



COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Third session (second part)

SUMMARY RECORD OF THE THIRTY-EIGHTH MEETING

Held at Headquarters, New York,  
on Monday, 5 October 1964, at 3.30 p.m.

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Opening statement by the Chairman

PRESENT:

<u>Chairman:</u>	Mr. LACHS	(Poland)
<u>Members:</u>	Mr. NACO	Albania
	Mr. BELTRAMINO	Argentina
	Mr. COOK	Australia
	Mr. KARLZEMANEK	Austria
	Mr. TURINE	Belgium
	Mr. CARVALHO SILOS	Brazil
	Mr. KARASIMONOV	Bulgaria
	Mr. DOBELL	Canada
	Mr. DELFAU	France
	Mr. CSATORDAY	Hungary
	Mr. IAO	India
	Mr. AMIRMOKRI	Iran
	Mr. AMEROSINI	Italy
	Mr. YAMAZAKI	Japan
	Mr. HAKIM	Lebanon
	Mr. CUEVAS CANCINO	Mexico
	Mr. DASHISEREN	Mongolia
	Mr. TABITI	Morocco
	Mr. OSIECKI	Poland
	Mr. BOUNTINEANU	Romania
	Mr. COLERIDGE-TAYLOR	Sierra Leone
	Mr. KELLBERG	Sweden
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. IBRAHIM	United Arab Republic
	Miss GUTTERIDGE	United Kingdom of Great Britain and Northern Ireland
	Mr. MEEKER	United States of America
<u>Secretariat:</u>	Mr. STAVROPOULOS	Legal Counsel
	Mr. SCHACHTER	Secretary of the Sub-Committee

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN declared open the second part of the Sub-Committee's third session.

He recalled that the work of the first part of the session, held at Geneva in March 1964, had been based on the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space adopted by the United Nations General Assembly on 13 December 1963 and on General Assembly resolution 1963 (XVIII), which embodied the Sub-Committee's terms of reference. The discussions at Geneva had been useful and constructive, but not enough progress had been made, for it had not been possible to complete the preparation of draft international agreements on assistance to and return of astronauts and spacecraft and on liability for damage caused by objects launched into outer space, so that it had been necessary to reconvene the Sub-Committee. The period between the two parts of the session had been rich in events concerning outer space, and the Scientific and Technical Sub-Committee, for its part, had made real progress. It would be desirable for the legal Sub-Committee to make up for lost time so as to avoid any lag - the possible consequences of which were obvious - between progress in space science and progress in space law. He therefore hoped that the second part of the session would be successful and that the Sub-Committee would be in a position to submit concrete proposals to the General Assembly at its nineteenth session.

He reviewed the work so far accomplished by the two Working Groups on the draft agreements on assistance to and return of astronauts and spacecraft and on liability for damage caused by objects launched into outer space, and invited any delegation which wished to make a preliminary statement to do so before the Sub-Committee resumed its work.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that before the resumption of the session, he would like to express his delegation's satisfaction at the progress that had been made in the drafting of the legal principles on assistance to and return of astronauts and spacecraft and on liability for damage caused by objects launched into outer space.

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(Mr. Morozov, USSR)

In that connexion, the Declaration adopted by the General Assembly represented an important step forward, for it constituted the first legal text governing the activities of States in the utilization of outer space. The Soviet delegation regretted, however, that that Declaration was in the form of a General Assembly resolution which laid no legal obligation on the Governments of States Members of the United Nations. It also deplored the fact that, in spite of the efforts which the Soviet delegation, supported by certain other delegations, had made in that direction, it had not proved possible to work out a draft international agreement on legal principles. It was worth noting that one of the main tasks of the Sub-Committee was in fact to draft such an agreement. The Soviet delegation therefore hoped that the Governments represented on the Sub-Committee would make increased efforts to bring their points of view on that question into agreement, particularly as the Declaration of Legal Principles had enjoyed the unanimous support of the States Members of the United Nations.

In the same connexion, he wished to draw attention to some "parallel" measures taken during the summer of 1964 with a view to promoting a certain degree of international co-operation in the field of communications by satellite. The measures in question included the agreement signed at Washington on 24 July between private firms rather than Governments. In the view of the Soviet delegation, the field of communications should be within the jurisdiction of Governments, and not be regulated privately. The Soviet Union was disappointed to find that instead of following the path of universal co-operation in the field of communications, some countries were tending to facilitate the efforts of certain large companies, particularly United States companies, to tighten their grip on all satellite communications systems. The Soviet Government considered that communications by satellite, like international relations in space matters, should be regulated at the inter-Governmental level through agreements to which only States should be parties.

The Soviet delegation had studied the proposals made during the first part of the session in order to find wording for the agreements which would be acceptable to all States.

