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COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
EIGHTH SESSION (9 JUNE - 4 JULY 1969) TO THE COMMITTEE
ON THE PEACEFUL USES OF OUTER SPACE

1. The Legal Sub-Committee opened its eighth session at the United Nations Office at Geneva on 9 June 1969 under the Chairmanship of Mr. Eugeniusz Wyzner (Poland).
2. In his opening statement, the Chairman observed that it was primarily through the efforts and co-operation of the members of the Sub-Committee that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies, and the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space were negotiated and concluded. The Chairman reminded the Sub-Committee that the immediate task before it at this session was to complete the preparation of the draft agreement on liability for damage caused by objects launched into outer space. The urgency of this task was made clear by the General Assembly in its resolution 2453 adopted at its twenty-third session, and also by the numerous informal consultations among various delegations, which were held in New York, November - December 1968, and New Delhi, March 1969^{1/}, since the last session of the Sub-Committee.

Adoption of the agenda

3. On the suggestion of the Chairman, the Sub-Committee adopted the following provisional agenda for the session contained in document A/AC.105/C.2/L.52:
 1. Statement by the Chairman
 2. Draft agreement on liability for damage caused by objects launched into outer space
 3. Study of the questions relative to:
 - (a) the definition of outer space
 - (b) the utilization of outer space and celestial bodies, including the various implications of space communications.

^{1/} The delegations participating in the informal consultations were: Belgium, Hungary, India, the USSR and the United States.

12. At the request of the Sub-Committee, an unofficial list of topics suggested by some members of the Sub-Committee at the present and past sessions was prepared by the Secretariat for informational purposes and is annexed to the present report (Annex V).

13. The Sub-Committee adopted the following resolutions:

A.

The Legal Sub-Committee,

Recommends to the Committee on the Peaceful Uses of Outer Space that the Scientific and Technical Sub-Committee be invited to study as soon as possible the technical aspects of the registration of objects launched into space, for the exploration and use of outer space, obtaining if considered appropriate suitable information from the United Nations specialized agencies, such as ITU, IMCO and ICAO, on the registration of ships, aircraft, etc., as well as from COSPAR and other competent international organizations concerned with the registration of such launchings.

B.

The Legal Sub-Committee,

Recalling resolution 2453 (XXIII) of 20 December 1968 and in particular paragraph 2 (b),

Having in mind article II of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Taking cognizance of the results of the study of the question relative to the definition of outer space by the Scientific and Technical Sub-Committee at its fifth and sixth sessions,

Desiring to continue its studies of the definition and/or the delimitation of outer space,

Requests the Committee on the Peaceful Uses of Outer Space to invite the Secretary-General to prepare:

(a) a background paper for the next session of the Legal Sub-Committee on the question of the definition and/or the delimitation of outer space, taking into account both the data provided by the study carried out by the Legal Sub-Committee and the Scientific and Technical Sub-Committee, and also the contributions, studies, data and documents which may be obtained from the specialized agencies concerned and such other international and national organizations and institutions which are interested in the subject as may be determined by the Committee on the Peaceful Uses of Outer Space;

(b) a background paper on the results of the studies to be furnished by the specialized agencies and the International Atomic Energy Agency in accordance with General Assembly resolution 2453 (XXIII).

14. It was agreed that under sub-item (b) of agenda item 3 entitled "Study of questions relative to the utilization of outer space and celestial bodies, including the various implications of space communications", the Sub-Committee could examine the following subjects, among others:

(a) the question of the registration of objects launched into space for the exploration or use of outer space, including the draft convention proposed on that subject;

(b) questions relating to the legal rules which should govern man's activities on the moon and other celestial bodies, including the legal regime governing substances coming from the moon and from other celestial bodies.

15. During the general exchange of views in connexion with item 3 of the agenda, the delegations of Czechoslovakia and the United Arab Republic expressed the view that in the future the study of the usefulness and feasibility of establishing an inter-governmental International Agency for Outer Space Affairs should be undertaken. The delegations of the USSR and Czechoslovakia expressed the view that under agenda item 3 the question of "the utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based" proposed by Czechoslovakia should be considered. In connexion with sub-item (b) of agenda item 3 entitled "Study of questions relative to the utilization of outer space and celestial bodies, including the various implications of space communications", the delegation of Sweden, and certain other delegations, observed that under this item the Sub-Committee could consider also the legal aspects of questions relating to direct broadcasting from satellites.

16. At the request of the delegation of Canada, the Sub-Committee decided to reproduce the statement made by the observer for the International Telecommunication Union as an annex to the present report (Annex III). At the request of the delegation of Czechoslovakia, it was also decided to annex to the report a statement made by the Chief of the Outer Space Affairs Division concerning registration with the United Nations of objects launched into outer space (Annex IV).

II. LIABILITY FOR DAMAGE CAUSED BY THE LAUNCHING OF OBJECTS
INTO OUTER SPACE

17. The Sub-Committee had before it five draft conventions concerning liability for damage caused by the launching of objects into outer space: a draft convention by Belgium (A/AC.105/C.2/L.7/Rev.3); a draft convention by the United States (A/AC.105/C.2/L.19) as amended at the present session (A/AC.105/C.2/L.58); a draft convention by Hungary (A/AC.105/C.2/L.10/Rev.1 and Corr.1 and A/AC.105/C.2/L.24); a revised draft convention by India (A/AC.105/C.2/L.32/Rev.1 and Corr.1); and a draft convention by Italy as revised at the present session (A/AC.105/C.2/L.40/Rev.1). At the 128th meeting of the Sub-Committee, the delegation of India submitted a further revised draft convention (A/AC.105/C.2/L.32/Rev.2).

18. The provisions of the draft conventions by Belgium, the United States and Hungary were previously issued by the Secretariat in the form of a comparative table (A/AC.105/C.2/L.2/Rev.4). The provisions of the draft conventions by India (A/AC.105/C.2/L.32/Rev.1 and Corr.1) and Italy, together with the texts, principles and points agreed upon at the sixth and seventh sessions of the Sub-Committee, were also prepared by the Secretariat in the form of a comparative table and issued as document A/AC.105/C.2/L.2/Rev.4/Add.4.

19. In addition, the following proposals were submitted by members of the Sub-Committee:

With respect to international organizations a proposal was submitted by Belgium, France, Italy, Sweden and the United Kingdom (A/AC.105/C.2/L.60 and Add.1), and a working paper by Bulgaria and the USSR (A/AC.105/C.2/L.67 and Add.1).

In regard to the question of measure of damages (applicable law) the following proposals were submitted: a proposal by Argentina (A/AC.105/C.2/L.59), a joint proposal by Austria, Belgium, Canada, Italy, Japan and Sweden (A/AC.105/C.2/L.62), and a proposal by Austria (A/AC.105/C.2/L.65).

On the question of nuclear damage, a proposal was submitted by the United Kingdom (A/AC.105/C.2/L.68).

Also submitted were a working paper by Italy concerning the nature of liability for damage occurring in the different environments (A/AC.105/C.2/L.63) and a working paper by Japan concerning certain aspects of the question of damage and of the question of joint liability (A/AC.105/C.2/L.61 and Corr.1).

20. The draft conventions previously submitted by Belgium, Hungary and the United States and the revised draft conventions submitted at the present session by India and Italy, together with all proposals and working papers referred to in paragraph 19 above are reproduced in the present report (Annex II).

21. The Sub-Committee reached agreement on certain of the principles relating to the question of applicable law as follows (PUOS/C.2/69/1/Rev.1):

The compensation which the respondent State shall be required to pay for the damage under this Convention should be determined in accordance with international law.

If there is agreement on the applicable law between the claimant and the respondent, then that law should be applied.

22. The Sub-Committee reached provisional agreement on the following points relating to the question of international organizations (PUOS/C.2/69/2):

International organizations that launch objects into outer space should be liable under the Convention for damage caused by such activities.

If damage is caused by a space object to the property of an international intergovernmental organization, the claim should be presented by one of the States members of the international intergovernmental organization which are Parties to this Convention.

(No agreement was reached on the question whether the liability of the States members of the international organization that are parties to the liability convention:

(a) should be residual and arise only in the event of default by the international organization, or

(b) should arise at the same time as the liability of the international organization.

Nor was agreement reached on other aspects of the question of the rights of international organizations under the Convention. This problem requires further consideration.)

23. In the course of the discussions of the Working Group the following further proposals and working papers were submitted:

On the question of definitions: proposals were made by Canada (PUOS/C.2/69/WG.1/CRP.6) and Italy (PUOS/C.2/69/WG.1/CRP.7) with respect to the definition of "damage"; and a proposal was submitted by the United States (PUOS/C.2/69/WG.1/CRP.14) and a proposal by Argentina (PUOS/C.2/69/WG.1/CRP.18) regarding the definition of "space object".

In regard to the question of the field of application and exemptions from the provisions of the Convention, a proposal was made by Austria and France (PUOS/C.2/69/WG.1/CRP.1). A working paper was submitted by Austria with respect to the question of the field of application and exemptions from the provisions of the convention and to the question of absolute liability and exoneration from liability (PUOS/C.2/69/WG.1/CRP.2/Rev.1).

On the question of joint liability, proposals were submitted by France (PUOS/C.2/69/WG.1/CRP.5 and CRP.9/Rev.1), Brazil (PUOS/C.2/69/WG.1/CRP.8), Italy (PUOS/C.2/69/WG.1/CRP.10 and CRP.11), the USSR (PUOS/C.2/69/WG.1/CRP.12), Belgium (PUOS/C.2/69/WG.1/CRP.13), and working papers by the USSR (PUOS/C.2/69/WG.1/CRP.15 and Rev.1), by the United States (PUOS/C.2/69/WG.1/CRP.16) and by the United Kingdom and the United States (PUOS/C.2/69/WG.1/CRP.17).

With respect to the question of the currency of payment a proposal was made by the USSR (PUOS/C.2/69/WG.1/CRP.3/Rev.1).

In regard to the question of the time limits for the presentation of claims a proposal was submitted by Australia and Canada (PUOS/C.2/69/WG.1/CRP.4).

24. The Sub-Committee approved the following decision of the Working Group relating to joinder of claims:

"There will be no general provision in the text of the Convention relating to joinder of claims on the understanding that the question may be considered later if the need arises, in the context of the settlement of disputes."

(PUOS/C.2/69/WG.1/6)

25. With respect to the question of joint liability, the text agreed at the seventh session of the Sub-Committee was as follows:

"If in the case referred to in paragraph 1^{2/} damage is caused to a third State Party to this Convention or to its physical or juridical persons, the States mentioned in paragraph 1^{2/} shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between those States in accordance with the extent to which they were at fault; if the extent of the fault of each of those States cannot be established, the burden shall be apportioned equally between them."

^{2/} This paragraph is reproduced as paragraph 3 under the heading "Field of application and exemptions from provisions of agreement; Question of absolute liability and exoneration from liability."

Several delegations observed that the text as previously agreed gave rise to certain problems which required further study.

26. The Sub-Committee approved the following texts formulated by the Working Group:

Definitions

"For the purpose of this Convention,

"(a) the term 'damage' means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations;

"(b) the term 'launching' includes attempted launching;

"(c) the term 'launching State' means:

1. the State which launches or procures the launching of the space object;
2. the State from whose territory or facility the space object was launched;

"(d) the term 'space object' includes component parts of the space object as well as its launch vehicle and parts thereof."

(PUOS/C.2/69/WG.1/11/Rev.4)

Field of application and exemptions from provisions of agreement; Question of absolute liability and exoneration from liability

- "1. The launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth and to aircraft in flight.
- "2. Unless otherwise provided in the Convention, exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies.
- "3. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

"4. The provisions of this Convention shall not apply to damage caused by the space object of a launching State to:

"(a) Nationals of that launching State;

"(b) Foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State."

(PUOS/C.2/69/WG.1/5)

Question of joint liability^{3/}

"Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused."

