities at the technical level, ITU had been faced with the practical necessity of doing pioneer work in the legal field. The new Radio Regulations, although not drawn up with the general principles of outer space law in mind, contained legal elements of fundamental importance in the development of that branch of international law.

The Extraordinary Conference had succeeded in its main purpose and had increased from 1 to 15 per cent approximately the share of space communications in the radio-frequency spectrum; the frequency bands thus allocated would be used for a variety of purposes, such as space research, telecommunications, meteorology, radionavigation and radio astronomy, etc.

At the same time, the Conference had adopted some forty definitions, which although binding only in respect of the application of the Radio Regulations, would no doubt be of interest to the Sub-Committee in its work. The terms thus defined in the revised article 1 of the Radio Regulations included "spacecraft" (engin spatial), the importance of which had been stressed by the Belgian representative at a previous meeting, "deep space" (espace lointain) and "orbit". In order to

illustrate the complexity of the matter he quoted the amended definition of "aeronautical station" (No.34), which read: "A land station in the aeronautical mobile service. In certain instances, an aeronautical station may be placed on board a ship or an earth satellite." A station on an earth satellite was thus included among land stations, and that definition, in spite of the apparent paradox, was perfectly coherent within the context of the Radio Regulations.

Reference had been made to the importance of the registration of spacecraft. The revised Radio Regulations included provisions on the subject of identification signals and call signs. As the registration marks of aircraft were identical with the call signs of their radio station, it was possible that the new provisions on the call signs of spacecraft would have an effect on the question of registration. The Extraordinary Conference had decided that, pending the adoption of special provisions on call signs for spacecraft, the rules on the identification of ships and aircraft would apply to them. The new Regulation 737A, para. 2A inserted in article 19 of the Radio Regulations stated that, in the event of the transmission of identification signals by a space station not being possible, "that station shall be identified by specifying the angle of inclination of the orbit, the period of the object in space and the altitudes of apogee and perigee of the space station in kilometres".

The Conference had adopted a number of other interesting legal provisions. For example, article 7 of the Radio Regulations had been amended to add a new Section IX entitled "Space Services" and stating: "Space stations shall be made capable of ceasing radio emissions by the use of appropriate devices that will ensure definite cessation of emissions".

In that connexion, he recalled that the ITU had devoted its attention not only to the problem of possible damage caused by space objects, but also to that of possible damage to such objects, a problem which was of immediate practical importance.

The Conference had also adopted a number of resolutions and recommendations, some of which had a bearing on legal questions. Resolution 2A, for example, dealt with space vehicles in distress and emergency. The Radio Regulations devoted

special attention to the question of safety of ships and aircraft - to which spacecraft must now be added - and there were extensive provisions dealing with the use of telecommunications to ensure safety at all times and not merely in the event of distress or emergency.

Much remained to be done with regard to the law of outer space, even in the purely technical field of telecommunications to which ITU had devoted its attention. His organization would continue its work in the matter and would wholeheartedly co-operate with the other organs, such as the Sub-Committee, which dealt with the general problem of the law of outer space.

Mr. KRISHNA RAO (India) said that his delegation wished to pay a tribute to the memory of the late President Kennedy, who, with Prime Minister Khrushchev, had given meaning to the principle of peaceful uses of outer space by concluding to that end such agreements as the 1963 Moscow Treaty on the cessation of nuclear tests, which provided in particular for the banning of those tests in outer space, and the understanding, later embodied in General Assembly resolution 1884 (XVIII), that they would refrain from placing in orbit around the earth or stationing in outer space any objects carrying nuclear weapons or any other kinds of weapons of mass destruction.

His delegation considered that, in pursuance of resolution 1963 (XVIII), the Sub-Committee should give continuing consideration to incorporating in international agreement form, in the future as appropriate, legal principles concerning outer space so as to make an effective contribution to the shaping of an international legal order for outer space. Of course, not all space questions were yet ripe for definite legal formulation but a fruitful discussion at the present session would lead to substantial results at later sessions.

The freedom of exploration and use of outer space, and the principle that outer space and celestial bodies were not subject to national appropriation, could be said to constitute existing rules of customary international law. Outer space was a new field and there were as yet no vested interests to prevent the international community from embarking on a regime of co-operation rather than of conflict. The problems of outer space were fortunately not those of modifying an

existing régime but of fashioning a new pattern of international behaviour. His delegation was convinced that, as knowledge and experience of outer space grew, the international law of outer space must be gradually formulated rather than rules of customary law on the matter being left to develop.

He supported the delegations of Japan, the United Arab Republic and Lebanon in stressing the primary importance of formulating the legal principle which reserved outer space exclusively for peaceful uses. That principle had been put forward as early as 1957 by the President and the Secretary of State of the United States. The USSR had at that time signified its agreement in principle and in March 1958 had introduced an agenda item dealing with the banning of the use of cosmic space for military purposes. The General Assembly had later combined the United States and Soviet Union proposals on outer space under the heading "Question of the peaceful use of outer space" and in resolution 1348 (XIII) of 13 December 1958 had recognized "the common interest of mankind in outer space" and "that it is the common aim that outer space should be used for peaceful purposes only", at the same time expressing the wish "to avoid the extension of present national rivalries into this new field". The Committee on the Peaceful Uses of Outer Space had been set up to promote international co-operation in those peaceful uses.

He was therefore justified in requesting that the Sub-Committee should frame a declaration of principle reserving outer space for peaceful purposes only. He was not asking for a treaty on the subject, although he felt that such a treaty would come sooner or later. It was a source of satisfaction that the space Powers had declared that it was not their policy to place in orbit nuclear weapons with re-entry capabilities but, as Professor Maxwell Cohen, the well-known Canadian authority on the law of outer space had stated, such an informal posture was less than satisfactory for the peace of mind of mankind. Since the Moscow Treaty prohibited nuclear tests in outer space, it was appropriate to provide also that outer space should not be used for other military purposes. Moreover, a declaration of the type he was suggesting would not give a military advantage to any Power and would be in conformity with the principles governing the Assembly resolutions on the subject of disarmament.

It had been argued that legal principles governing military uses of outer space could not be formulated because provision would have to be made for verification, a matter which fell within the competence of the Disarmament Committee. The obligations embodied in resolution 1884 (XVIII) had however been accepted without any verification provisions and the same was true of the agreement between the Soviet Union and the United States to ban nuclear weapons from outer space. The same approach could be adopted with regard to the declaration of a legal principle reserving outer space for peaceful uses. His delegation was making that suggestion in the spirit of a recent statement by the President of the United States that stressed the urgency of avoiding an arms race in space because it was clearly easier not to arm an environment that had never been armed than to disarm one that had been armed.