So far as the first draft agreement on assistance to and return of astronauts and space vehicles was concerned, the USSR would submit a revised draft agreement

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(Mr. Morozov, USSR)

which took into account many of the observations made by other delegations during the first part of the session. The Russian text of that draft was being translated for distribution to all the members of the Sub-Committee, and in the meantime he would summarize its basic provisions. He wished to emphasize that it was of vital importance to Governments which launched space vehicles that any agreement on assistance to and return of astronauts and space vehicles should be of truly universal application, and the Soviet delegation therefore proposed to incorporate in its draft agreement the text of the clause on the accession of non-signatory States which appeared in the Moscow Treaty banning nuclear weapon tests.

As to the principles governing liability for damage caused by objects launched into outer space, he stressed the difficulty of the Sub-Committee's task, and he was not surprised at the slowness of its work on that subject as compared with that on assistance to astronauts. The draft submitted by the delegation of Hungary would permit the best determination of the responsibility of Governments for damage caused by objects launched by them to be made. He therefore proposed that the Sub-Committee should resume its discussion of the Hungarian draft, and suggested that the work of the two Working Groups should be generally based on the considerations he had just advanced.

Mr. MEEKER (United States of America) recalled that owing to lack of time the Legal Sub-Committee had not been able to complete the preparation of the two draft agreements during the first part of the session. Nevertheless, substantial progress had been made. In the resumed session, the best procedure would be for the two Working Groups set up in March to continue the work on drafting the texts.

Although the question of the establishment of a world-wide satellite communications system was not directly related to the problems being examined by the Sub-Committee, he would like to make a few comments on that subject. First, the relevant agreements reached at Washington were of an interim character. Their object was to establish the system as quickly as possible so that it could be put into operation without delay. Secondly, the principal instrument was an agreement between States signed by fourteen Governments and the supplementary agreement

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(Mr. Meeker, United States)

had been concluded between specialized communications entities designated by the Governments. Thirdly, what was envisaged was a universal system which would be open to all members of the International Telecommunication Union. His delegation hoped that there would be more participants, so that the system's coverage and operation would be as extensive as possible.

With regard to the question of assistance to and return of astronauts and space vehicles, he thought that the draft prepared by Australia and Canada (A/AC.105/19, Annex I) in the light of the texts examined by the Sub-Committee and of the discussion during the first part of the session was very useful. He would like however, to see it modified, particularly with respect to two points. In the first place, the draft should clearly establish in its article 4 that instrumentalities of a State participating in the assistance - for example, elements of its armed forces - would be subject to the direction and control of the Government of that State and not of another State. Accordingly, the last sentence of article 4 should be replaced by the following text: "Such Contracting Parties shall co-operate with the State of registry or international organization responsible for the launching." That would ensure co-ordination among the participants but each would retain control over the instrumentalities it would employ. Again, a provision should be added at the end of article 3 (2) stating that, "Without prejudice to the expeditious provision of assistance to downed astronauts, a Contracting Party shall attempt to provide competent technical and medical personnel in rescue operations".

He stressed the great importance of the effort to conclude an agreement on liability for damage caused by the launching of objects into outer space which was a question of interest to all countries. In that connexion he introduced a revised draft (A/AC.105/C.2/L.8/Rev.1) of the United States proposals, which took into account the observations made during the first part of the session, as also earlier drafts. To avoid confusion, the term "State of Registry" had been replaced by the term "Launching State" in article I. The revised text of article II, moreover, clearly enunciated the principle of the absolute liability of the Launching State, which was in conformity with paragraph 8 of the Declaration (General Assembly resolution 1962 (XVIII)). No mention was made of the possibility

(Mr. Meeker, United States)

of an accidental collision between objects launched into space, since such a collision was extremely unlikely. In article III account was taken of a suggestion made by Australia during the first part of the session to the effect that the provisions of the agreement concerning liability would extend to international organizations which had acceded to the agreement and that the members of such an organization could themselves be held liable in the event of failure on its part to make good the damage caused. Thus a State presenting a claim would be able to turn to them for compensation if necessary.

Mr. KRISHNA RAO (India) emphasized the need to draft a declaration on the peaceful uses of outer space. It was true that some progress had been made along those lines but it was greatly to be regretted that as yet no legal rules binding on all States had been laid down. If control measures were not established at the outset it would be difficult effectively to ensure the peaceful uses of space at a later stage. In the absence of a legal instrument, the present struggle for prestige between the two great countries which now enjoyed a kind of hegemony in space involved considerable, and frequently useless, expenditure and might have extremely dangerous consequences for mankind. He appealed to the USSR and the United States to take those considerations into account, as also the notion of liability in the event of negligence, when they discussed their revised drafts.

The Secretariat should keep abreast of, and if necessary inform the Legal Sub-Committee about, the activities of other bodies in relation to outer space.

The CHAIRMAN suggested that he hold consultations with members of the Sub-Committee on the organization of the Sub-Committee's work and submit suggestions on that matter at the next meeting.

Mr. MEEKER (United States of America) suggested that once the programme of work had been drawn up the Sub-Committee should establish the two working groups without delay.

It was so decided.

The meeting rose at 4.45 p.m.