(PUOS/C.2/69/WG.1/10)

"The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object."

(PUOS/C.2/69/WG.1/12)

Presentation of claims by States or international organizations and on behalf of natural or juridical persons

"1. A Contracting Party which suffers damage, or whose natural or juridical persons suffer damage may present a claim for compensation to a respondent.

"2. Subject to the provision of paragraph 1, a Contracting Party may also present to a respondent a claim in respect of damage sustained by any natural or juridical person in its territory.

"3. A Contracting Party may also present a claim for damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.

"4. No claim may be presented under this Convention in respect of the nationals of the respondent."

(PUOS/C.2/69/WG.1/4)

^{3/} There was no agreement on whether the State whose territory or facility was used for the launching of a space object should be considered as a participant in the joint launching of that space object and whether that State should be primarily or secondarily liable.

Presentation of claims for compensation through diplomatic channel

"A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent."

(PUOS/C.2/69/WG.1/7)

Time limits for presentation of claims

"1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the party that is liable.

"2. If the claimant State does not know of the facts giving rise to the claim within the aforementioned one year period, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the claimant State could reasonably be expected to have learned of the facts through the exercise of due diligence.

"3. The above-mentioned time limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time limits until one year after the full extent of such damage is known."

(PUOS/C.2/69/WG.1/9)

Pursuit of remedies available in respondent State
or under other international agreements

"Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claimant represents.

"Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent."

(PUOS/C.2/69/WG.1/8)

ANNEX I

PROPOSALS CONCERNING QUESTIONS RELATIVE TO THE DEFINITION
OF OUTER SPACE AND THE UTILIZATION OF OUTER SPACE AND
CELESTIAL BODIES, INCLUDING THE VARIOUS IMPLICATIONS OF
SPACE COMMUNICATIONS

France: proposal (A/AC.105/C.2/L.45)

Draft convention concerning the registration of objects launched
into space for the exploration or use of outer space

The Governments signatories of this Convention,

Considering that the registration or entry in a register of objects launched into outer space is mentioned in several provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Considering the advantages, at the international level, of the establishment of common rules governing the registration of objects launched into space for the exploration or use of outer space,

Have agreed on the following provisions:

Article 1

Any object launched into space for the exploration or use of outer space shall be registered by entry in a register kept by a service under the supervision of one or more Governments Parties to this Convention. Each Government shall inform the Depositary Government of the establishment or termination of the services under its supervision.

There shall be only one registration of each object, but the registration may be transferred from one service to another.

Article 2

Each Contracting Party, acting separately or, in the case of a joint service, together with the other Contracting Parties exercising supervision over that service, shall determine the rules of law applicable to registration.

However, the entry in the register concerning each object shall include at least:

- (a) the registration number;
- (b) where applicable, the name of the object;

(c) the name and address of the governmental or inter-governmental agency or non-governmental entity procuring the launching;

(d) the external specifications of the object, such as total weight, shape, dimensions and external component parts;

(e) the law applicable to the object and to the persons carried in it when an inter-governmental agency or a group of natural or juridical persons, referred to in sub-paragraph (c) hereof, procures the launching.

Each Contracting Party undertakes to provide any other Contracting Party with any information requested by the latter regarding the particulars referred to in sub-paragraphs (a) and (c) of the preceding paragraph concerning any object registered by a service under its supervision, whether such supervision is exclusive or shared with other Governments.

The registers of services functioning in the territory of any State whose Government is a party to this Convention shall /, so far as possible, be accessible to the public.

Article 3

The registration number shall be composed of:

(a) the letter C, followed by a dash;

(b) the mark of the registration service, chosen from among the symbols assigned by international telecommunications regulations as identifying radio call signals to the State or States exercising supervision over the service which keeps the register. This mark shall be followed by a dash;

(c) the registration mark, consisting of Roman capital letters, Arabic numerals or a combination of such letters and numerals. This mark must be clearly distinguishable from those reserved for aircraft or for distress or emergency signals.

This number shall be displayed in at least two places on the object and on opposite sides thereof, if the size of the object permits. It shall be repeated as frequently as possible in order to permit identification, in case of accident, of portions or component parts of the object. The height of the characters shall be determined by technical considerations. The number shall be shown on at least one identification plate inside the object. The processes and materials used for reproduction of the registration number and manufacture of the identification plate shall be such, having regard to the conditions in which the object will be used, as to provide the best possible guarantee that the registration number will be identifiable as speedily as possible if the object or its component parts are found.

Article 4

At /two-year/ intervals, on the proposal of the Government Depositary of this Convention, a Conference shall be convened in order to consider in the light, inter alia, of scientific and technical advances, measures which could be adopted with regard to the questions dealt with in articles 2 and 3 of this Convention.

At such a conference, it may be decided by unanimous vote of the Contracting Parties represented and voting that the said common rules may at subsequent Conferences be adopted by a /two-thirds/ majority of the Contracting Parties represented and voting and be binding upon all the Contracting Parties.

The first conference shall take place in the third year after the date of entry into force of this Convention.

Article 5

Any Contracting Party may propose amendments to this Convention.

For this purpose, it shall transmit the text of the amendment to the Depositary Government, which shall communicate it to all the other Governments Parties. If at least one third of the latter state that they consider it necessary to discuss the proposal, a review conference shall be convened as soon as possible on the proposal of the Depositary Government.

Amendments adopted by the majority of the Contracting Parties represented and voting shall enter into force for the Governments /ratifying/ approving /or accepting/ then /one/ month/s/ after one half of the Contracting Parties, at the date of adoption of the amendment by the conference, having deposited /the instrument of ratification or/ the notification of approval /or acceptance/ concerning then with the Government Depositary of this Convention. They shall enter into force for any other Government /one/ month/s/ after that Government has deposited the relevant instrument or notification.

If, after the Depositary Government has informed the other Governments Parties to this Convention of the text of a proposed amendment, at least two-thirds of the Contracting Parties intimate that the amendment can be adopted without the convening of a review conference, the said amendment shall enter into force, for those Contracting Parties, /one/ month/s/ after the last reply from one of them has reached the Depositary Government. The amendment shall enter into force for any other Contracting Party /one/ month/s/ after its reply has reached the Depositary Government.

Article 6

No reservation may be made in respect of this Convention.

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(followed by the formal provisions)

Czechoslovakia: Proposal (A/AC.105/C.2/L.46)

The Legal Sub-Committee,

Having in mind the increasing significance of space communications and the technical development in this field;

Taking into account the useful activity of the International Telecommunication Union in the field of space communications;

Recalling the resolution of the General Assembly of the United Nations 2222 (XXI);

Decides to put on the agenda of its next session, in connexion with the item

"Study of questions relative to

(a) the definition of outer space

(b) the utilization of outer space and celestial bodies, including the various implications of space communications",

the question:

"The utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based."

Poland: Working Paper (A/AC.105/C.2/L.53)

In the elaboration of treaty rules governing the exploration and use of outer space, it is necessary to prepare such rules relating specifically to man's activities on the surface of the moon and other celestial bodies.

Argentina: Proposal (A/AC.105/C.2/L.54)

The Legal Sub-Committee

Desiring to continue the progressive elaboration of space law scientifically,

Considering that in July next various substances will be taken from the surface of the moon and transported to earth,

Recommends the Committee on the Peaceful Uses of Outer Space to include in the next session of the Legal Sub-Committee the study of the question of the legal status of substances, resources and products coming from the moon.

Canada: Proposal (A/AC.105/C.2/L.55/Rev.1)

The Legal Sub-Committee,

Recommends to the Committee on the Peaceful Uses of Outer Space that the Scientific and Technical Sub-Committee be invited to study as soon as possible the technical aspects of the registration of objects launched into space, for the exploration and use of outer space, obtaining if considered appropriate suitable information from the United Nations specialized agencies, such as ITU, IMCO and ICAO, on the registration of ships, aircraft, etc., as well as from COSPAR and other competent international organizations concerned with the registration of such launchings.

Belgium: Proposal (A/AC.105/C.2/L.56)

Draft resolution relating to the definition of outer space

The Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space,

Recalling resolution 2453 (XXIII) of 20 December 1968 and in particular paragraph 2 (b),

Having in mind article II of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Taking cognizance of the results of the study of the question relative to the definition of outer space by the Scientific and Technical Sub-Committee at its fifth and sixth sessions,

Anxious to continue its studies of the definition and/or the delimitation of outer space,

Invites the Secretary-General to prepare a background paper for the next session of the Legal Sub-Committee on the question of the definition and/or the delimitation of outer space, taking into account both the data provided by the study carried out by the Legal Sub-Committee and the Scientific and Technical Sub-Committee, and also the contributions, studies, data and documents which may be obtained from the specialized agencies and other international and national organizations and institutions which are interested in the subject.

Czechoslovakia: Proposal (A/AC.105/C.2/L.57 and Corr.1)

Include in the final report the following text:

"During the general exchange of views in connexion with item 3 of the agenda, the delegations of Czechoslovakia and the United Arab Republic expressed the view that in the future the study of the usefulness and feasibility of establishing an inter-governmental International Agency for Outer Space Affairs should be undertaken."

France: Proposal (A/AC.105/C.2/L.64)

The Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space,

Anxious to continue its studies of the definition, exploration and use of outer space,

Invites the Secretary-General to prepare for the next session of the Legal Sub-Committee -

(a) a background paper on the problem of the definition and/or the delimitation of outer space, taking into account both the data provided by the study carried out by the Legal Sub-Committee and the Scientific and Technical Sub-Committee, and also the contributions, studies, data and documents obtainable from the specialized agencies and other international and national organizations and institutions interested in the subject;

(b) a background paper on the results of the studies to be furnished by the specialized agencies and the International Atomic Energy Agency in accordance with General Assembly resolution 2453 (XXIII);

Recommends the Committee on the Peaceful Uses of Outer Space to include in the agenda for the next session of the Legal Sub-Committee;

(a) consideration of the draft convention concerning the registration of objects launched into space for the exploration or use of outer space;

(b) consideration of matters relating to the definition of outer space;

(c) consideration of matters relating to the exploration and use of outer space, including -

the results of the studies undertaken by the specialized agencies and the International Atomic Energy Agency in accordance with General Assembly resolution 2453 (XXIII);

questions relating to the legal régime governing man's activities on the surface of the moon and of other celestial bodies.

Argentina and Poland: Proposal^{*} (A/AC.105/C.2/L.66)

The Legal Sub-Committee,

Desiring to further the progressive development of space law,

Considering that in the near future the landing on the Moon and man's activities in the exploration and use of the Moon will necessitate the elaboration of specific rules,

^{*}/ This proposal replaces the proposals contained in document A/AC.105/C.2/L.53 and L.54.

Recommends to the Committee on the Peaceful Uses of Outer Space to include as soon as possible in the programme of work of the Legal Sub-Committee the study of the question of the rules governing man's activities on the Moon and other celestial bodies, in particular, the legal status of substances, resources and products taken from the Moon and other celestial bodies.

Argentina, France and Poland: Proposal (A/AC.105/C.2/L.69)

It has been agreed that under the agenda item entitled "Study of questions relative to the utilization of outer space and celestial bodies, including the various implications of space communications", the Sub-Committee will examine the following questions:

(a) Consideration of the draft convention concerning the registration of objects launched into space for the exploration or use of outer space:

(b) Consideration of the question of the rules which should govern man's activities on the moon and other celestial bodies, including the legal régime governing substances coming from the Moon and from other celestial bodies.