Both the USSR and the United States had agreed that experiments which had potentially harmful effects or which affected the environment should be banned from outer space and both Powers had welcomed the establishment of the seven-member Consultative Group on Potentially Harmful Effects of Space Experiments under the Committee of Space Research (COSPAR) of the International Council of Scientific Unions. Accordingly, at the second session of the Scientific and Technical Sub-Committee of the Committee on the Peaceful Uses of Outer Space, the Indian delegation had submitted draft recommendations that would have had the effect of requiring States which proposed to carry out space experiments to seek a qualitative and quantitative analysis of such experiments from the Consultative Group and of requiring the Committee on the Peaceful Uses of Outer Space to give due consideration to the Group's opinion. He now reiterated that suggestion and hoped that, since both the Soviet Union and the United States had agreed on the usefulness of the Consultative Group and since both were represented on it, although at a non-governmental level, it would be possible for them to accept the Group as the agency to be consulted before any doubtful or controversial experiments were conducted. As the Indian delegation had stressed at the second session of the Legal Sub-Committee, early action should be taken to prevent the use of outer space for experiments which endangered human life or which changed the space environment.

Mr. GLASER (Romania) commended the delegations which had submitted drafts on assistance and liability and congratulated the Secretariat on the valuable working papers it had prepared.

He felt certain that the general debate had been useful from both the theoretical and the practical points of view. There had been general agreement on the feasibility, and indeed the necessity, of incorporating in general agreement form the principles set forth in resolution 1962 (XVIII), although some speakers had felt that the time had not yet come to conclude such an instrument.

He could not agree with the French representative's suggestion at the 32nd meeting that existing international law covered the terrestrial consequences of outer space activities but that there was as yet no law of outer space. On the first point, he pointed out that any object launched into space began its journey in the atmosphere, which according to existing international law was subject to the sovereignty of the subjacent States; yet it had never been suggested that the permission of those States was needed to launch a space device or that such a launching was not licit. On the second point, it would not be accurate to suggest that there was a legal vacuum in outer space: as the Italian representative had pointed out, there were rules of international law which applied to outer space. For example, the rule that States must not commit aggression applied in outer space as it did elsewhere.

The fact that certain writers had expressed doubts regarding the existence of a law of outer space was a strong argument in favour of concluding international treaties incorporating the legal principles that governed the activities of States in the exploration and use of outer space. Such treaties would serve to consolidate the existing law in the matter. It had been objected that such instruments would necessarily be incomplete, but it was preferable to have an incomplete treaty than no treaty at all on the subject. Moreover, it must be remembered that the international instruments on assistance and liability would not be exhaustive. The fact was that all agreements in the matter of outer space would do no more than codify as much of the law as it was possible to do at the present stage. It could not be expected that there would be general agreement on all points.

The fruitful debate on the various drafts to deal with the specific subjects of assistance and liability had clearly shown that, where a divergence of views existed, it proceeded from the lack of agreement on the underlying principle involved. The discussion on the clauses on jurisdiction and participation illustrated that point clearly.

The Sub-Committee's deliberations had shown a considerable measure of agreement on certain important principles: those principles included the rule that the law of outer space must serve the cause of peace, the need for all international instruments on the subject to respect the sovereignty of States, and the principle that the law of outer space must be a universal law. It was important to recall that as a result of its composition, the Sub-Committee, like its parent body, had a broadly representative character so that it reflected world opinion as a whole.

The present session was one more episode in the codification of the law of outer space. The first session of the Sub-Committee had ended without agreement even on a declaration of principles; since then, much progress had been made and he felt confident that the time would come when binding international instruments would be concluded to incorporate the legal principles governing the activities of States in the exploration and use of outer space.

The CHAIRMAN declared the general debate concluded. At its next meeting the Sub-Committee could hear any speakers on the Hungarian draft agreement after which the discussion of the various drafts could be taken up in Working Groups. He suggested that there should be two Working Groups, both open to the whole membership of the Sub-Committee: the first would meet in the mornings and deal with the drafts and amendments on assistance and return; the second would meet in the afternoons and deal with the drafts and amendments on liability. In accordance with the usual practice, no records would be kept of the proceedings of the Working Groups. The Secretariat would, however, circulate promptly any texts agreed upon.

If there were no objections, he would consider that the Sub-Committee agreed to that procedure.

It was so decided.

The meeting rose at 6.10 p.m.

THIRTY-FIFTH MEETING

Monday, 16 March 1964, at 10.50 a.m.

INTERNATIONAL AGREEMENTS ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE AND ON ASSISTANCE TO AND RETURN OF ASTRONAUTS AND SPACE VEHICLES (A/AC.105/C.2/5; A/AC.105/C.2/L.2/Rev.1; A/AC.105/C.2/L.7; A/AC.105/C.2/L.8; A/AC.105/C.2/L.9; A/AC.105/C.2/L.10) (continued)

Mr. GOLEMANOV (Bulgaria) said that before commenting on the two draft agreements concerning liability, submitted by the Hungarian and United States delegations respectively, he wished once again to stress that General Assembly resolution 1963 (XVIII) gave basic priority to the elaboration of an international agreement on legal principles governing the activities of States in the exploration and use of outer space; the other parts of the Sub-Committee's mandate as set forth in part I of the resolution, important as they were, were subsidiary. That being the case, his delegation would have preferred the Sub-Committee to begin drafting a general international convention at the same time as it worked on the specific agreements. He regretted that such a procedure had not been adopted and that a draft general convention had not been submitted to the Sub-Committee at its present session.

Turning to the two draft agreements on liability, he said that the Hungarian text (A/AC.105/C.2/L.10) had a number of advantages over the United States text (A/AC.105/C.2/L.8); it was more detailed and better balanced, the wording was clearer and it contained no discriminatory clauses. Article IV of the Hungarian draft, for instance, filled an obvious need, whereas there was nothing comparable in the United States draft; article VI of the Hungarian draft was more comprehensive than the corresponding article of the United States draft; article XII of the Hungarian draft was reasonable and acceptable to all States, whereas the corresponding article VII of the United States draft was unacceptable to many delegations by reason of the procedure it envisaged; under article XIII of the Hungarian draft, the agreement would be open for signature to all States, whereas the corresponding article XIII of the United States draft was clearly discriminatory, as had been urged repeatedly during the past week.

The Working Group would consider both draft agreements and would doubtless take into account also the Belgian working paper on the same topic (A/AC.105/C.2/L.7); it would do well, however, to concentrate on the Hungarian draft. He hoped that,

with a further display of the mutual co-operation which had prevailed hitherto, the Working Group would succeed in reaching a compromise solution acceptable to all delegations.

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the question of liability for damage caused by the launching of objects into outer space had attracted the attention of a number of jurists, who, while expressing what were sometimes diametrically opposed views on the topic, had nevertheless agreed on one thing: namely, that it was a matter of extraordinary complexity. The problem was that different legal systems dealt dissimilarly with questions concerning liability, and that the international legal norms governing liability for damage at the international level were not always consistent, as well as being far from complete. Furthermore, there were a number of practical aspects which were not yet altogether clear. The Sub-Committee's task was of course considerably more complicated than that facing the theorists of international law, for it had not only to bring some order out of the confusion of existing ideas but also to draft international legal norms such as could be recommended to all States for their approval.

