



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.105/C.2/SR.41
20 January 1966

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Fourth Session

SUMMARY RECORD OF THE FORTY-FIRST MEETING

Held at Headquarters, New York,
on Monday, 20 September 1965, at 3.30 p.m.

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PRESENT:

Chairman:

Members:

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| Mr. LACHS | (Poland) |
| Mr. NACO | Albania |
| Mr. COCCA | Argentina |
| Mr. McKEOWN | Australia |
| Mr. ZEMANEK | Austria |
| Mr. LITVINE | Belgium |
| Mr. de MEDICIS | Brazil |
| Mr. YANKOV | Bulgaria |
| Mr. KINGSTONE | Canada |
| Mr. PRUSA | Czechoslovakia |
| Mr. DELEAU | France |
| Mr. USTOR | Hungary |
| Mr. MISHRA | India |
| Mr. AMIRMOKRI | Iran |
| Mr. ROSSI ARNAUD | Italy |
| Mr. YAMAZAKI | Japan |
| Mr. CHAMMAS | Lebanon |
| Mr. RIGALT | Mexico |
| Mr. DASHTSEREN | Mongolia |
| Mr. TABITI | Morocco |
| Mr. WYZNER | Poland |
| Mr. GLASER | Romania |
| Mr. WILLIAMS | Sierra Leone |
| Mr. KELLBERG | Sweden |
| Mr. MOROZOV | Union of Soviet Socialist Republics |
| Mr. SINCLAIR | United Kingdom of Great Britain and Northern Ireland |
| Mr. MEEKER | United States of America |
| Mr. WALIHEIM | Chairman of the Committee on the Peaceful Uses of Outer Space |

Also present:

Representative of a specialized agency:

Secretariat:

Mrs. MEAGHER

Mr. SCHACHTER

World Health Organization
Secretary of the
Sub-Committee,
Director, General Legal
Division

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OPENING OF THE SESSION

The CHAIRMAN opened the fourth session by welcoming the members of the Sub-Committee and congratulating Mr. Waldheim upon his election as Chairman of the United Nations Committee on the Peaceful Uses of Outer Space.

He pointed out that in the twelve-month period since the Sub-Committee's last session, space exploration had progressed at a very rapid rate: man had established a new record of flights in outer space, he had launched several satellites simultaneously and, for the first time, he had "walked in space". On the other hand, the elaboration of a body of law governing space activities had lagged far behind the advances in space technology and science and it was becoming imperative to narrow the gap. He was hopeful that the Sub-Committee would make an important contribution to that end.

Mr. WALDHEIM (Chairman of the United Nations Committee on the Peaceful Uses of Outer Space) said that he would make every effort to assist the Sub-Committee in carrying out its important task.

GENERAL DEBATE

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the Sub-Committee had already achieved positive results and he was confident that it would make real progress towards agreement on the draft texts relating to assistance to and return of astronauts and spacecraft and to liability for damage caused by objects launched into outer space. Under General Assembly resolution 1963 (XVIII), it was the primary task of the Sub-Committee to elaborate international agreements on those subjects, containing firm legal commitments which would be binding upon the signatories. It was gratifying to note, in that connexion, that the initial reluctance of some States to embark on the early preparation of such agreements had been overcome and that all members of the Sub-Committee now shared the Soviet view that the establishment by the United Nations of legal norms governing activities in space could brook no delay. The Soviet Union concurred in the Chairman's opinion that it was imperative to bridge the gap between the heroic achievements of astronauts in the peaceful exploration of space and the practical results thus far achieved in the legal field.

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(Mr. Morozov, USSR)

The Sub-Committee's work on an international convention on assistance to and return of astronauts and spacecraft had been unduly delayed by artificial political differences among States. For its part, the Soviet Union, as early as June 1964 and on humanitarian grounds, had submitted for the Sub-Committee's consideration a draft agreement on the rescue of astronauts and spaceships in the event of accident or emergency landing, which established concrete legal norms binding upon the parties. It had subsequently revised that draft in order to meet the objections of certain members. At the 1963 spring session of the Sub-Committee, the USSR had submitted a draft Declaration of the basic principles governing space activities, taking into account the various views expressed in the Sub-Committee.