ANNEX II

PROPOSALS AND OTHER DOCUMENTS RELATING TO LIABILITY
FOR DAMAGE CAUSED BY THE LAUNCHING OF
OBJECTS INTO OUTER SPACE

Belgium: proposal for a convention on the unification of certain
rules governing liability for damage caused by space devices to
third parties on the surface of the earth and to aircraft
in flight (A/AC.105/C.2/L.7/Rev.3)

The Contracting Parties,

Recalling the terms of the Treaty, signed on 27 January 1967, Governing the
Activities of States in the Exploration and Use of Outer Space, including the Moon and
Other Celestial Bodies,

Recognizing that activities in the exploration and peaceful uses of outer space may
from time to time result in damage,

Recognizing the need to establish rules governing liability with a view to ensuring
that compensation is paid for damage thus caused,

Have agreed as follows:

Article 1

(a) The provisions of this Convention shall apply to compensation for damage caused
to persons or property by a space device or space devices. They shall not apply to
compensation for damage caused in the territory of the Launching State or suffered by its
nationals or permanent residents, or for damage caused by a space device to another space
device.

(b) The occurrence of the event causing the damage shall create a liability for
compensation once proof has been given that there is a relationship of cause and effect
between the damage, on the one hand, and the launching, motion or descent of all or part
of the space device, on the other hand.

(c) If the damage suffered results either wholly or partially from an act or
omission on the part of the Applicant State or of natural or juridical persons that it
represents and such act or omission has been committed, either with intent to cause
damage or rashly and in full knowledge that damage will probably result, the liability of
the Launching State to pay compensation under this Convention shall, to that extent, be
wholly or partially extinguished.

Article 2

"Damage" shall be understood to mean loss of life, bodily injury or damage to property
for which compensation may be claimed and assessed under the national law of the person
injured, or if not, under applicable principles of international law.

"Launching" shall be understood to mean an attempted launching or a launching operation
proper, whether or not it fulfils the expectations of those responsible therefor.

"Space device" shall be understood to mean any device intended to move in space and sustained there by means other than the reaction of air, as well as any constituent element of such device or of the equipment used for its launching or propulsion.

"Launching State" shall be understood to mean the State or States which carry out the launching of a space device or, when the Applicant State is not able to determine the said State or States, the State whose territory is used for such launching.

"Applicant State" shall be understood to mean the State which has been injured, or whose nationals, whether natural or juridical persons, or whose permanent residents have been injured, and which presents a claim for compensation.

Article 3*

The Launching State shall be held liable for compensation for damage caused in the circumstances stated in article 1 and defined in article 2. If several States participate in the launching of a space device, they shall be held jointly and severally liable.

Article 4

(a) Within two years after the occurrence of the damage, or after the identification of the State liable under article 1, the applicant State shall present through the diplomatic channel, to the State which it holds liable, all claims for compensation concerning itself and its nationals and residents. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with the Launching State.

(b) If the applicant State or a person represented by it brings an action for compensation before the Courts or administrative organs of the State receiving the claim, it shall no longer be able to present a claim for compensation for the same damage under the provisions of this Convention. The said provisions shall not be considered to require by implication, the prior exhaustion of such remedies as may exist under the rules of ordinary law in the State receiving the claim.

(c) If the State receiving the claim has not taken, within six months after being approached, a decision considered satisfactory by the applicant State, the latter may have recourse to arbitration.

Within ninety days of the date of the request addressed to it by the applicant State, the State receiving the claim shall appoint one arbitrator, the applicant State shall appoint a second and the President of the International Court of Justice a third. If the State receiving the claim fails to appoint its arbitrator within the prescribed period, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

The Arbitration Commission shall take its decisions according to law** and by majority vote. It shall make an award within six months after the date of its establishment and its decisions shall be binding.

* The Belgian delegation reserves the right to submit an amendment dealing with the principle enunciated in this article.

** An alternative might be "take its decisions ex aequo et bono".

(d) Sums due in compensation for damage shall be fixed and payable either in the currency of the applicant State or in a freely transferable currency.

(e) The periods specified in this article shall not be subject to interruption or suspension.

(f) There shall be joinder of claims where there is more than one applicant in respect of damage due to the same event or where more than one State is liable and the damage was caused by more than one space device.

Article 5

This Convention shall be open for signature by States Members of the United Nations or any of the specialized agencies or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention. Any such State which does not sign this Convention may accede to it at any time.

This Convention shall be subject to ratification or approval by signatory States. Instruments of ratification or approval and instruments of accession shall be deposited with the Secretary-General of the United Nations.

This Convention shall enter into force thirty days after the date of the deposit of three instruments of ratification, approval or accession. For each State which deposits its instrument of ratification, approval or accession after the entry into force provided for in the preceding paragraph, this Convention shall enter into force on the date of deposit of such instrument.

Article 6

International organizations which undertake to comply with this Convention shall have the same rights and obligations as States. The States members of the said international organizations shall be held jointly and severally liable for the obligations of the latter, whether or not such States are parties to the Convention. The accession of an international organization shall be accompanied by a notification of the joint and several obligations so assumed by the States members of the organization concerned.

The claims referred to in article 4 (a) may, in the case of the international organization, be presented through the Secretary-General of the United Nations.

Article 7

Each Contracting Party may notify the Secretary-General of the United Nations of its withdrawal from this Convention not less than five years after its entry into force. Such withdrawal shall take effect one year after receipt of the notice, which must be in writing. Such withdrawal shall not relieve the Contracting Party concerned of any obligation or liability arising from damage inflicted before its withdrawal takes effect.

Article 8

This Convention may be amended or supplemented at the proposal of one or more Contracting Parties. Such amendments shall take the form of additional protocols which shall be binding on such Contracting Parties as ratify, approve or accede to them. Such protocols shall enter into force when the majority of the Contracting Parties to this Convention have thus accepted them.

Article 9

The Secretary-General of the United Nations shall inform signatory States, and those which ratify, approve or accede to this Convention, of signatures, the deposit of instruments of ratification, approval or accession, the entry into force of this Convention, proposals for amendments, notifications of acceptance of additional protocols, and notices of withdrawal.

Article 10

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies to all signatory States and to any State Member of the United Nations which so requests.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Convention.

Done at _____ on _____

United States of America: proposal (A/AC.105/C.2/L.19 and L.58)

Convention concerning liability for damage caused
by the launching of objects into outer space

The Contracting Parties,

Recognizing that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies signed on 27 January 1967,

Seeking to establish a uniform rule of liability and a simple and expeditious procedure governing financial compensation for damage,

Believing that the establishment of such a procedure will contribute to the growth of friendly relations and co-operation among nations,

Agree as follows:

Article I - Definitions

For the purposes of this Convention

(a) "Damage" means loss of life, personal injury, or damage to property whether partial or total.

(b) The term "launching" includes attempted launchings.

(c) "Launching State" means a Contracting Party, or an international organization that has transmitted a declaration to the Secretary-General under article V, paragraph 1, of this Convention, that launches or actively and substantially participates in the launching of an object into outer space, or from whose territory or facility an object is launched into outer space, or that exercises control over the orbit or trajectory of such an object.

(d) "Presenting State" means a Contracting Party, or an international organization that has transmitted a declaration to the Secretary-General under article V, paragraph 1, of this Convention, that presents a claim for compensation to a Respondent State.

(e) "Respondent State" means a Launching State from which compensation is sought under this Convention.

Article II - Liability

1. The Launching State shall be absolutely liable to pay compensation to the Presenting State, in accordance with the provisions of this Convention, for damage shown to have been caused by the launching, transit or descent of all or part of a space object.

2. If the damage suffered results either wholly or partially from a wilful or reckless act or omission on the part of the Presenting State, or of natural or juridical persons that it represents, the liability of the Launching State to pay compensation under paragraph 1 of this article shall, to that extent, be wholly or partially extinguished.

3. There shall be no liability under this Convention for damage caused to persons and property within a launch facility or immediate recovery area for participation in or observation of the launch or recovery, or to space objects and their personnel during launching, transit or descent.

Article III - Multiple Respondent States

1. If under paragraph 1 of article II or paragraph 3 of article V two or more Launching States would be liable to pay compensation, the Presenting State may proceed against any or all such States individually or jointly for the total amount of damages.

2. When the Presenting State proceeds against less than all possible Respondent States, the State or States proceeded against shall within three months give formal notice to any other Launching States which may be involved, and the States so notified shall also become Respondent States and shall participate in the settlement or other disposition of the claim.

3. When a claim has been presented to only one Launching State and it does not notify and join other Launching States under paragraph 2 of this article, it shall pay the entire compensation which is found to be due. If any Launching States are originally joined, or if a Respondent State notifies and joins the other Launching States, any settlement, agreement or judgement shall specify the apportionment of liability among the several Respondent States.

4. If a number of Contracting States co-operate in a launching, and if they reduce the terms of their co-operation to writing and file a copy thereof with the Secretary-General of the United Nations, Presenting States shall be on notice as to those terms and shall be bound to observe the proportionate shares of liability assumed by the several Contracting States. If payment of the specified proportionate share has not been made by one or more Respondent States six months after the amount of over-all liability has been ascertained, a Presenting State may demand payment from any other Respondent State as provided in article III, paragraph 6.

5. The amount recoverable by the Presenting State from any one Respondent State shall be reduced to the extent of any compensation received in respect of that claim by the Presenting State from any other Respondent State, so that in no case shall the aggregate of the compensation paid in respect of any one claim exceed the amount which would be payable under this Convention if only one Respondent State were liable.

6. If any one of several Respondent States fails to pay its proportionate share of the over-all liability within six months of the date of the ascertainment of the amount due, the Presenting State may demand payment from any or all of the other Respondent States.

7. A Respondent State which has not paid its proportionate share of the over-all liability to the Presenting State shall be obligated to reimburse the other Respondent States for their payments in excess of their proportionate shares.

8. The periods specified in this article shall not be subject to interruption or suspension.

Article IV - Measure of Damages

The compensation which a State shall be liable to pay for damage under this Convention shall be determined in accordance with applicable principles of international law, justice and equity.

Article V - International Organizations

1. If an international organization which conducts space activities transmits to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the provisions of the present Convention, all the provisions, except articles XII, XV, XVI and XVII, shall apply to the organization as they apply to a State which is a Contracting Party.

2. The Contracting Parties to the present Convention undertake to use their best endeavours to ensure that any international organization which conducts space activities and of which they are constituent members is authorized to make and will make the declaration referred to in paragraph 1 of this article.

3. If within one year of the date on which compensation has been agreed upon or otherwise established pursuant to article X, an international organization fails to pay such compensation, each member of the organization which is a Contracting Party shall, upon service of notice of such default by the Presenting State within three months of such default, be liable for such compensation in the manner and to the extent set forth in article III.

Article VI - Presenting a Claim

1. A Contracting Party which suffers damage referred to in article II, paragraph 1, or whose natural or juridical persons suffer such damage, may present a claim for compensation to a Respondent State or States.

2. A Contracting Party may also present to a Respondent State a claim of any nature person, other than a person having the nationality of a Respondent State, permanently residing in its territory. However, a claim of any individual claimant may be presented by only one Contracting Party.

3. A claim shall be presented through the diplomatic channel. A Contracting Party may request another State to present its claim and otherwise represent its interest in the event that it does not maintain diplomatic relations with a Respondent State.

4. Notice of a claim must be presented within one year of the date on which the accident occurred or, if the Presenting State could not reasonably be expected to have known of the facts giving rise to the claim, within one year of the date on which these facts became known to the Presenting State even if the nature or extent of the damages may not be known to the Presenting State.

Article VII - Nationals

A State shall not be liable under this Convention for damage suffered by its own nationals or nationals of other Respondent States or by juridical persons beneficially owned by such nationals, to the extent of such ownership.

Article VIII - Limitation of Liability: Apportionment

1. The liability of the Launching State or States under this Convention shall not exceed _____ with respect to each launching.

2. If the total amount otherwise payable with respect to the claims presented exceeds the limit of liability provided by this article, the following rules shall apply:

(a) If the allowable claims are exclusively in respect of loss of life or personal injury, or exclusively in respect of damage to property, such claims shall be reduced proportionately.

(b) If the allowable claims are both in respect of loss of life or personal injury and in respect of damage to property, three fourths of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

Article IX - Exhaustion of Remedies

1. The presentation of a claim under this Convention shall not require exhaustion of any remedies which might otherwise exist in a Respondent State.