The Sub-Committee should not, however, be dismayed by the complexity of its task, for it already had an excellent point of departure: the Declaration of Legal Principles, adopted by the General Assembly at its eighteenth session (resolution 1962 (XVIII)), especially paragraphs 5 and 8. By establishing that States were responsible for all types of national and international activity in outer space and by emphasizing that States must not allow private companies or international organizations to engage in outer space activities in such a manner as to endanger human life, health or property, the Declaration had indicated the direction the Sub-Committee should take in drafting an agreement. His delegation, for its part, would spare no effort to bring the Sub-Committee's work to a successful conclusion.

The two draft agreements on liability, submitted respectively by the Hungarian and United States delegations, and the working paper on the same topic submitted by Belgium, differed widely both in their approach to the problem and in their comprehensiveness and depth of analysis. In his delegation's view, the topic received thorough treatment in the Hungarian draft (A/AC.105/C.2/L.10), which was based on the Declaration of Legal Principles and took into account views which were winning ever wider acceptance in international law theory. The preamble to that

draft, which represented a valuable contribution to the Sub-Committee's work, clearly set forth the main purposes to be fulfilled by an agreement on liability; it should recognize the common interest of mankind in furthering the peaceful exploration and use of outer space, and it should encourage States and international organizations to take the greatest possible precautionary measures against damage inflicted by objects launched into outer space -- a point which had been raised by the Japanese representative.

The Hungarian draft agreement reflected the principle, set forth in paragraph 8 of the Declaration of Legal Principles that liability for damage caused by an object launched into outer space lay with the launching State. The question of liability for damage was simple when an object was launched by one State from its own territory and with its own facilities; in such a case, the launching State alone was liable for any damage. The question became far more complicated, however, when more than one State was involved in the launching; the provision in the Hungarian draft concerning joint and several liability appeared to open the way to the solution of that problem. If a State suffered damage from an object launched jointly by a number of States, it would clearly be to its advantage to be able to claim compensation from any of the States involved, in accordance with the principle of joint and several liability. The State claiming compensation would not then need to investigate the basis on which the launching States had conducted their joint activities; that task would be incumbent upon the launching States, for it would be for them to decide among themselves what share of the liability fell to each. Such a procedure would be just, would correspond to the interests of States and would be in accordance with the principle, recognized in all legal systems, of joint and several liability for damage caused by one's partners, a principle reflected in many international agreements on liability. It would have the further advantage of encouraging States which proposed to engage in joint space activities to give the most serious attention to the problems of compensation for damage. It should be noted that many international jurists favoured the concept of the joint and several liability of States engaging in joint space activities. The German jurist Wimmer, for instance, had observed that joint and several liability would encourage States to permit the launching of spaceships only when everything possible had been done to avoid damage to third parties. In the United States draft, however, it was not made clear what procedure was envisaged for settling claims arising out of joint space activity.

Another provision of the Declaration reflected in the Hungarian draft was the principle that in the case of space activity by an international organization, the organization's liability extended to its member States. Thus the draft both strengthened the principle of an international organization's material liability and protected the interests of States suffering damage by enabling them to claim compensation from any State belonging to the organization concerned.

The treatment of international organizations in the United States draft (A/AC.105/C.2/L.8), on the other hand, was at variance with the Declaration. According to the Declaration, international organizations were responsible for complying with the principles of the Declaration; it followed that they should also assume liability for any damage caused by their space activities. Yet the United States draft regarded an international organization only as a potential victim of damage, defining it as a "presenting State" in article I (c). The absence of any reference to an international organization's liability for damage was a serious omission. Moreover, there was no justification for equating an international organization with a State, for it had neither nationals nor territory which could suffer damage.

The Hungarian draft also advanced a satisfactory solution to the extraordinarily complex theoretical question of the principle underlying liability. The complexity of the question arose from the absence of precedents. In the present case, therefore, it was necessary to rely on experience, logic and common sense. In the Hungarian draft, liability for damage on the ground or in the atmosphere was regarded as absolute, whereas liability for damage in outer space was considered to arise only when the party inflicting the damage was at fault. That was a clear and logical concept and a good basis on which to draft the agreement. Furthermore, the concept enjoyed wide support among international jurists; it was the view taken, for instance, by the United States jurist Cooper, the United Kingdom jurist Jenks and the German jurist Wimmer.

Another most important principle embodied in the Hungarian draft was that regarding "unlawful activity", in article IV. It was natural that any State or international organization guilty of violating international law should assume full material liability for any damage inflicted in the process, whether on the ground, in the atmosphere or in outer space.

The Hungarian draft provided for the submission of claims through the diplomatic channel and offered a procedure for the settlement of disputes based on the practice prevailing among sovereign States. Those provisions should be reflected in the draft agreement to be prepared by the Sub-Committee.

In the United States draft, in addition to the shortcomings he had already noted, there were some points which required clarification. For example, after defining "receiving State" with the aid of the term "State of registry" the draft proceeded to list cases in which liability could arise without registration. Several provisions of the United States draft did not correspond to the Declaration of Legal Principles recently adopted by the General Assembly.

The Hungarian draft rightly provided that the agreement should be open for signature to all States. There could be no justification for barring any State from participation, for that would defeat one of the main purposes of the agreement: to ensure appropriate financial protection for any State suffering damage caused by objects launched into space. The sole argument adduced in support of the corresponding articles in the two United States draft agreements, which contained a formula designed to limit participation, was that the formula in question normally appeared in conventions drafted under United Nations auspices. That formula, which derogated from the rights of a number of States, was, however, widely disputed and the fact that it had been written into various conventions over the protests of many States did not make it any more just. Mere repetition of an illegal act could not make it legal. Moreover, recent experience offered several examples of international agreements, enjoying universal support, in which express reference was made to all States of the world: the 1961 Geneva agreements on Laos, for instance, had contained a clause providing that copies should be sent to all States, and the Moscow test ban treaty was open for signature to all States. After all, it was recognized in international law that a State's participation in a multilateral treaty did not imply its recognition of States it did not choose to recognize. The test ban treaty had been supported by almost the entire membership of the United Nations and no Member State had objected to the formula in question. There was therefore every reason why it should be included in the agreement on liability.

His delegation endorsed the cogent objections voiced by a number of previous speakers, in particular the representatives of Mongolia and Argentina,

to the inclusion of an article on the compulsory jurisdiction of the International Court of Justice. He was surprised that the United States delegation should advance such a proposal when it was well known that the overwhelming majority of States refused to accept the Court's jurisdiction as binding; even those States which did so accept it had made various reservations which in practice enabled them to avoid bringing a wide range of topics before the Court. For example, the United States had indicated that its acceptance of the Court's compulsory jurisdiction did not extend to disputes which fell within the domestic jurisdiction of the United States as defined by the United States. Anyone familiar with the various United Nations conferences on legal matters would doubtless recall that United States attempts to include an article concerning the Court's compulsory jurisdiction had invariably been rejected. That had been the case at the 1958 Conference on the Law of the Sea and again at the 1963 Conference on Consular Relations in Vienna; on both occasions, the resolute opposition of a considerable number of States had made it necessary to draft an "optional protocol" so that those States wishing to recognize the compulsory jurisdiction of the Court might do so. It was significant that the number of States signing the "optional protocol" had been very small in each case. Since the Secretary-General was the depositary for both conventions, perhaps the Secretariat would kindly furnish the Sub-Committee with the exact figures.