Reviewing the results of the Sub-Committee's work, he noted that it deserved credit for having reached preliminary agreement on the preamble and a number of articles of the draft agreement on assistance to and return of personnel and spacecraft, in particular, those relating to notification to launching States and the Secretary-General of accidents to spaceships and the emergency landing of crews in the territory of contracting parties and to the recovery of space objects landing in such territory. On the other hand, it had failed to agree on the articles of the draft agreement relating to the return of foreign spaceships and their crews to the launching State. In the opinion of the Soviet delegation and of many others, the contracting parties should be obligated under the agreement only to return ships and crews launched in accordance with the principles and objectives of the 1963 Declaration of Legal Principles. That did not restrict provisions for the rescue of astronauts. It was gratifying to note that many more delegations were becoming convinced of the appropriateness of that solution.

There were still wide differences of opinion concerning the final clauses of the draft agreement on assistance to and return of astronauts and spacecraft. For example, several members of the Sub-Committee were still not prepared to open the agreement to signature by all States although any limitation on accessions would obviously be prejudicial to national space activities and their practical requirements. The final clauses of the agreement should be modelled on those of the Moscow Treaty on the prohibition of nuclear tests in order to ensure its

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universal application. Furthermore, in addition to the two space Powers, some uncommitted States should be appointed depositories of the agreement, so as to stress the role of the third world in the control of space activities.

The Sub-Committee had still to reach agreement on the application of the agreement to spaceship launchings, the liability incurred by States in connexion with carrying out assistance and the advisability of including provisions in the agreement for the settlement of disputes arising among contracting parties. For its part, the Soviet Union was prepared to continue the discussion of those problems in a constructive spirit.

With regard to the draft agreement on the liability of States for damage caused by objects launched into outer space, the Soviet delegation supported the Hungarian text and was prepared to participate actively in improving it. It favoured the inclusion of provisions to the effect that claims for compensation should not constitute grounds for the sequestration of or the application of enforcement measures to a spaceship of a foreign State.

Mr. MEEKER (United States of America) said that the unanimous adoption by the General Assembly in December 1963 of the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space was a milestone in the history of the United Nations and in the development of law in that new realm. The Declaration was a very important legal as well as political document and he recalled that, at the time of its adoption, his delegation had stated that it considered the Declaration to reflect international law as accepted by the Members of the United Nations and had agreed to abide by it as part of the law of nations. The United States favoured the codification of international law to govern activities in outer space, not for codification's sake, but because of the positive benefits that such codification would bring.

It was for that reason that his delegation shared the view expressed by the Chairman that the Sub-Committee should proceed with the utmost dispatch with its work on the two draft agreements. His delegation had been most encouraged by the rapid progress which had initially been made on the draft agreement on assistance and return and was convinced that there were no serious obstacles to agreement on

(Mr. Meeker, United States)

the few issues still outstanding. The obligation to return astronauts and spacecraft, for example, was clearly stated in paragraphs 7 and 9 of the Declaration and he believed that an overwhelming majority of the members of the Sub-Committee were prepared to accept that obligation. Any suggestion that the obligation to return should be a matter for individual national judgement should be rejected. Also outstanding were the provisions relating to the right of accession and the settlement of disputes, but neither presented any serious problems.

Much more work remained to be done, however, on the draft agreement on liability. Since the adoption of the Declaration in December 1963, man's exploration of outer space had been progressing extremely rapidly, as evidenced by the number of manned and unmanned flights that had been made in the past twelve months alone. Unfortunately, the progress of the United Nations in fashioning law for outer space had fallen far behind. The Sub-Committee had held two fruitful sessions in the first year following the Declaration but nothing at all had been accomplished in the past twelve months. It was his delegation's earnest hope that at the present session at least one of the agreements would be completed and substantial progress achieved on the other.

ORGANIZATION OF WORK

Mr. RIGALT (Mexico) said that it was universally recognized that the task of establishing legislation to govern activities in outer space was both essential and urgent. The fact that the World Meteorological Organization, the International Telecommunication Union and the International Civil Aviation Organization were all doing important work in connexion with the peaceful uses of outer space made it all the more imperative for the Sub-Committee to achieve positive and rapid results. His delegation considered that the procedure adopted by the Sub-Committee in the past was not the most appropriate. There were three separate proposals for each draft agreement and there were many aspects that still remained to be clarified. To attempt to deal with both draft agreements simultaneously was to risk reaching agreement on neither and his delegation therefore suggested that the agreements should be considered consecutively and that the Sub-Committee should decide which of the two agreements it wished to consider first.