2. If, however, the Presenting State, or a natural or juridical person whom it might represent, elects to pursue a claim in the administrative agencies or courts of a Respondent State or pursue international remedies outside this Convention, the Presenting State shall not be entitled to pursue such claims under this Convention against such Respondent State.

Article X - Claims Commissions

1. If a claim presented under this Convention is not settled within one year from the date on which documentation is completed, the Presenting State may request the establishment of a commission to decide the claim. The competence of such commission shall extend to any dispute arising from the interpretation or application of this Convention. The Respondent State and the Presenting State shall each promptly appoint one person to serve on the commission and a third person, who shall act as a chairman, shall be appointed by the President of the International Court of Justice. If the Respondent State fails to appoint its member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

2. No increase in the membership of the commission shall take place where two or more Presenting States or Respondent States are joined in any one proceeding before the commission. The Presenting States so joined shall collectively appoint one person to serve on the commission in the same manner and subject to the same conditions as would be the case for a single Presenting State. Similarly, where two or more Respondent States are so joined, they shall collectively appoint one person to serve on the commission in the same way. If the Presenting or Respondent States fail to appoint their member within three months, the person appointed by the President of the International Court of Justice shall constitute the sole member of the commission.

3. The commission shall determine its own procedure.

4. The commission shall conduct its business and arrive at its decision by majority vote. Such decision shall state the views of the members of the commission.

5. The decision of the commission shall be rendered expeditiously and shall be binding upon the parties.

6. The expenses incurred in connexion with any proceeding before the commission shall be divided equally between Presenting and Respondent States.

Article XI - Currency

Payment of compensation shall be made in the currency of the Presenting State or a currency convertible readily and without loss of value into the currency of or used by the Presenting State.

Article XII - Settlement of Disputes

Subject to prior recourse to proceedings under article X, any dispute arising from the interpretation or application of this Convention, which is not previously settled by other peaceful means, may be referred by any Contracting Party thereto to the International Court of Justice for decision.

Article XIII - Amendments

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on acceptance by a majority of the Contracting Parties, and thereafter for each remaining Contracting Party on acceptance by it.

Article XIV - Withdrawal

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of the notification by the Secretary-General. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damages arising before withdrawal becomes effective.

Article XV - Signature and Accession

The Convention shall be open for signature by States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party. Any such State which does not sign this Convention may accede to it at any time.

Article XVI - Ratification: Depositary

This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XVII - Entry Into Force

This Convention shall enter into force thirty days following the deposit of the fifth instrument of ratification or accession. It shall enter into force as to a State ratifying or acceding thereafter upon deposit of its instrument of ratification or accession.

Article XVIII - Depositary's Duties

The Secretary-General of the United Nations shall inform all States referred to in article XV and all organizations which have made declarations under article V, paragraph 1, of signatures, deposits of instruments of ratification or accession, declarations referred to in article V, paragraph 1, the date of entry into force of this Convention, proposals for amendments, notifications of acceptances of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to those States and organizations certified copies of each amendment proposed.

Article XIX

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies of each to the States mentioned in article XV.

Hungary: revised draft Convention concerning Liability for Damage caused by the Launching of Objects into Outer Space (A/AC.105/C.2/L.10/Rev.1 and Corr.1, L.24 and Add.1)

The Contracting States,

Recognizing the common interest of mankind in furthering the peaceful exploration and use of outer space,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, adopted by the General Assembly on 13 December 1963 as resolution 1962 (XVIII),

Considering that the States and international organizations involved in the launching of objects into outer space should be internationally liable for damage caused by these objects,

Recognizing the need for establishing international rules and procedures concerning such liability to ensure protection against damage caused by objects launched into outer space,

Believing that the establishment of such rules and procedures would facilitate the taking of the greatest possible precautionary measures by States and international organizations involved in the launching of objects into outer space to protect against damage inflicted by objects launched into outer space,

Have decided to conclude the present Convention:

The scope of liability

Article I

1. The provisions of this Convention shall apply to compensation for loss of life, personal injury or other impairment of health, and damage to property (hereinafter called "damage"):

(a) Caused by an object during its launching into outer space; or

(b) Caused in outer space, in the atmosphere or on the ground by any manned or unmanned space vehicle or any object after being launched, or conveyed into outer space in any other way,

but they shall not apply to nuclear damage resulting from the nuclear reactor of space objects.

2. Liability is also incurred even if, for any reason, the space vehicle or other object has not reached outer space.

3. For the purpose of this Convention "Space Object" means space ships, satellites, orbital laboratories, containers and any other devices designed for movement in outer space and sustained there otherwise than by the reaction of air, as well as the means of delivery of such objects and any parts thereof.

Article II

A claim for damage may be advanced on the ground of loss of profits and moral damage whenever compensation for such damage is provided for by the law of the State liable for damage in general.

Article III

Unless otherwise provided in articles IV and V, exemption from liability may be granted only in so far as the State liable produces evidence that the damage has resulted from a wilful act or from gross negligence of the party suffering the damage.

Article IV

1. Whenever damage is done to a space object or to persons and property on board by another space object, no claim shall arise between each other, except in so far as the claimant State produces evidence that the damage has been caused because of the fault of the other State or of a person on behalf of whom the latter State might present a claim (article VIII).

2. If in the case mentioned in paragraph 1, a claim arises on the part of a third State, liability of the States liable for the space objects shall be joint and several.

Article V

The State shall assume liability for damage caused on the ground, in the atmosphere or in outer space, if the damage occurred while exercising an unlawful activity in outer space or the space vehicle or object was launched for unlawful purposes, or if the damage has otherwise resulted from an unlawful activity. In such cases, the State liable shall be barred from any exoneration whatsoever.

The subject of liability

Article VI

1. Liability for damage shall rest with the State or international organization which has launched or attempted to launch the space vehicle or object, or has procured the launching, or with the State from whose territory or facility the launching was made.

2. Where liability may be laid upon more than one State or international organization, their liability towards the claimant shall be joint and several.

Article VII

If liability for damage rests with an international organization, the financial obligations towards States suffering damage shall be met by the international organization and by its member States jointly and severally.

Claims, payment, arbitration

Article VIII

A claim for damage may be made by a State in whose territory damage has occurred or in respect of damage suffered by its citizens or legal entities whether in the territory of that State or abroad.

Article IX

A claim must be presented within one year of the date of occurrence of the damage, or of the identification of the State that is liable. If the applicant State could not reasonably be expected to have known of the facts giving rise to the claim, the claim must be presented within one year of the date on which these facts officially became known.

Article X

The claim shall be presented through diplomatic channels. The claimant State may request a third State to represent its interests in the event it has no diplomatic relations with the State liable.

Article XI

1. In case the State liable does not satisfy the claim of the claimant State, the claim for compensation shall be presented to a committee of arbitration set up by the two States on a basis of parity. This committee will determine its own procedure.

2. Should the committee mentioned in paragraph 1 not arrive at a decision, the States may agree upon an international arbitration procedure or any other method of settlement acceptable to both States.

Article XII

Claim for compensation for damage caused by a space ship of a foreign State shall not constitute ground for sequestration or for the application of enforcement measures to such space ship.

Final clauses

Article XIII

1. This Convention shall be open for signature to all States. It shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. It shall enter into force thirty days after the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification.

Article XIV

After the Convention enters into force it shall be open for accession to other States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XV

With respect to each State which ratifies the Convention or accedes thereto after the deposit of the fifth instrument of ratification, the Convention shall enter into force thirty days after the date of deposit by the State of its instrument of ratification or accession.

Article XVI

Any Contracting State may denounce this Convention by notification to the Secretary-General of the United Nations. The denunciation shall take effect one year after the date on which the notification has been received by the Secretary-General of the United Nations.

Article XVII

The Secretary-General of the United Nations shall notify all States concerning:

- (a) The signature of this Convention and the deposit of instruments of ratification or accession in accordance with articles XIII and XIV;
- (b) The date of entry into force of this Convention in accordance with articles XIII and XV;
- (c) Denunciations received in accordance with article XVI.

Article XVIII

The original of this Convention, of which the texts in the Chinese, English, French, Russian and Spanish languages are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified copies thereof to all States.

Working Paper submitted by the Italian delegation (A/AC.105/C.2/L.40/Rev.1)

DRAFT CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED BY THE LAUNCHING OF OBJECTS INTO OUTER SPACE

Preamble

The Contracting Parties,

Recognizing that activities in the peaceful exploration and use of outer space may on occasion result in damage,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies signed on 27 January 1967,

Speaking to establish a uniform rule of liability and a simple and expeditious procedure governing compensation for damage,

Believing that the establishment of such a procedure will contribute to the growth of friendly relations and co-operation among nations,

Agree as follows:

Purpose of the Convention

Article 1

The purpose of this Convention is to govern the international liability of States for damage caused, in the exercise of their space activities (in accordance with the Treaty of 27 January 1967), to another member State or the natural or juridical persons which it represents.

Definitions (Launching State - Space Object - Damage)

Article 2

(1) Launching State shall be understood to mean:

(a) the State which launches or procures the launching of a space object, entered in its own registers or registered with the United Nations Secretariat (which must in any case be notified beforehand of the launching and be provided with all the information necessary to identify the object in question);^{1/}

(b) the State whose territory or facility is used for the launching, even if it does not participate actively in this operation, where it does not indicate which State has actually launched the space object or where the latter is not a party to this Convention.

(2) The international organizations referred to in article 6 below shall for this purpose be treated as States.

(3) Space object means any man-made object designed to reach outer space and to move there (either naturally or by means of radio-electric signals or the control exercised by pilots on board).

(4) For the purposes of this Convention, the component parts of space objects which become detached or are made to detach during transit, and objects which have fallen or are launched from space objects, shall also be deemed to be space objects.

(5) Damage means loss of life, personal injury or impairment of health, and destruction of or damage to property caused by space objects.

Field of application of the Convention

Article 3

(1) This Convention shall apply to all damage caused by space objects; (a) on the earth; (b) in the earth's atmosphere; (c) in outer space, including other celestial bodies.

(2) However, the present Convention shall not cover damage caused in the territory of the Launching State and in particular damage sustained at the time and in the area of launching and return of space objects by persons playing a part in the operations related thereto, or damage sustained, from endogenous causes, by space objects and their personnel during launching, transit or descent. (For this purpose, social labour legislation and agreements between the parties concerned shall be paramount in the assessment of compensation.)

^{1/} The words appearing between brackets in this draft may, if it is considered desirable, be deleted.

Nature of and grounds for liability in the various cases
of damage on the earth, in the earth's atmosphere and in outer space

Article 4

- (1) Damage caused on the earth, even in the case of force majeure, shall constitute grounds for compensation by the very fact that the damage has occurred and was caused by a space object in transit;
- (2) Damage caused in the earth's atmosphere or in outer space shall constitute grounds for compensation if negligence on the part of the Launching State is proved.
- (3) When two or more space objects have collided (or interfered with each other in transit), none of the Launching States shall be entitled to claim compensation from any of the others, if the cause of the collision cannot be established or if the collision is attributable to joint negligence or force majeure.
- (4) Damage caused by collision to aircraft in flight shall be presumed to be due to the fault of the space object; but it shall be open to proof of the contrary.
- (5) If the collision has caused damage to third parties on the surface of the earth, such damage shall be presumed - vis-à-vis the victims - to be attributable to joint negligence and the States which launched the space objects involved in the collision shall be jointly liable.

Liability for damage (States)

Article 5

- (1) The Launching State shall be liable for damage caused by a space object.
- (2) When the launching is carried out jointly by several States or by States and international organizations (referred to in article 6), they shall be jointly and severally liable for the damage caused by the space object.

The responsibility for compensation of the victim of the damage shall be shared by the parties liable in accordance with the agreements previously concluded between them, and if no such agreements exist, it shall be apportioned equally.