Mr. ZAK (Czechoslovakia) observed that the fact that three drafts had been submitted on the subject of liability for damage caused by the launching of objects into outer space - not to mention the original draft resolution on liability for space vehicle accidents submitted by the United States delegation at the first session of the Sub-Committee - showed the importance delegations attached to the subject.

His delegation did not wish to underestimate the importance of the Belgian working paper (A/AC.105/C.2/L.7), which put forward a number of interesting ideas; for the time being, however, it would simply compare the main principles of the Hungarian draft agreement (A/AC.105/C.2/L.10) and the United States draft convention (A/AC.105/C.2/L.8).

In the opinion of his delegation, the agreement should include legal provisions which were in accordance not only with the principles of international law but with those of the Charter, in so far as peaceful co-operation between States was concerned. It should also, of course, be in harmony with the legal principles

enunciated in General Assembly resolution 1962 (XVIII). It was in that spirit that the problems relating to the agreement should be solved. It should define the damage involving States in liability, the extent of such liability, the party incurring liability and the party claiming compensation, the procedure for claiming compensation and the nature and extent of reparation; it should also provide for disputes in matters of interpretation and application and for signature of and accession to the agreement.

Some of these fundamental questions were dealt with on similar lines in the two drafts - for example, the question of the need to fix a maximum sum for the liability of the State, a principle which was endorsed also by the Czechoslovak delegation. On other points, however, there were differences.

For example, articles I and IV of the United States draft exceeded the generally accepted principles of international law by placing on the same footing a State which was a contracting party and an international organization one member of which was a contracting party.

Under article III the only exception to absolute liability was gross negligence; there was no mention of such factors as deliberate intention or direct guilt, or of force majeure, which was referred to in many international conventions and was thus a recognized principle of international law which should not be omitted from the agreement.

His delegation considered that article XIII was a violation of the principle of the sovereign equality of States, laid down in the Charter. In that respect the agreement should be modelled on the Treaty of Moscow, which was open for signature by any State.

Moreover, article II of the United States draft was not entirely in conformity with the provisions of the Declaration of Legal Principles in General Assembly resolution 1962 (XVIII).

The Czechoslovak delegation could not accept the principle of the compulsory jurisdiction of the International Court of Justice, laid down in article X, or the provisions of article VII under which the President of the Court would appoint one of the three members of the arbitration commission.

The draft agreement submitted by the Hungarian delegation, on the contrary, respected the principles of international law and the provisions of the Charter and of the Declaration of Legal Principles. Furthermore, it reflected the need for a progressive and continuous evolution of international law. It would therefore form an admirable starting-point for the work of the Sub-Committee.

Mr. GLASER (Romania) noted with satisfaction that the Hungarian draft agreement (A/AC.105/C.2/L.10) and the United States draft convention (A/AC.105/C.2/L.8) had many points in common. Nevertheless, the United States draft introduced some unnecessary complications. For example, the exclusion of certain States was a violation of the principle of universality and, moreover, would have the practical drawback of making it impossible to claim compensation from a State which had not adhered to the convention.

The question of arbitration and the compulsory jurisdiction of the International Court of Justice had already been dealt with by the USSR representative. The idea of including a clause providing for such compulsory jurisdiction had been rejected by the Conference on the Law of the Sea in 1958, by the Conference on Diplomatic Relations in 1961 and by the Conference on Consular Relations in 1963. His delegation was surprised that the United States delegation should press for the inclusion of such a clause, since in other cases the United States had qualified its adherence to the optional clause by ruling that it did not apply in matters which, according to the decision of the United States Government, were within its domestic jurisdiction.

He considered that the provisions of the agreement on liability should be based upon paragraph 8 of General Assembly resolution 1962 (XVIII). Clearly the Hungarian draft corresponded more closely to the principles laid down in that paragraph.

His delegation was in favour of the joint and several liability of States which, for various reasons, might become liable. A State might, for example, be the owner of the object, it might have launched it, it might be the owner of the launching installation and so forth. His delegation considered that all States which were involved in any way should be jointly and severally liable. He understood by that that a claim could be made against any one of the States in question for the whole of the damage and that the States which were jointly and severally liable would subsequently come to an arrangement among themselves. Prevention was better than cure, and everything that would cause States to exercise greater care in carrying out activities in outer space should be welcomed. If, as in the United States draft, only one State was liable for damage, the other States which participated in the launching would be less concerned with the necessity to avoid the possibility of accident.

It was true that the phrase "joint and several liability" did not appear in General Assembly resolution 1962 (XVIII), but it was not excluded and it would be for the Sub-Committee to decide what kind of liability was preferable. From that point of view his delegation supported the Hungarian draft.

The idea that a distinction should be made between accidents on the earth, in air space and in outer space deserved to be studied and had the support of his delegation. As the USSR representative had pointed out, the fact that a number of recognized experts supported the idea was evidence that it was worthy of consideration. The sole exception should be that in case of an accident resulting from illegal action, the guilty State should be liable. In his delegation's view the manner in which that question was dealt with in the Hungarian draft was preferable to that of the United States draft.

With regard to the question of activities in outer space by international organizations, raised in the United States draft, he pointed out that the only mention of the subject in General Assembly resolution 1962 (XVIII) occurred in the last sentence of paragraph 5. There was nothing in that resolution to justify the assumption made in the United States draft that an international organization could present a claim for damages. Indeed, it was difficult to see on what basis it could do so, since it possessed no territory and had no inhabitants, and in the event of damage suffered by stateless persons a member State would be able to claim on their behalf. The point at issue was not a legal quibble but the expression of a difference in basic conceptions. Incidentally, he would like to know whether the phrase was intended to cover only inter-governmental organizations, or also non-governmental and mixed organizations such as, for example, the Red Cross.

With reference to article I (c) of the United States draft, he maintained that it was legally unsound to include international organizations in the notion of States. States were sovereign; international organizations were not. Similarly, the basic idea of article IV was not acceptable to his delegation.

As his delegation had already stated, it had no preconceived ideas regarding either the substance or the form of the convention. It would support any proposal which was generally acceptable to the members of the Sub-Committee and which seemed likely to facilitate the Sub-Committee's task.

Mr. WEEKER (United States of America) observed that two of the previous speakers had referred to certain reservations made by the United States Government in connexion with the compulsory jurisdiction of the International Court of Justice.

The purpose of those references had been to indicate that the clauses on settlement of disputes which appeared in two of the drafts before the Sub-Committee would have very limited value.