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The CHAIRMAN recalled that, at the Sub-Committee's third session, parallel consideration had been given to the two subjects: that of assistance to and return of astronauts and spacecraft, and that of liability for damage caused by objects launched into outer space. The substantive discussions had taken place in two Working Groups, each Working Group dealing with one of the two subjects. The two Groups had met alternately, one in the morning of each day and one in the afternoon. With regard to the first subject, preliminary agreement had been reached on the preamble and several articles of a convention, while on the second subject a useful exchange of views had been held. Since it was not the practice for working groups to have summary records, and since he believed that some delegations felt that the discussions should be recorded, he would suggest that working groups should not be established at the present session, the discussions being held in the Sub-Committee itself. That would make little difference in practice as the Working Groups had consisted of the whole membership of the Sub-Committee.

The Mexican representative had suggested that the Sub-Committee should devote its attention to only one agreement at the present session. Such a procedure would present difficulties, since the General Assembly, in resolution 1963 (XVIII), had requested the Committee on the Peaceful Uses of Outer Space "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". Thus both subjects were given equal priority, and it might not be in conformity with the resolution to defer one subject to another session. He therefore felt that it would be better to continue the practice adopted at the previous session, devoting alternate meetings to the two subjects.

Mr. RIGALT (Mexico) said that while he would be ready to accept the view of the majority, he considered that the General Assembly resolution to which the Chairman had referred gave the Committee on the Peaceful Uses of Outer Space a very general mandate, leaving it free to adopt whatever procedure it thought suitable. It seemed to him that it might be easier to reach agreement if efforts were concentrated on one subject at a time. Such was, moreover, the general practice of United Nations bodies. In his view, the best course would be to begin by taking up whichever agreement seemed likely to give rise to fewer difficulties.

Mr. ZEMANEK (Austria) agreed with the previous speaker. The practice adopted at the previous session had not proved too satisfactory. It might be best to try first to complete work on the assistance and return agreement, since that was the subject on which more progress had been made so far. If it proved impossible to advance further on that subject, the Sub-Committee could turn its attention to the agreement concerning liability.

Mr. USTOR (Hungary) said that his delegation, which had submitted a draft agreement concerning liability at the previous session, planned to submit a revised text in a few days. He was therefore inclined to support the suggestion that the Sub-Committee should begin by taking up the assistance agreement; perhaps the meetings of the next two days could be devoted to that subject and a decision could then be taken, in the light of progress made, as to whether to continue with that subject or turn to the agreement on liability.

Mr. COCCA (Argentina) recalled that as far back as 1962 the General Assembly, in resolution 1802 (XVII), had noted "with regret" that the Committee on the Peaceful Uses of Outer Space had not yet made recommendations on legal questions. It was highly desirable that in the limited time available to it the Sub-Committee should achieve concrete results on at least one subject. He therefore agreed that it might be wise to give priority to the question of assistance and return.

Mr. SINCLAIR (United Kingdom) considered it advisable to adopt a flexible approach to the agenda if the maximum results were to be achieved in the short time at the Sub-Committee's disposal. He would therefore support the suggestion that the Sub-Committee should begin by taking up the subject of assistance and return and see what progress could be made on that topic before deciding how to proceed further.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the Sub-Committee might agree, first, to devote its attention to the question of assistance and return until such time as the Hungarian delegation was ready to submit its revised draft on liability. When that draft was ready, a meeting should be held to enable the Hungarian delegation to introduce it. He would oppose any solution which would preclude all discussion of the question of a liability agreement,

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(Mr. Morozov, USSR)

a question to which many delegations attached importance. The relative priority to be given subsequently to the two subjects could be decided in due course. With goodwill, it should be possible to achieve results in both fields.

The CHAIRMAN suggested that the Sub-Committee should decide to devote its meetings on the following two days to the subject of assistance and return and to leave the question of the organization of the work of future meetings of the present session to be decided on Thursday, 23 September.

It was so agreed.

The meeting rose at 5 p.m.