Liability for damage (International organizations)

Article 6

- (1) If an international governmental organization which conducts space activities has transmitted to the Secretary-General of the United Nations a declaration that it accepts and undertakes to comply with the present Convention, all the provisions of the Convention, except articles 13, 16, 17 and 18, shall apply to the organization in the same way as to any Contracting State.
- (2) Consequently, if the organization launches, or procures the launching of a space object, and that object causes damage, the organization, like any Launching State, shall be directly liable for the damage vis-à-vis the victims.
- (3) Should the organization fail to pay the amount of the compensation already agreed to or fixed, the States members of the organization may be called upon to pay within the period and under the conditions referred to in article 10 below.

Extinction or reduction of liability

Article 7

If the damage was caused, either wholly or partially, by an act or omission on the part of the victim, the liability of the Launching State may in the case of a wilful act be extinguished or in the case of negligence be reduced, according to the gravity of the act or omission.

Determination of compensation

Article 8

The compensation which the Launching State shall be required to pay under this Convention for the damage it has caused shall be determined in accordance with international law, unless the parties agree that it shall be determined in accordance with equity or by applying the national law of their choice.

Rules of procedure; claims for compensation

Article 9

- (1) The State which has sustained damage (hereinafter referred to as the Claimant State) may present a claim for compensation to the State which is liable (the Respondent State).

The same claim may be presented by the State for damage caused to its own nationals and to natural or juridical persons permanently domiciled in its territory;

- (2) The presentation of a claim under this Convention shall not require exhaustion of all the remedies which may be available in the Respondent State;
- (3) A claim shall be presented through the diplomatic channel within six months reckoned from the date when the damage and the identity of the State liable for it became known.
- (4) The same procedure shall apply when the claim is presented by or against an international organization. The representation of the international governmental organization, for the purposes of this diplomatic procedure, may then be assumed by one of the States members of the organization.

Arbitral Commission for the settlement of compensation claims

Article 10

- (1) If a claim for compensation presented under this Convention is not settled amicably within a period of six months reckoned from the date on which it is presented together with all supporting evidence, the Claimant State may request the establishment of an arbitral commission to rule on the matter.

The Respondent State and the Claimant State shall each promptly appoint one member of the Commission, and a third member, who shall act as chairman, shall be appointed by the President of the International Court of Justice or, by agreements between the parties, by any other scientific legal organization.

If the Respondent State fails to appoint its member within three months, the person who was to act as chairman shall be the sole arbitrator.

(2) If in the same dispute there are two or more Claimant States and (or) two or more Respondent States, they shall appoint by agreement between them one person to represent them on the Commission, which shall thus always comprise three members.

(3) The Commission shall establish its own rules of procedure. It shall take decisions by majority vote on the basis of article 8 above.

Its decisions shall be final and binding upon the parties.

Procedure relating to International Organizations which
do not pay compensation for damages

Article 11

(1) If, within six months reckoned from the date on which compensation has been agreed upon or determined pursuant to article 10, an international organization has failed to pay the amount of such compensation, the States members of the organization shall, upon receiving notice of such default from the Claimant State, be jointly obligated to pay the amount of the compensation.

(2) Once the amount of the compensation payable by the organization has been agreed upon or determined, the member States may in no circumstances question the justification for or the amount of the compensation.

Procedure under ordinary law

Article 12

This Convention shall not prejudice the rights of victims to institute proceedings before the ordinary courts of the Claimant State or the Respondent State or to choose any other international procedure, with a view to obtaining compensation for the damage/.

In such a case, the Claimant State may not have recourse to the procedures referred to in articles 9, 10 and 11 above, unless the parties concerned waive their right to take such action.

Settlement of questions relating to the
interpretation of the Convention

Article 13

Any question relating to the interpretation or application of this Convention which is not previously settled by other peaceful means or by the arbitral commission may be referred by the Contracting Parties to the International Court of Justice for decision.

Amendments

Article 14

A Contracting Party may propose amendments to this Convention. An amendment shall come into force for each Contracting Party accepting the amendment on its acceptance by a majority of the Contracting Parties, and thereafter for each further Contracting Party accepting it.

Withdrawal

Article 15

A Contracting Party may give notice of withdrawal from this Convention five years after its entry into force by written notification to the depositary States. Such withdrawal shall take effect one year from the date of receipt of the notification by one of the said Governments. A State withdrawing from this Convention shall not thereby be relieved of any obligation or liability with respect to damage occurring before its withdrawal.

Signature and accession

Article 16

This Convention shall be open for signature by all States. Any State which does not sign this Convention before its entry into force pursuant to article 18 below may accede to it at any time.

Ratification: depositary

Article 17

This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Entry into force

Article 18

This Convention shall enter into force thirty days after the deposit of the fifth instrument of ratification. It shall take effect for any State subsequently ratifying or acceding to it at the time of the deposit by the State of its instrument of ratification or accession.

Obligation of depositary

Article 19

The Depositary States shall inform all the signatory and acceding States and all the organizations which have made declarations under article 6, paragraph 1, of signatures, deposits of instruments of ratification or accession, declarations of acceptance referred to in article 6, paragraph 1, the date of entry into force of this Convention, proposals for amendment, notifications of acceptance of amendments, the date of entry into force of each amendment, and notices of withdrawal, and shall transmit to the said States and organizations certified copies of each amendment proposed.

Article 20

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the States referred to in article 17 which shall send a certified copy of each text to the Governments of all the signatory and acceding States.

ANNEX

Liminary note

This new version of the Italian draft has been prepared with a view to correcting the mistakes which crept into the version submitted to the June 1968 session of the Legal Sub-Committee, and, above all, in order to take account of discussion and of the decisions taken at that session.

The Italian delegation hopes, with this draft, to make a useful contribution to the structure and final text of the draft convention on the international liability of States with regard to their space activities.

The purpose of the following notes is to ensure a better understanding of the texts proposed and to indicate the reasons why they were chosen.

Ad article 1: Purpose of the Convention

None of the drafts at present before the Sub-Committee contains such an article. It would seem useful, however, to specify at the outset the scope of the convention, which is concerned only with the liability of States and not with liability in general. At certain international meetings, such as the recent Conference on Outer Space at Vienna, one had the impression that there is no uniform interpretation of the real scope of the convention.

Ad article 2: Definitions

(1) Launching State. According to this paragraph, the Launching State is the one in whose registers the space object is entered. The reasons for this are well known, since they have been explained on numerous occasions, not only by the Italian delegation but also by the French delegation; the main purpose is to enable the victim of the damage to identify, rapidly and on the basis of reliable information, the State which is liable, and, in addition, to secure codification of the rules governing registration, which is now urgently needed.

The Italian delegation prefers the term "Launching State" to the term "Launching Authority". It is pointed out in this connexion that the basic Treaty of 27 January 1967 does in fact use the term "Launching State".

(2) International organizations. It is considered that this paragraph ("The International organizations ... shall for this purpose be treated as States") will facilitate the application of many of the provisions of the convention.

(3) Space object. The provision that the space object must be man-made is intended to exclude all natural objects, such as meteorites, etc.

(4) Damage. This definition refers to damage in general, without any exception. Consequently, nuclear damage should be considered as being included.

Ad article 3: Field of application of the Convention

(2) It is customary (except in the case of conventions which aim to unify legal rules for the purpose of their incorporation in the national legislation of the member States) for all conventions dealing with liability not to apply to damage caused in the territory of the State responsible for the damage.

The Italian draft is based on this principle and thus rejects the provision adopted in other drafts, according to which the Convention would not apply "to damage suffered by nationals of the Launching State". The Italian delegation considers this principle unacceptable; it is difficult to see why nationals of the Launching State, who happen to be, even on a permanent basis, in the territory of another State and who sustain damage there, should not be compensated under the convention, if they so desire. Otherwise, such nationals would be forced to follow longer, more complicated and more burdensome procedures. It would undoubtedly be much simpler for them to apply to the authorities of the State in which the damage was sustained, and that State could then represent them in any claim against the Launching State.

Moreover, in such a case, it is appropriate to take as a basis the universally accepted principle of private international law "lex loci delicti commissi".

Article 3, paragraph (2), also excludes from the field of application of the convention damage sustained by equipment and personnel connected with the space object, but only where damage is the result of endogenous causes, i.e. defects of construction or of handling of the space object in question. This is logical, because the space object belongs to the Launching State and the personnel involved are, consequently, protected by the labour legislation of the State in question and, in any event, by agreements previously concluded between them and the State.

On the other hand, paragraph (2) does not take into consideration any possible harm caused to persons invited to attend the launching or recovery of the space object, since the State issuing the invitation would normally take care to specify the conditions under which the invitation is given, conditions which might vary from one case to another. In any event, this aspect is of no particular relevance to the purposes of this convention.

Ad article 4: Nature of and grounds for liability

This is the key article of the Italian draft and particular attention is drawn to it.

The Italian delegation based its draft on the fundamental principle that, in determining the nature of liability in the different cases, the paramount consideration should be the place where the damage was sustained: on the earth, in the earth's atmosphere or in outer space, including other celestial bodies.

Until its 1968 session, the Sub-Committee seemed to favour the application of the principle of absolute or objective liability in all cases, without taking into account the place where the damage was sustained. At the 1968 session, however, it decided to apply, in the case of outer space, the contrary principle of liability through negligence.

The formula which was adopted in that respect (see the summary record of the twenty-third meeting, page 150) does not, however, seem to be satisfactory, since it relates only to damage caused by one space object to another space object, without specifying the cause of the damage or where it took place.

On the other hand, in the text submitted by the United States on that question, specific mention is made of collision (A/AC.105/C.2/L.34 and the summary record of the twenty-third meeting, page 164), but the text refers only to damage caused "to third parties" (on the surface of the earth?).

The Italian delegation believes that the Legal Sub-Committee has not yet arrived at a clear and full conception of the problem. It therefore takes the liberty of drawing the Sub-Committee's attention to the text of article 4 of the Italian draft, which:

(a) endorses, so far as outer space is concerned, the principle of liability through negligence, which is in accordance with the decision of the Sub-Committee; but the text in question is worded in a more general way, so that it may also be applied to other cases, such as, for example, damage caused by a space object to persons or objects on a celestial body other than the earth;

(b) deals separately with the case of collision, which calls for special and more detailed provisions, as is demonstrated by maritime and air law, since damage resulting from collision is not restricted to "third parties", as provided in the United States proposal referred to above, but concerns primarily the owners and users of the space objects involved in the collision. In drawing up regulations with regard to such damage, it is important to take into consideration:

(i) The case of exclusive negligence on the part of one of the space objects concerned, where it would be sufficient to apply the general formula referred to above;

(ii) The case - and this would be one of the most frequent cases - where it is impossible to establish the cause of the collision and, consequently, impossible to prove negligence; and the case of force majeure. For such cases, the Italian draft provides that each of the objects must bear the cost of the damage it has sustained, without being able to claim any compensation;

(iii) Finally, the case of joint negligence in respect of which the Italian draft, utilitatis causa, i.e. because of the difficulty of establishing the extent to which each of the objects involved in the collision has been negligent, also provides that each of the objects in question must bear the cost of the damage it has sustained.

In the view of the Italian delegation, without these three specific points, it is impossible to draw up reasonable provisions to govern the case of collision. Their omission would lead to absurd legal and economic consequences, frequently mentioned by the Italian delegation in previous discussions. All this is confirmed by the very interesting paper submitted by Professor Dembling to the recent Conference on Outer Space at Vienna (Doc.A/Conf.34/IX.4).

The foregoing relates solely to damage caused in outer space. Damage can, however, also be caused in the earth's atmosphere as a result of a collision between space objects, or between space objects and aircraft (so far as the earth's atmosphere is concerned, it is difficult, if not impossible, to imagine any cause of damage other than collision).