In order to dispel any possible misapprehension on the subject, he would draw attention to two separate provisions in the Statute of the International Court - Article 36, paragraph 2, frequently known as the optional clause, and paragraph 1 of the same article. The reservations made by the United States Government to which reference had been made were embodied in declarations made in accordance with the former.

The relevant clauses in the United States drafts would confer jurisdiction on the Court under the provisions of Article 36, paragraph 1; they would be matters specially provided for in treaties and conventions in force. Reservations to the optional clause which had been made in the past or might be made in the future would not apply to the draft convention or agreement to be adopted, which would be covered by Article 36, paragraph 1.

The CHAIRMAN announced that the Sub-Committee had concluded the first stage of its work.

Mr. DELLEAU (France) asked whether, during the discussion of the various articles of the drafts in the Working Groups, delegations would be able to voice general considerations and whether it would be permissible to propose not only amendments but new drafts.

The CHAIRMAN replied to both questions in the affirmative.

The meeting rose at 12.40 p.m.

THIRTY-SIXTH MEETING

Thursday, 26 March 1964, at 11.20 a.m.

STATEMENT BY THE REPRESENTATIVE OF ITALY

Mr. AMBROSINI (Italy) announced that his Government had just succeeded in launching a rocket from a sea-borne station at the equator. That achievement, though modest, represented a significant step forward for his country.

ARRANGEMENTS FOR RESUMPTION OF THE SUB-COMMITTEE'S THIRD SESSION

Mr. SCHACHTER (Secretary to the Sub-Committee) said that it would be possible to hold a resumed session in Geneva starting on 20 July, after the International Law Commission had concluded its work; to do so, however, would cost an extra \$ 19,000. On the other hand, the Sub-Committee could meet in New York at any time before the General Assembly's nineteenth session, at no extra cost to the United Nations. Members of the Sub-Committee might be interested to know that the Special Committee on Principles of International-Law concerning Friendly Relations and Co-operation among States would probably begin a session in New York on 25 August.

Mr. KRISHNA RAO (India) congratulated the Italian representative on his country's space achievement.

As far as the resumption of the Sub-Committee's present session was concerned, he urged that consideration be given to the position of the smaller countries, which could ill afford to send delegations to every session irrespective of when or where it was held.

Mr. CAMPORA (Argentina) asked whether a resumed session would be regarded as a continuation of the present third session or whether it would in fact constitute a new session. If the former, it might be preferable to defer consideration of the draft report until the session was really concluded.

Mr. BLIX (Sweden) felt that it would be undesirable if the Sub-Committee's resumed session were to clash with the Special Committee mentioned by the Secretary and remarked that another meeting likely to be of interest to members was due to be held from 16 to 22 August, under the auspices of the International Law Association.

With regard to the Argentinian representative's observation, he considered that the report on the Sub-Committee's current proceedings should not be held up just because it was intended to resume the session at a later date. If necessary, it could be entitled "Report of the Legal Sub-Committee on the work of the first part of its third session."

Mr. AMBROSINI (Italy) agreed that it was desirable to reduce delegation travel to a minimum. Assuming that the General Assembly was to begin its ninety-first session in mid-October, it should be possible for the Sub-Committee to meet in New York at about that time, so that it could submit its recommendations to the Committee for approval without delay and thence straight to the General Assembly. Thus, a single journey would suffice to bring the Sub-Committee's work to a successful conclusion.

In reply to a question from Mr. MEEKER (United States), the Chairman said that Mr. Lachs would be unable to be present if the Sub-Committee resumed its thirty-first session on 20 July, but that he might be available at the beginning of the month.

Mr. KRISHNA RAO (India) said that in view of the foregoing, the best solution would be for the Sub-Committee to meet in New York following the session of the Special Committee, if that was convenient for Mr. Lachs.

Sir Kenneth BAILEY (Australia) said that in view of the many complications, the most the Sub-Committee could decide at the moment was to resume one or two weeks before the main Committee was scheduled to meet, whenever and wherever that might be.

Mr. MEEKER (United States) urged the undesirability of allowing too long a period to elapse before resuming the session. If May or June was out of the question, he would propose that the Sub-Committee recommend a resumption early in July, for approximately three weeks.

Mr. SCHACHTER (Secretary to the Sub-Committee) said that there appeared to be a consensus in favour of meeting in New York rather than Geneva.

Miss GUTTERIDGE (United Kingdom) said that she favoured meeting in New York on financial grounds. As to the date, her delegation agreed with the United States representative that early in July would be suitable. Meanwhile, it was important that the report on the first half of the session should be circulated immediately, since it would be helpful to Governments in preparing further work.

Mr. OGISO (Japan) said that if the main Committee was to meet in New York in August, his delegation would support the United States suggestion for a resumption of the Sub-Committee early in July.

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that in order to avoid the difficult alternatives of financial implications for the United Nations at Geneva and extra expense for delegations going to New York, the Sub-Committee might meet in New York a week or two before the main Committee began its session, as the Australian representative had suggested. That date would presumably be settled by consultation between delegations and the Bureau.

Mr. MEEKER (United States) reminded members that the Bureau of the main Committee, in its interim report on the organization of work (A/AC.105/16), had concluded that "it would seem advisable to hold only one session of the main Committee early in the summer in New York...". His delegation supported suggestions that the Sub-Committee should meet some weeks in advance of the main Committee so that its report might be ready for the latter's consideration; the Sub-Committee could meet in New York early in July, as had been suggested, immediately before the main Committee.

Mr. KRISHNA RAO (India) pointed out that the Bureau's recommendation had been made on the assumption that the Sub-Committee would complete its work in the time allotted. It had not done so, and his delegation was most reluctant to incur the consequent expense of an extra journey to New York. He therefore urged the desirability of resuming the Sub-Committee's session immediately following the session of the Special Committee in August.

Mr. BLIX (Sweden) agreed that adoption of the arrangement proposed by India would ease the difficulties confronting the smaller countries. However, the session of the Special Committee might well overlap with the General Assembly, if the opening of its nineteenth session was not postponed, leaving no interval for the Legal Sub-Committee.

Mr. KHLESTOV (Union of Soviet Socialist Republics) stressed that he had not had any specific dates in mind, inasmuch as the dates of the main Committee's session had yet to be decided. The point was simply that it would be less expensive for delegations if the sessions of the main Committee and the Sub-Committee were to run consecutively.

Mr. MEEKER (United States) thought it was important that the Sub-Committee's session should begin not later than three weeks before the main Committee's session, so that its report might be ready in time.

Mr. KRISHNA RAO (India) had no objection to the United States representative's proposal. However, since the whole situation was fluid and it was not even known when the General Assembly would begin its nineteenth session, he would only ask the Secretariat to bear in mind two points: the dates of the Special Committee's session, and the need to keep delegations' travel costs as low as possible.

Mr. SCHACHTER (Secretary to the Sub-Committee) suggested that it be left to the Bureau of the main Committee to work out the details.

Mr. MARSCHIK (Austria) agreed that the Sub-Committee should not attempt to hold the Bureau to any definite dates, although it could legitimately express the wish that its resumed session might be tied to the session of the main Committee.