So far, no precise approach to the framing of provisions governing the relative responsibility for such damage has emerged from the debates and decisions of the Sub-Committee. Even at the last session, in 1968, many delegations supported, in such a case, the principle of absolute responsibility, while the texts proposed or provisionally approved seemed to indicate the contrary.

The Italian draft applies here, as in the case of outer space, the principle of negligence, since identical cases can be governed only by the same principles. The Italian draft merely introduces a presumption juris tantum, according to which, in the event of a collision between aircraft and space objects, there is a presumption of negligence on the part of the latter (article (4), paragraph 4).

Finally, we should like to add that article 4, paragraph (5) of our draft accepts, as do all the other drafts, the principle of the absolute and joint liability of the Launching States whose space devices, involved in a collision, have caused damage on the surface of the earth.

The purpose of this paragraph in the Italian text is to make clear that, *viz-à-vis* the victims of the damage, joint negligence on the part of these States is presumed. This justifies joint liability and does not oblige those entitled to compensation to establish whether there was negligence on the part of the space objects involved in the collision or which of the objects was negligent.

In this last case, the acceptance of the principle of absolute liability is quite understandable, whereas if this principle - which is in itself exceptional - were applied indiscriminately, or without special reason, as would be the case for damage caused in outer space, it would undermine the rule of law, since it would encourage the persons responsible not to apply the necessary diligence in the exercise of their activities.

Ad Article 6: International organizations

The Italian delegation considers that, for this purpose, the formula used in paragraph (1) of this article, which is taken from the United States draft, is undoubtedly the best. In its view, it is not necessary for the majority of the member States of the organization to be parties to the present convention or to the Treaty of 1967, as proposed by Belgium, France, Sweden and the United Kingdom (A/AC.105/C.2/L.4). Once the organization has decided, by the majority required under its statute, to accept the rights and obligations arising from the convention, it goes without saying that the organization is bound in toto.

Ad Article 8: Applicable law for determining the amount of damages

The question of which criterion to apply in determining the amount of compensation payable to the victim of the damage is, in itself, a fairly simple one, but the extensive discussions of the subject have succeeded in making it a complicated and a difficult one to solve.

The stages through which the question has gone are well known; some maintained that it should be solved in accordance with the principles of international law, while others asserted that, on the contrary, the law of the State responsible for the damage should apply.

Efforts are currently being made to reach a compromise on the basis of two proposals, one by the United States delegation and the other by the USSR delegation.

In this connexion, the Italian delegation considers that the USSR proposal is too complicated and too detailed and, above all, too restrictive, and that it would therefore be difficult to apply.

The United States proposal, on the other hand, is much simpler and closer to Italian thinking, with the exception of one of its phrases ("taking into account the views of the presenting State"), which is very vague and of which it would be difficult to obtain a precise legal understanding.

Consequently, the Italian delegation proposes the following formula, which, while keeping up the United States proposal, eliminates the above-mentioned vague phrase: "The compensation which a State shall be required to pay under this Convention for the damage it has caused, shall be determined in accordance with the principles of international law, unless the parties agree that it shall be determined in accordance with the law of the State of the party or by applying the national law of their choice".

Ad Articles 9 to 12: Rules governing claims for compensation and recourse to the Arbitral Commission

These articles are taken from the United States draft, but the drafting has been greatly simplified (it was perhaps too long and too detailed) and changes have been made on some points of substance, in particular:

(a) the time limit of one year has been reduced to six months, in conformity with the view expressed in the Sub-Committee.

In the view of the Italian delegation, if a simple and rapid procedure for settling disputes is to be arrived at, the duration of the procedure must be shortened and the number of decision-taking organs must be limited.

This is why the Italian delegation is unable to accept the Indian proposal, based on the Hungarian draft, under which an advisory committee would be introduced between the action through the diplomatic channel and the action of the arbitral commission. That would result in lengthening the procedure for settling compensation and would increase its cost.

(b) A reference to international organizations had been added in article 9, paragraph (4), and provision has also been made for such organizations to be represented by one of their member States, since international organizations do not have diplomatic representation stricto sensu.

(c) Article 10, paragraph (3) specifies that the arbitral commission shall take its decisions in conformity with article 8 and that they shall be final and binding on the parties concerned.

(d) Ad Article 11, paragraph (1). The Italian delegation accepts the principle of the joint liability of the States members of the organization, but only from the date at which notification is received that the organization has failed to pay the amount of compensation due for the damage it has caused. Moreover, an addition has

been made to the effect that the member States may not question the justification for, or the amount of the compensation, if this amount has been agreed upon amicably or determined by the arbitral commission.

(e) Ad Article 12. The Italian delegation has always considered this article to be essential, since the Italian Constitution, like nearly all Constitutions, guarantees the right of all its citizens to institute proceedings in its courts; it wished, however, to make it perfectly clear that if the parties concerned waive their right to institute proceedings before the ordinary courts, the State concerned could have recourse to diplomatic procedure to obtain financial compensation for the damage.

(f) Ad Article 13: We think it useful to add this article which makes it optional, and not obligatory, for the parties to refer to the International Court of Justice whenever it is not found possible to settle a question of the interpretation of the provisions of the Convention by peaceful means or whenever the arbitral commission considers it desirable for them so to do.

In this connexion, we must point out that the other Indian proposal, under which, if we have understood correctly, the arbitral commission would be barred from interpreting the provisions of the Convention, is unfortunately not acceptable. It is obvious that, if he is to take his decisions, any judge has the right and the duty to interpret the law upon which his decision is based. It would be neither rational nor practical to provide otherwise.

Ad Articles 14 to 20: Final Clauses

The Italian delegation has no specific comment to make on these clauses. It simply wishes to propose that the convention should be opened for signature by all States, in the same way as the Treaty of January 1967 and the Agreement on assistance to astronauts. It also proposes that the Depositary States should be the same as those specified for the above-mentioned instruments.

NOTE. The Italian draft does not include any article concerning what is known as the "limitation of liability". This means that the Italian Government is opposed to any limitation whatsoever.

However, if the Sub-Committee should decide to include the principle of limitation, the Italian delegation requests that a provision be adopted whereby, in the case of damage caused wilfully, the responsible party shall not be entitled to benefit from the limitation.

INDIA: PROPOSAL (A/AC.105/C.2/L.32/Rev.2)

Convention concerning liability for damage caused by the launching of objects into outer space

The Contracting Parties,

Recognizing the common interest of mankind in the peaceful exploration and use of outer space,

Recalling 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 as resolution 1962 (XVIII),

Believing 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,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kind of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Having regard to United Nations General Assembly resolutions 2260 (XXII) of 3 November 1967, 2345 (XXII) of 19 December 1967, and 2453 (XXIII) of 20 December 1968 which *inter alia* called upon the Committee on the Peaceful Uses of Outer Space to complete urgently the preparation of the draft of an agreement on Liability for Damage caused by the Launching of Objects into Outer Space,

Bearing in mind the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, and the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,

Recognizing that activities in the exploration and use of outer space may from time to time result in damage,

Seeking to establish uniform rules of liability and a simple and expeditious procedure governing financial compensation for damage,

Agree as follows:

Article I

For the purpose of this Convention,

(a) the term 'damage' means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations and includes both nuclear and non-nuclear damage;

(b) the term 'launching' includes 'attempted launching';

(c) the term 'launching State' means:

1. the State which launches, attempts to launch or procures the launching of the space object;
2. the State from whose territory or facility the space object was launched;

(d) the term 'Claimant' means the State that presents a claim for compensation to a respondent;

(e) the term 'Respondent' means a launching State from which compensation is sought under this Convention;

(f) the term 'Space Objects' includes component parts of the space object as well as its launch vehicle and parts thereof.

Article II

1. Unless otherwise provided in the Convention, the launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth and to aircraft in flight.

2. Exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies.

3. The provisions of this Convention shall not apply to damage caused by the space object of a launching State to:

(a) Nationals of that launching State;

(b) Foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Article III

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

2. If in the case referred to in paragraph 1, damage is caused to a third State Party to this Convention or to its physical or juridical persons, the States mentioned in paragraph 1 shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between those States in accordance with the extent to which they were at fault; if the extent of the fault of each of those States cannot be established, the burden shall be apportioned equally between them.

Article IV

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportionment among themselves of the financial obligations in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object.

Article V

A launching State shall be liable to pay compensation without limit for all damage caused to other States.

Article VI

If there is agreement between the claimant and the respondent on the applicable law regarding the amount of compensation payable under this Convention, then that law should be applied. If the claimant and the respondent do not agree on the applicable law, the amount of compensation shall be determined in accordance with international law, taking into consideration the law of the claimant State and, where considered appropriate, the law of the respondent State. In case of conflict, international law shall prevail.

Article VII

1. A Contracting Party which suffers damage, or whose natural or juridical persons suffer damage, may present a claim for compensation to a respondent.
2. Subject to the provision of paragraph 1, a Contracting Party may also present to a respondent a claim in respect of damage sustained by any natural or juridical person in its territory.
3. A Contracting Party may also present a claim for damage sustained by its permanent residents in respect of whom neither the State of nationality nor the State in which the damage was sustained has presented a claim or notified its intention of presenting a claim.
4. No claim may be presented under this Convention in respect of the nationals of the respondent.

Article VIII

1. A claim shall be presented through diplomatic channels. A claimant may request another State to present its claim and otherwise represent its interests in the event that it does not maintain diplomatic relations with a respondent.
2. Presentation of a claim under the Convention shall not require the prior exhaustion of any local remedies that may be available to the claimant or to those whom the claimant represents.
3. Nothing in this Convention shall prevent a claimant or any natural or juridical person that it might represent from pursuing a claim in the courts or administrative tribunals or agencies of a respondent. A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent.

Article IX

1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the party that is liable.
2. If the claimant State does not know of the facts giving rise to the claim within the aforementioned one year period, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the claimant State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The above-mentioned time limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time limits until one year after the full extent of such damage is known.

Article X

Unless the parties agree otherwise, compensation for damage caused by a space object shall be payable in the currency of the State presenting the claim.

Article XI

There may be joinder of claims where there is more than one claimant in respect of damage due to the same event or where more than one State is liable in respect of damage.

Article XII

1. In case of disagreement between the claimant and the respondent, the two parties shall endeavour to arrive at a settlement through diplomatic negotiations.
2. If no settlement is arrived at within six months of the presentation of the claim, either party may invoke the provisions of the compulsory Protocol on the Settlement of Disputes, annexed to this Convention.

Article XIII

1. The provisions of this Convention shall apply to each international inter-governmental organization which conducts space activities, provided a majority of the States members of that Organization are Parties to this Convention.
2. If an international inter-governmental organization is responsible in terms of the provisions of this Convention for damage caused by its space object, both the organization and its members are jointly and severally liable.
3. Claims in respect of damage caused due to the space activities of such an international organization shall be first presented to the organization. If the organization is unable to settle the claim within one year, the claimant may proceed against any one or more of the members of the organization which are also parties to the Convention.
4. Any claim, pursuant to the provisions of this Convention, for compensation in respect of damage caused to the property of an international inter-governmental organization may be presented by one of the State members of that organization which are parties to this Convention.

Article XIV

1. This Convention which includes the Compulsory Protocol on Settlement of Disputes as an integral part shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Convention.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

6. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

Any State Party to the Convention may propose amendments to this Convention. Amendments will enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article XVI

A Contracting Party may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawals shall take effect one year from the date of receipt of this notification.

Article XVII

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

Annex I

Compulsory Protocol on Settlement of Disputes

The Contracting Parties to the Convention on Liability for Damage Caused by Objects Launched into Outer Space,

Bearing in mind the provisions of Article XII of the Convention pertaining to the settlement of disputes,

Seeking to establish a procedure for the definitive settlement of disputes which may arise between claimants and respondents with regard to claims to compensation for damage,

Agree as follows:

Article I

Enquiry Commission

1. If no settlement of the claim is arrived at through diplomatic negotiations as provided for in Article XII of the Convention, the claimant and the respondent shall establish an Enquiry Commission on the basis of parity, within one month of a request by either claimant or respondent for its establishment.

2. The Enquiry Commission shall, taking into account the positions of the respective parties, make recommendations with regard to the settlement of the claim, within six months of its establishment.

3. The Enquiry Commission shall determine its procedure.

Article II

Claims Commission

1. A Claims Commission shall be established upon request of either party if:

- (i) the Enquiry Commission is not established as provided in article I (1);
- (ii) the Enquiry Commission is unable to arrive at any recommendations within the period specified in article I (2) or its recommendations are not implemented within a period of two months.

Article III

1. The Claims Commission shall be composed of one nominee each of the claimant and the respondent and a third member, the Chairman, to be chosen by the claimant and the respondent jointly. The nominees of the claimant and the respondent shall respectively be designated within two months of the request for the establishment of the Claims Commission.

2. If no agreement is reached on the choice of the Chairman within four months of the request for the establishment of the Claims Commission, the respective Chief Justices of the two parties or other judicial officers or jurisconsults of the two parties shall nominate the Chairman within a period of two months.

3. If no agreement is forthcoming on the choice of the Chairman under the procedure provided for in paragraph 2, the Secretary-General of the United Nations or some other person of similar standing may be requested by either party to nominate the Chairman within a period of two months. The nomination so made shall be binding.

Article IV

1. If one of the parties fails to designate its nominee within the stipulated period, the Chairman shall, at the request of the other party, constitute a single member Claims Commission.

2. Any vacancy which may arise in the Claims Commission by way of death, ill-health or resignation of one or more members shall be filled by the same procedure adopted for their original nomination.

3. The Claims Commission shall determine its procedure.

4. The Claims Commission shall determine the place or places where it shall sit and all administrative matters connected therewith.

5. All decisions of the Claims Commission shall be by majority vote, except in cases where a single member Commission is established.

Article V

No increase in the membership of the Claims Commission shall take place where two or more claimants or respondents are joined in any one proceeding before the Commission.

The Claimants so joined shall collectively nominate one member of the Commission in the same manner and subject to the same conditions as would be the case for a single claimant. When two or more respondents are so joined, they shall collectively nominate one member of the Commission in the same way. If the claimants or the respondents fail to nominate their member within the stipulated period, the Chairman shall constitute a single-member Commission.

Article VI

1. The Claims Commission shall have competence only with regard to the specific claim before it. The Commission's sole function shall be in the light of the respective conventions of the claimant and the respondent and of the facts of the case as made available to it, to decide on the merits of the claim for compensation and to determine the amount of compensation payable, if any.
2. The Commission shall not have the competence to render an authoritative interpretation of the Convention.

Article VII

1. The Commission shall be guided by the provisions of Article VI of the Convention in so far as the law to be applied by it is concerned.
2. The Commission shall state the reasons for its decision, which shall be final and binding.

Article VIII

The expenses in regard to the Claims Commission shall be borne equally by the parties.

Argentine: Proposal (A/AC.105/C.2/L.59)

CONVENTION CONCERNING LIABILITY FOR DAMAGE CAUSED BY THE
LAUNCHING OF OBJECTS INTO OUTER SPACE

Law applicable for the determination of compensation

The amount of compensation payable under this Convention shall be determined in accordance with international law, or with the law agreed upon by the Parties, or with the law of the place where the damage was caused.

Belgium, France, Italy, Sweden and United Kingdom:
proposal (A/AC.105/C.2/L.60 and Add.1)

International Organizations

Article ...

1. The provisions of the present Convention, with the exception of Articles -- to --, shall apply, in the same manner as they apply to a State, to any international inter-governmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are Contracting Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.
2. States members of any such organization which are Contracting Parties to this Convention shall support in the organization the making of a declaration in accordance with the preceding paragraph.
3. If an international organization is liable for damage by virtue of the provisions of this Convention, that international organization and those of its members which are Contracting Parties to this Convention shall be jointly and severally liable; provided, however, that:

(a) any claim for compensation in respect of such damage shall be first presented to the organization; and

(b) only where the organization has not paid, within a period of six months, any sum agreed or determined to be due as compensation for such damage, may the claimant invoke the liability of the members which are Contracting Parties to this Convention for the payment of that sum.

4. Any claim, pursuant to the provisions of this Convention, for compensation in respect of damage caused to an organization which has made a declaration in accordance with paragraph 1 of this Article shall be presented by the State in whose territory the headquarters of that organization are situated or, if that State is not a Contracting Party to this Convention, by a member of the organization which is such a Contracting Party.

Japan: Working Paper (A/AC.105/C.2/L.61 and Corr.1)

The Japanese delegation in its general statement invited the attention of the Legal Sub-Committee to the necessity of clarifying some points in the text agreed in the previous sessions of the Sub-Committee or in the text of draft conventions submitted by member States. Those points are as follows:

1. Indirect damage and delayed damage.

The question whether so called "indirect damage" or "delayed damage" should be covered by the convention was discussed in the previous sessions within the framework of the definition of damage. It is well-known that the content or extent of these two terms is differently interpreted in the general international law and case law of international arbitration. In some cases of international arbitration, these two kinds of damage were compensated but in others they were rejected. Like this, indirect damage or delayed damage is treated differently according to different cases. Therefore, the recent trends in international arbitration have come to attack the problem on the basis of the criteria of the adequate relationship of cause and effect, without using the concept of "indirect damage" or "delayed damage". The Japanese delegation believes that all damages which have adequate relationship of cause and effect with the space activities should be covered in this convention. In order to avoid endless discussion on whether to include those terms of "indirect damage" or "delayed damage" in the definition of damage, we should discuss the problem of these two terms not in the context of definition of damage but in the context of the manner in which the damage occurred, by introducing the notion of adequate relationship of cause and effect or so called "the existence of proximity" in the Anglo-American laws.

In this connexion, Article II of the Indian draft convention (A/AC.105/C.2/L.32/Rev.7) provides, "Unless otherwise provided in the Convention a Launching State shall be absolutely liable for damage caused by its space object whether during launching or thereafter." (underlining added by the Japanese delegation). The Japanese delegation fears that this expression "caused by" does not always cover the cases of the above-mentioned adequate relationship of cause and effect, and hopes that more appropriate expression (for example "arising out of or resulting from ...") will be found, or the interpretation will be established that it covers sufficiently the cases of the adequate relationship of cause and effect.

Article II paragraph 1 of the United States draft convention (A/AC.105/C.2/L.19) provides, "The launching state shall be absolutely liable to pay compensation to the Presenting State, in accordance with the provisions of this Convention, for damages shown to have been caused by the launching, transit or descent of all or part of a space object." (underlining added by the Japanese delegation). As it stated during the last session, the Japanese delegation interprets that this notion "shown" does not impose on the claimant state any burden of proving the adequate relationship of cause and effect, but the mere obligation to submit the necessary documentation.

2. Damage to a space object by another space object.

The Japanese delegation interprets that the damage in the text agreed during the last session with regard to the damage to a space object by another space object means a physical damage of a space object, and that it does not include harmful interference itself with radio communications.

3. General principle of liability of state.

The text agreed in the plenary meetings during the seventh session concerning the general principle of liability of state provides, "A State which launches a space object or procures the launching " (underlining added by the Japanese delegation). The Japanese delegation interprets that "procure" consists of two requirements mentioned in the United States draft convention (A/AC.105/C.2/L.19), namely "actively and substantially participate". The Japanese delegation interprets that "actively participate" means participation in the decision of launching through agreement or consultation with the launching state, and "substantially participate" means participating in the substantial part of the project. The Japanese delegation also interprets that the manufacture of space objects or technical assistance for the manufacture of them or for the drawing up of a plan of space object is not, by itself, included in "actively and substantially participate".

4. Liability of a state whose territory or facilities were used for the launching.

The text of the principle agreed in the plenary meetings during the seventh session (A/AC.105/C.2/L.36/Rev.2) reads as follows:

"3. The State whose territory or facilities were used for the launching of a space object shall be liable in the same manner as the Launching State if for any reason it does not identify the latter or if the latter is not a Party to this Convention." (underlining added by the Japanese delegation).

The Japanese delegation considers that there are three cases regarding the identification of the launching state by the state whose territory or facilities were used for the launching, as follows:

(1) The state whose territory or facilities were used for the launching knows the launching state, but does not identify (disclose) the latter for some reason or other.

(2) The state whose territory or facilities were used for the launching has the intention to identify the launching state, but cannot identify the latter. For example, five objects of five different states were launched almost in the same direction from the same facilities and almost at the same time, and two of them fell almost at the same time on two different sites, and there is a big difference between the damage to one site and that to another. The state whose facilities were used cannot identify which one of the objects caused damage to which of the two sites although it wants to identify the launching state.

(3) The state whose territory or facilities were used for the launching identifies the launching state, but the latter denies it, and thus the identification is not finally established.

The text of the principle agreed in the plenary meetings during the last session "for any reason it does not identify the latter (the launching state)" covers the case (1) only.

If the case (2) as well as case (1) should be covered, the text should read, "for any reason it does not identify the latter, or it cannot identify the latter (the launching state)".

If all these three cases should be covered, the text should read simply, "if the launching state is not identified". The Japanese delegation believes that this provision is the most victim oriented among the three formulas as mentioned above.

5. Nuclear damage

There are two kinds of nuclear damage. The first is damage resulting from the nuclear reactor or isotope battery of a space object. The second is damage from nuclear materials which spreaded from the nuclear facilities on the ground or nuclear ships, damaged or destroyed by a space object.

With regard to the first kind of nuclear damage, this convention would be the first international treaty to cover this kind of damage, and there will arise no problem of interrelationship with any other international agreements.

With regard to the second kind of nuclear damage, it may be considered that this kind of damage is covered by this convention, so long as the adequate relationship of cause and effect is established between the fall of the space object and the damage. If it is the case, there will arise a problem of interrelationship with other international agreements, for example, the Vienna Convention on Civil Liability on Nuclear Damage, with regard to damage to foreign nationals. (In case of damage to its nationals, the state will file a claim for compensation against the launching state under this convention.) An example is taken of damage to foreign nationals from nuclear materials spreading out of the nuclear facilities on the

ound destroyed by a space object. In this case, the foreign nationals are entitled to obtain compensation from the operator of the nuclear facilities under the Vienna Convention on Civil Liability for Nuclear Damage. After payment of compensation to the foreign nationals, the operator may exercise a right of recourse on some conditions against the launching state for the paid amount of compensation under the Vienna Convention. Since the same case of damage is covered by this Convention and also the Vienna Convention, the Japanese delegation interprets that the victim state is envisaged with a choice of two alternatives, namely, the state itself will either claim compensation against the launching state under this Convention, or will leave the operator of the facilities to exercise a right of recourse against the launching state under the Vienna Convention.

On the other hand, it is interpreted that the state of nationality of the foreigners also has two alternatives to choose: (1) the state itself will claim compensation against the launching state under this convention, or (2) the state will leave them to submit claim against the operator of the nuclear facilities under the Vienna Convention.

The same damage.

The second sentence of paragraph 2 of the text agreed in the seventh session under the title of pursuit of remedies available in respondent state or under other international agreements reads as follows:

"A claimant shall not however be entitled to pursue claims under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a respondent, or under another international agreement which is binding on the claimant and the respondent." (the underlining added by the Japanese delegation)

The Japanese delegation considers that it is necessary to clarify the notion of "the same damage". For example, a claim for compensation was presented against the respondent state in its court or under another international agreement. The alleged damage consists of several points. In this case, it is interpreted that other points than those being pursued in the court or under an international agreement, or other points than res judicata can be presented to the respondent state under this convention.

Austria, Belgium, Canada, Italy, Japan and Sweden:

Proposal on the applicable law (A/AC.105/C.2/L.62)

The compensation which the respondent State shall be required to pay for the damage under this Convention shall be determined in accordance with international law and the law of the State in whose territory the damage occurred; in the event of any conflict between the aforementioned laws, international law shall apply.