The CHAIRMAN said that there appeared to be a consensus to the effect that the Sub-Committee should resume its third session in New York approximately three weeks ahead of the main Committee, the details to be settled in consultation with the Bureau.

DRAFT REPORT TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

The CHAIRMAN suggested that the Sub-Committee should consider the draft report section by section.

Mr. KHLESTOV (Union of Soviet Socialist Republics) proposed that, in order to save time, representatives should comment only on those paragraphs which called for special attention.

It was so decided.

Mr. KRISHNA RAO (India) asked whether the Sub-Committee would have any further drafts to consider before completing its work; if so, it could hardly adopt its report at the present meeting.

Sir Kenneth BAILEY (Australia) said that his own and the Canadian delegation hoped to submit a new text at the beginning of the next meeting.

Mr. LEMAITRE (France) said that his delegation would be unable to approve the report until it was available in French.

- The CHAIRMAN said that the French text should be distributed at the beginning of the next meeting.

Mr. BLIX (Sweden) suggested that the report should be given preliminary consideration at the present meeting and that its formal adoption should be deferred to the next meeting.

It was so decided.

Mr. CALDERON PUIG (Mexico) deplored the fact that, as the texts of amendments and other documents had not been circulated in Spanish, the Spanish-speaking delegations had been labouring under a great disadvantage and had been unable to participate fully or easily in the discussions in the Working Groups.

The CHAIRMAN expressed regret. The documents were being translated into Spanish, and would be distributed as soon as possible.

Mr. KRISHNA RAO (India) said that there were serious omissions in the draft report. - In particular, it made no reference to a principle to which many delegations, including his own, attached the utmost importance, namely, that outer space should be used exclusively for peaceful purposes. Some delegations had even advocated the preparation of a declaration on the subject. The point should be covered in the account of the general debate on page 3 of the draft report.

Mr. OGISO (Japan) supported the Indian representative.

Mr. GLASER (Romania) also supported the Indian representative. His own and other delegations had emphasized the point and at the thirty-fourth meeting, he himself had stressed the need for a binding international agreement on the subject.

Mr. CALDERON PUIG (Mexico) pointed out that in the original draft (Conference Room Paper No.2), the point had been included in the second part of paragraph 9. It was difficult to see why it had been left out of the revised text.

Mr. KHLESTOV (Union of Soviet Socialist Republics) felt that the draft was on the whole satisfactory but a little too concise. For instance, the parts dealing with assistance to and return of astronauts and space vehicles, and with liability for damage caused by objects launched into outer space gave the impression that very little progress had been made, whereas there had been very fruitful discussions on both subjects. The report should make some mention of that fact. However, he was not in favour of the addition proposed by India. If every point made in the general debate was to be reflected in the report, it would become unwieldy. That was unnecessary in any event, for all the points were clearly set out in the summary records. In his view, paragraphs 8 to 10 of the draft report should be left as they were.

Mr. CAMPORA (Argentina) pointed out that the title of the draft report should be amended to indicate that it covered only the first part of the Sub-Committee's third session. Secondly, the report should make some mention of a

proposal made by his delegation at the thirty-second meeting, namely, that there should be a legal formulation of the principle 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 and social development, which now formed part of the preamble of the Declaration of Legal Principles (General Assembly resolution 1962 (XVIII)), as had already been done in the case of atomic energy. His own statement on the subject had been strongly supported by many other delegations and he felt that it was the duty of the Sub-Committee, as a legal body, to press for the legal formulation of the idea. A specific reference to it should be inserted in paragraph 9.

Mr. KRISHNA RAO (India) supported the proposal made by the previous speaker. He could not see why the USSR representative was opposed to any amendment of paragraphs 8 to 10 of the draft report, unless he was referring to the original text. If reliance was to be placed on the summary records alone, there would be no need for a report; but the Sub-Committee was expected to submit a report. When it did so, the text must contain an account of the views expressed regarding the exploration and use of outer space exclusively for peaceful purposes, which was the most important of all the principles relating to outer space that had been enunciated so far.

Mr. SILOS (Brazil) said that there was a third omission from the account of the general debate (paragraphs 8 to 10). Two schools of thought had been evident in that debate; some delegations had held that the Sub-Committee should devote all its attention to drafting agreements on assistance and liability, and others that some consideration should also be given to incorporating in agreement form legal principles governing the activities of States in outer space, as provided in part I, paragraph 1, of General Assembly resolution 1963 (XVIII). The view of the former group of delegations was reflected in the report but that of the latter was not. He therefore proposed that the second sentence of paragraph 8 should be amended to make the position clear. That might be done by rewording the beginning of that sentence along the following lines: "In the course of the discussion, several delegations, having in mind the task entrusted to the Committee in part I, paragraph 1, of General Assembly resolution 1963 (XVIII), favoured...".

Miss GUTTERIDGE (United Kingdom) said that the fifth sentence of paragraph 16 did not quite reflect the position with regard to the proposal (WG.11/8) made by her delegation; she had not meant to suggest that the United Kingdom text should be inserted in a specific place in the draft agreement. That might be made clear by inserting the word "possibly" before the words "for inclusion in Article 1", in the ninth line of the paragraph. Secondly, in its present form paragraph 18 did not indicate that although the drafting of the two international agreements had not been completed, substantial progress had nevertheless been made in the Working Groups. She therefore proposed that the beginning of the first sentence of paragraph 18 should be reworded to read as follows: "The Sub-Committee noted that, although substantial progress had been made, there had been insufficient time to prepare agreed texts of the international agreements...".

Mr. RAE (Canada) pointed out that according to paragraph 14 the texts of the draft agreements on assistance and return and of the amendments and proposals received by the Working Group were to be reproduced as an annex to the report. He wondered why no similar provision had been made for the texts on liability.

Miss CHEN (Secretariat) said that that was an oversight; a similar paragraph would be inserted on the section on liability.

The meeting rose at 1 p.m.

THIRTY-SEVENTH MEETING

Thursday, 26 March 1964, at 3.30 p.m.

DRAFT REPORT TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (concluded)

At the request of the CHAIRMAN, Miss CHEN (Secretariat) read out the changes which had been suggested at the previous meeting and to which there had been no objection.

Firstly, the title of the report should be amended to specify that it was the report on the work of the first part of the Sub-Committee's third session.

Secondly, there was a Brazilian proposal for the insertion in the second sentence of paragraph 8, after the words "a certain number of delegations", of the following words: "having in mind the mandate that was entrusted to the Committee on the Peaceful Uses of Outer Space by the General Assembly in operative paragraph 1 of its resolution 1963 (XVIII)".

Thirdly, the United Kingdom representative had suggested that the word "possibly" should be inserted before the words "for inclusion" in the fifth sentence of paragraph 16.

Fourthly, the Canadian representative had proposed the insertion of an additional paragraph after paragraph 17, along the following lines: "18. The texts of the draft convention submitted by the United States, the draft agreement submitted by Hungary and the working paper submitted by Belgium, together with the amendments and proposals received by the Group, are reproduced in annex ..."

Fifthly, the United Kingdom representative had suggested that the words "although substantial progress had been made" should be inserted in the first sentence of the last paragraph, after the words "The Sub-Committee noted that".

Sixthly, it had been suggested that an additional sentence along the following lines should be added at the end of the last paragraph: "At its 37th meeting the Sub-Committee agreed that the second part of its present session should be held at Headquarters in New York approximately three weeks before the forthcoming meeting of its parent Committee. Some delegations urged that account should be taken of meetings of the Committee on the principles of international law concerning friendly relations and co-operation among States".

The CHAIRMAN said that, if there were no objection, he would consider that the Sub-Committee agreed to those changes being introduced into the report.

It was so agreed.

Mr. DELEAU (France) suggested that paragraph 9 should mention the fact that one delegation had recalled that, in its view, the principles in question would only become binding when they were incorporated in international agreements accepted by States.

Mr. BENYI (Hungary) recalled his statement during the general debate to the effect that no State should use the exploration of outer space for intelligence purposes. Such a use would be contrary to the legal status of outer space as *res communis omnium* and would violate generally accepted principles of international law. In resolution 1963 (XVIII) the General Assembly had stressed that the exploration and use of outer space must be carried on for the benefit and in the interests of all mankind. That fact had been also stressed, in one form or another, in the preambles of the various draft agreements discussed by the Sub-Committee. He accordingly urged that the report should include a reference to the fact that intelligence activities in outer space would be at variance with the principles laid down in General Assembly resolutions.

Mr. KELLBERG (Sweden) pointed out that, if the French suggestion with regard to paragraph 9 were accepted, some reference should be made to the views expressed by other delegations.

Mr. GLASER (Romania) supported that suggestion.

Mr. DELEAU (France) said that the Swedish suggestion was quite satisfactory to his delegation.

Mr. MEEKER (United States of America) felt that it was not appropriate to reopen the general debate on outer space law at the present stage. If the views put forward by various delegations were to be incorporated in the report, his own delegation would want a number of points to be included.

Mr. ICAZA (Mexico) considered that the report should give a brief account of the proceedings. In particular, some reference should be included to the fact that outer space must be reserved for peaceful uses.

Mr. KRISHNA RAO (India) urged that the report should include a reference to the principle that outer space was exclusively reserved for peaceful uses.

Mr. HAKIM (Lebanon) strongly supported that request, since the principle in question had received the support of his own and several other delegations.

Mr. RAE (Canada) suggested a short recess for informal consultation.

The meeting was suspended at 4.15 p.m. and resumed at 4.30 p.m.

Mr. RAE (Canada) said that as a result of the informal discussions a proposal had emerged for the replacement of paragraphs 8, 9 and 10 of the report by a single short paragraph along the following lines:

"During the general debate which was held from 10 to 13 March there was an exchange of views on the questions on the agenda of the Sub-Committee, which is set out in the summary records of the ... meeting to the ... meeting".

Mr. DELEAU (France) Mr. GLASER (Romania) and Mr. HAKIM (Lebanon) supported that proposal.

Mr. OSMAN (United Arab Republic) accepted the Canadian proposal but expressed regret that the report would not reflect the general trends which had emerged in the debate.

Mr. KRISHNA RAO (India), too, regretted that all the elements of the discussion were to be excluded merely because of the suggestion that a reference should be made to the principle that outer space should be reserved exclusively for peaceful uses.

Mr. ICAZA (Mexico) said that, since it was not possible to include all the views expressed, he accepted the Canadian proposal. It was, however, regrettable that there should be such a gap in the report.

The CHAIRMAN said that, if there were no objection, he would consider that the Sub-Committee accepted the Canadian proposal.

It was so decided.

Mr. GLASER (Romania) pointed out that, in suggesting that the present session should be resumed "so that the Sub-Committee could complete those drafts in time for submission to the nineteenth session of the General Assembly", the last paragraph was not quite in conformity with the terms of General Assembly resolution 1963 (XVIII). In order to bring the passage into line with the terms of reference of the Sub-Committee, he suggested that it should be amended to read "... so that the Sub-Committee could continue that work and report thereon to the nineteenth session..."

The Romanian representative's suggestion was adopted.

The CHAIRMAN said that the Australian and Canadian delegations had revised their proposal (WG.I/17) containing the text of six draft articles on assistance and return. He invited the Australian representative to introduce the new text (WG/I/17/Rev.1).

Sir Kenneth BAILEY (Australia) said that the text had been revised to take account of the views expressed in the course of the consultations which had taken place. The revised text, while less incomplete than the original, was still not complete. Although it included a draft of the preamble, which had been absent from the original text, the final clauses were still missing.

The sponsors of the proposal had been unable in the time available to them, to take account of all the amendments submitted both to the texts submitted by the Union of Soviet Socialist Republics (A/AC.105/C.2/L.2/Rev.1) and the United States of America (A/AC.105/C.2/L.9) and to the Australian and Canadian proposal (WG.1/17). He accordingly wished it to be understood that the omission of any amendment from the text did not imply any reflection on that amendment. Hence, the text submitted should be regarded as a revised text involving no commitment on the part of the sponsors. Their original text had been submitted in the hope of clearing away some of the differences of opinion in the Working Group. It was now submitted in revised form as part of the working documents for consideration by Governments before the next session and by the Sub-Committee at that time.

Mr. RAE (Canada) endorsed the statement made by the Australian representative. The revised draft was intended to cover only those provisions on which the two delegations felt that there appeared to be a substantial measure of agreement within the Sub-Committee. They had been encouraged by the discussions which had taken place to draft a compromise text for the preamble which reflected the points of view expressed. Substantial changes had also been made in the articles themselves.

He drew attention to the fact that the submission of the revised draft proposal would necessitate certain changes in paragraphs 13 and 14 of the draft report.

Miss CHEN (Secretariat) said that, subject to the Sub-Committee's approval, paragraphs 13 and 14 would read:

"13. On 24 March Australia and Canada submitted a proposal (WG.1/17) based on the discussion in the Working Group on the draft agreements submitted by the USSR and the United States. Amendments to the draft articles proposed were submitted by Italy (WG.I/18 and 19), Sweden (WG.I/20), France (WG.I/21 and 22) and Japan (WG.I/23). A revised draft of their proposal (WG.I/17/Rev.1) was submitted by Australia and Canada on the final day of the session. The sponsors reported that their revision took account of views expressed in subsequent consultations, both formal and informal. The sponsors also stated that, apart from lacking the necessary final principles, their draft did not imply rejection of amendments not incorporated in it."

"14. The texts of the draft agreements submitted by the USSR and the United States, of the revised proposal submitted by Australia and Canada, and of the amendments received by the Working Group are reproduced in annex"

Mr. GLASER (Romania) pointed out that the words "the first part of" should be inserted in the third sentence of paragraph 13 before the words "the session".

It was so decided.

The amended text of paragraphs 13 and 14 was approved.

The draft report as a whole, as amended, was approved.

CLOSURE OF THE FIRST PART OF THE SESSION

The CHAIRMAN, reviewing the work of the session, said that in his view its main value lay in the efforts which all delegations had made to make a thorough study of a number of legal problems which could be regarded as new problems in the field of international law.

The Sub-Committee had had to take into consideration many juridical institutions which already existed in air and maritime law in its search for adequate solutions in the field of outer space, but in the majority of cases such comparisons would not be appropriate. The Sub-Committee had therefore had to break new ground. Such work could not be done rapidly but had to be undertaken in stages. He felt that the Sub-Committee had achieved good results in that it had prepared the ground for the next stage of the task entrusted to it by the General Assembly.

A further cause for optimism was the common and constant desire which had been in evidence throughout the session to bring the positions of the parties on the various questions closer together. It had been particularly evident in the work on the preparation of a draft agreement on assistance to and return of astronauts and space vehicles. There had also been a very fruitful exchange of views on the draft agreement on liability for damage caused by objects launched into outer space. A third favourable factor had been the atmosphere of co-operation and mutual understanding which had prevailed.

For all those reasons, although the Sub-Committee had before it a number of different drafts and amendments on which no agreement had been reached, it could be said that the most arduous part of its work had been completed, namely the detailed analysis of the institutions to be created in the field of outer space law.

Mr. KHLESTOV (Union of Soviet Socialist Republics) expressed satisfaction that during the session a number of delegations had stressed the need to continue working on an international agreement which would incorporate legal principles

governing the activities of States in the exploration and use of outer space. Such an agreement would contribute to the development of friendly relations between States.

He noted with equal satisfaction the useful work which had been done on the draft agreement on assistance to and return of astronauts and space vehicles. The discussion which had taken place on questions relating to liability for damage caused by objects launched into outer space had likewise been very constructive.

Mr. MEEKER (United States of America) said that a good beginning had been made on the draft agreements on assistance to and return of astronauts and space vehicles and on liability for damage caused by objects launched into outer space, and he hoped that progress would be carried forward energetically at the resumed session of the Sub-Committee in New York.

Mr. BENYI (Hungary) said that in his opinion the Sub-Committee had made encouraging progress despite the short time at its disposal. He was glad that his delegation had been able to contribute to the work on the agreement concerning liability for damage, which he was convinced would lead to a satisfactory agreement in due course. The atmosphere of peaceful co-existence which had prevailed through the session had been most helpful for the preparation of rules governing the peaceful uses of outer space. He was convinced that the Sub-Committee was now nearer to the fulfilment of the task of incorporating in international agreement form legal principles governing the activities of States in the exploration and use of outer space, in connexion with which his delegation would make constructive suggestions in the future.

Mr. ICAZA (Mexico) regretted that, owing to lack of time, the Sub-Committee had been unable to cover all the aspects of liability for damage. An agreement which would ensure justice to States suffering damage through the launching of objects into outer space should be completed as soon as possible. The remedies which such States could seek at the present time were inadequate and it was only elementary justice that they should be able to obtain compensation from launching States. He therefore had reservations concerning certain views expressed during the discussions.

Mr. KRISHNA RAO (India) said that the Sub-Committee's deliberations had caused his delegation some concern. A number of delegations, including his own, had felt that a binding declaration to the effect that outer space should be used for peaceful purposes only would clarify the issues. It would be easier for the Sub-Committee to consider any problem relating to outer space once that principle had

been established. Their suggestion had not received the favourable reception which it deserved and there was no mention of it in the draft report.

He was happy to note the progress which had been made in drafting the agreement on assistance to and return of astronauts and space vehicles. He would like to point out, however, that it imposed more obligations and duties on the non-space Powers than on the space Powers. The non-space Powers were prepared to accept those obligations, since they regarded it as a humanitarian duty, but in his view the same consideration should govern the activities of the space Powers in outer space, which might result in human suffering and loss of or damage to property. The victims of damage caused by objects launched into outer space would be people and not sovereign States. It was the duty of non-space States to see that their citizens received adequate compensation, but in the draft agreements on liability submitted by the two space Powers the question of absolute liability was dealt with in an unsatisfactory manner. It was hedged in by concepts of negligence, fault and vis major which virtually nullified the recognition of absolute liability; moreover there were provisions that the amount of liability should be limited.

It was true that the Vienna Convention on Civil Liability for Nuclear Damage, to which India was a party, prescribed a financial limit. The purpose of that Convention, however, was to enable the developing countries to make greater use of nuclear energy for peaceful purposes for the benefit of their populations. The space Powers did not need any such incentive and the amount they would be required to pay as compensation to nationals of other countries would be negligible compared with the amount they intended to spend on outer space projects in the next twenty years. Secondly, there were safeguards in connexion with the operation of the nuclear reactors, and there were effective insurance measures in the Vienna Convention. He was not aware of any international standards of safety or precautionary measures governing the launching and control of space vehicles. That fact was of the utmost importance in the study of analogies based on existing conventions. Most important of all, however, was the fact that the Vienna Convention related solely to the peaceful uses of nuclear energy. His delegation therefore considered that there should be no limit on financial liability, since it was necessary to safeguard against possible non-peaceful uses of outer space.

The space Powers had agreed between themselves on the qualifications to the concept of absolute liability and the limitation of the amount to be paid. That augured well for the future development of international relations but they should

not expect other countries, some of them with larger populations and larger land areas, to accept them. He hoped that when the Sub-Committee next met, the two space Powers would come forward with proposals which would allay the fears of the non-space Powers.

Under the provisions of General Assembly resolution 1963 (XVIII) it was incumbent on the Sub-Committee to study and report on a continuing basis on legal problems which might arise in the exploration and use of outer space and there were many greater problems that it should discuss, such as communications and contamination of outer space. The Secretariat could usefully study those problems and report to the Sub-Committee as necessary.

Mr. KHLESTOV (Union of Soviet Socialist Republics) assured the Indian representative that the USSR was in favour of using outer space exclusively for peaceful purposes. It was well known, however, that the solution of that problem could not be dissociated from the solution of the disarmament problem. In fact, the former could only be solved within the framework of the latter.

Mr. MEEKER (United States of America) said that as early as January 1957 his Government had urged that effective measures should be taken to ensure that outer space was used exclusively for peaceful purposes. With that end in view it had presented a series of proposals to the Eighteen-Nation Committee on Disarmament. The steps to be taken to ensure that outer space was used exclusively for peaceful purposes had to be effective and not illusory. He hoped that it would shortly be possible to record some progress in the field of disarmament along those lines.

Mr. KRISHNA RAO (India) was happy to note the assurances which the representatives of the USSR and the United States had given.

Mr. FITZGERALD (International Civil Aviation Organization), speaking at the invitation of the Chairman, said that he had been greatly impressed to hear the Sub-Committee discussing problems of liability in the new context of outer space. He wished it success in its work.

After the customary exchange of courtesies, the CHAIRMAN declared the first part of the third session closed.

The meeting rose at 5.45 p.m.