However, the compensation may be determined in accordance with any other principle agreed upon between the claimant State and the respondent State.

Italy: Working Paper (A/AC.105/C.2/L.63)

The Italian delegation, desiring as comprehensive a convention as possible, and for the sake of clarity, proposes that the following order be followed in drafting the articles referring to the nature of liability for damage occurring in the different environments:

1. Damage on the surface of the earth (absolute liability, even in the case of force majeure);
2. Damage caused in the atmosphere or in outer space (liability based on negligence);
3. Damage generally due to collision, which requires separate provisions for:
 - (a) the case of the exclusive fault of one of the objects in collision;
 - (b) the case in which the cause of the collision cannot be established, or there has been joint negligence or force majeure;
 - (c) the case of collision between space objects and aircraft (for this case the Italian delegation still favours the application of the principle of negligence, accompanied by a presumption of the fault of the space object, which almost amounts to a kind of absolute liability);
 - (d) the case of damage caused by collision on the surface of the earth (vis-à-vis the victims, absolute and joint liability of the objects involved in the collision).

If the provisions are so drafted and arranged in this order, all cases of damage will be covered and the future convention will be easier to apply (the only case which remains in doubt is that of damage caused on the surface of celestial bodies other than the earth).

In this case, will there be absolute liability, as for damage on the earth, or will the principle of negligence be applicable?

Austria: proposal (A/AC.105/C.2/L.65)

Measure of damages (applicable law)

If there is agreement between the claimant and the respondent on the applicable law or on the principles to be applied, then that law or those principles should be applied.

Union of Soviet Socialist Republics and Bulgaria: Working Paper (A/AC.105/C.2/L.67 and Add.1)

Article ...

International intergovernmental organizations that launch objects into outer space shall be liable for damage caused by such objects.

If liability for damage rests with an international intergovernmental organization, the financial obligations towards States suffering damage shall be met by the international intergovernmental organization and by its member States jointly and severally.

If damage is caused by a space object to the property of an international intergovernmental organization, the claim shall be presented by one of the States members of the international intergovernmental organization which are Parties to this Convention.

United Kingdom: Proposed principle on nuclear damage (A/AC.105/C.2/L.68)

Nuclear damage should not be excluded from the forms of damage covered by the Convention.

Austria and France: Proposal (PUOS/C.2/69/WG.1/CRP.1)

Under the "Points on which agreement was reached at the sixth session of the Sub-Committee" in document A/AC.105/C.2/W.2/Rev.4/Add.4, page 6*, replace A. (b) by the following text:

"A.

- (b) subject to ... ** foreign nationals participating in operations connected with the launching, transit, or descent of a space object or being in the immediate vicinity of a planned launching or recovery area as the result of an invitation by the launching State."

Austria: Working paper (PUOS/C.2/69/WG.1/CRP.2/Rev.1)

Field of application and exemptions from provisions of agreement;
question of absolute liability and exoneration from liability

1. The launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth and to aircraft in flight.
2. Unless otherwise provided in the Convention, exoneration from absolute liability shall be granted to the extent that the respondent establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of the claimant or of natural or juridical persons it represents. No exoneration whatever shall be granted in cases where the damage results from activities conducted by the respondent which are not in conformity with international law, in particular, the Charter of the United Nations and the Treaty on the principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies.

Text agreed at the
session (1967) with
addition approved by
Working Group this
(indicated by under
lining)

Text agreed at the
seventh session (1968)
and reaffirmed by the
Working Group this
year

* See A/7285, page 130, footnote 2.

** Referring to the text agreed at the seventh session of the Sub-Committee (A/7285, page 130).

3. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one State or to persons or property on board such a space object by the space object of another State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

Text agreed at the seventh session (1968) with addition of this year (indicated by underlining)

4. The provisions of this Convention shall not apply to damage caused by the space object of a launching State to:

Text agreed at the sixth session (1967) with addition and other changes approved by Working Group this year

(a) Nationals of that launching State;

(b) Foreign nationals participating in the operations connected with the launching, transit or descent of that space object or being in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

Text agreed at the sixth session (1967) with additions proposed by Austria and amendments by U.K.

Union of Soviet Socialist Republics: Working Paper (PUOS/C.2/69/WG/CRP.3/Rev.1)

Unless the parties agree otherwise, compensation for damage caused by a space object shall be payable in the currency of the State presenting the claim.

Australia, Canada: Proposal (PUOS/C.2/69/WG.1/CRP.4)

1. A claim may be presented not later than one year following the date of the occurrence of the accident or the identification of the launching State.
2. If the claimant State does not know of the facts giving rise to the claim within the afore-mentioned one year period, it may present a claim within one year following the date on which it learned of the facts; however, this period shall in no event exceed one year following the date on which the claimant State could reasonably be expected to have learned of the facts through the exercise of due diligence.
3. The above-mentioned time limits shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise its claim and submit additional documentation beyond the above-mentioned time limits until one year after the full extent of such damage is known.

France: Proposal (PUOS/C.2/69/WG.1/CRP.5)

Question of joint liability

If in the case referred to in paragraph 1* damage is caused to a third State Party to this Convention or to its physical or juridical persons, the States mentioned in paragraph 1* shall be jointly and severally liable. The burden of compensation for such damage shall be apportioned between those States in accordance with the extent to which they were at fault.

To the extent that the damage caused to the third State was sustained on the surface of the earth or to an aircraft in flight and if the extent of the fault of each of those States cannot be established, the burden shall be apportioned equally between them.

* See footnote to paragraph 25 of the Report.

Canada: proposal (PUOS/C.2/69/WG.1/CRP.6)

Definitions

"Damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international organizations.

Italy: proposal (PUOS/C.2/69/WG.1/CRP.7)

Definitions

"Damage" means loss of life, personal injury or impairment of health, and loss of or damage to property or services caused by a space object.

Brazil: proposal (PUOS/C.2/69/WG.1/CRP.8)

Add the following Article to the Convention:

Nothing in the Convention shall preclude the conclusion of agreements on the apportionment of liability between two or more Contracting Parties.

France: proposal (PUOS/C.2/69/WG.1/CRP.9/Rev.1)

Question of joint liability

The State whose territory or facility was used for the launching of a space object shall be liable in the same manner as the State which launched, or procured the launching of the space object, if for any reason it does not identify the latter, if the latter is not a Party to this Convention, or if it participated in the operation under a joint programme.

Italy: working paper (PUOS/C.2/69/WG.1/CRP.10)

Liability of the State which lent its territory or the facility for the launching

The State whose territory or facility is used for the launching shall be liable if it participates actively in this operation or where it does not indicate (reveal) which State has (actually) launched the space object or where the latter is not a party to this Convention.

Italy: proposal (PUOS/C.2/69/WG.1/CRP.11)

Add to the French proposal (PUOS/C.2/69/WG.1/CRP.9);

"In this last case, the State whose territory or facility is used shall be jointly liable with all the States participating in the joint programme".

USSR: proposal (PUOS/C.2/69/WG.1/CRP.12)

Add the following new paragraph to the reaffirmed text (PUOS/C.2/69/WG.1/10):

The State which has compensated the damage shall have a right of recourse against other participants in a joint launching who are Parties to this Convention.

* The words underlined are not included in the French proposal. The question arises whether it would be advisable to retain them.

Belgium: proposal (PUOS/C.2/69/WG.1/CRP.13)

Add the following article to the Convention:

"Nothing in this Convention shall prevent the conclusion of agreements relating to the apportionment of liability between two or more Contracting Parties. However, such agreements may not be invoked against claimants".

United States of America: Working Paper (PUOS/C.2/69/WG.1/CRP.14)

The term "space object" includes parts of the object as well as its boosters and parts thereof.

Union of Soviet Socialist Republics:
Working Paper* (PUOS/C.2/69/WG.1/CRP.15)

The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in the joint launching may conclude an agreement regarding the apportioning among themselves the financial obligation arising out of the right to claim indemnification. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object.

Union of Soviet Socialist Republics:
Working Paper (PUOS/C.2/69/WG.1/CRP.15/Rev.1)

The State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object.

United States of America:
Working Paper (PUOS/C.2/69/WG.1/CRP.16)

Article

Nothing in this Convention shall preclude a respondent which has paid compensation for damages under this convention from pursuing a claim for partial or total reimbursement against another (respondent) (State or international organization) which may also be liable for such damage, in whole or in part, under this Convention, under general principles of international law or pursuant to other international agreements.

*See A/AC.105/C.2/SR.130 (Prov.) (page 9 of the English text).

United Kingdom and United States: Working Paper (PUOS/C.2/69/WG.1/CRP.17)

Nothing in this Convention shall prevent the conclusion by participants in a joint launching of agreements regarding the apportionment among themselves of the financial obligations in respect of which they are jointly and severally liable or, if a participant has paid compensation for damage, the presentation by it of a claim for reimbursement from other participants. Such agreements shall be without prejudice to the rights of the State sustaining damage caused by the space object.

Argentina: Working Paper (PUOS/C.2/69/WG.1/CRP.18)

Definition of "space object"

"Space object" shall be understood to mean any device constructed and launched by man to manoeuvre in outer space together with its launch vehicles and parts thereof.

ANNEX III

STATEMENT MADE BY MR. R.E. BUTLER, DEPUTY SECRETARY-GENERAL
OF THE INTERNATIONAL TELECOMMUNICATION UNION TO THE LEGAL
SUB-COMMITTEE AT ITS ONE HUNDRED AND THIRTEENTH
MEETING ON 12 JUNE 1969

Mr. Chairman,

In view of the general statements made during discussions of item 3 of your agenda in regard to the Specialized Agencies, I would like to make some comments on behalf of the International Telecommunication Union. I believe also this will accord with the wish expressed in General Assembly Resolution 2453(XXIII).

The I.T.U. is actively pursuing its studies in the development of the necessary international technical, operational and general regulatory requirements in the utilization of space from the telecommunication viewpoint, thus ensuring that countries can look forward to efficient use of space facilities which are established and operated not only alongside other satellite facilities and space services, but also in association with radiocommunication facilities generally.

In reality it is not possible for us to consider space and terrestrial telecommunications in complete isolation from each other, for example, once a satellite or spacecraft is launched for any use, it is connected to earth only by hertzian waves in much the same way that communication is maintained with aircraft in the air, or between terrestrial stations generally. This is why the I.T.U. works in close association with other technical agencies, for example, an essential factor of the successes of I.C.A.O. traffic coordination which was referred to yesterday, is the regulated use of the radio spectrum. This use occurs within the broad framework of the I.T.U. regulations derived from World Administrative Radio Conferences.

All of these regulations devolve from the basic framework of the International Telecommunication Convention, which is a Convention negotiated by Plenipotentiaries of your Governments and subsequently signed and ratified under the normal conditions.

As regards the utilization of space, apart from the specific responsibilities and obligations which provide the charter of the International Telecommunication Union in its regulation of all telecommunications, we do have in the Convention specific responsibilities relating to such matters as handling priority to all telecommunications concerning safety of life at sea, on land, in the air or in outer space. This is described in Article 39 of the Convention. Additionally, and because of the importance attached to the avoidance of harmful interference in radiocommunications, there is a provision (Article 48) which imposes on members the obligation to ensure that all radio-communication stations are established within their jurisdiction in a manner which avoids interference with others. There is no distinction between space and terrestrial services, bearing in mind of course that for the present at least one of the two terminals involved in inter-communication is located on earth.

There is, too, the obligation under the Convention to operate them in accordance with the provisions of the Radio Regulations which are an integral part of the Convention.

The Radio Regulations are another form of international law, and in regard to the use of space there are provisions of a specific character imposing obligations on members. In most countries, the Radio Regulations are supplemented by national laws for internal regulation.

These Regulations establish the necessary coordinating and administrative procedures to be observed by the Member governments in their relationships, bilaterally, multilaterally or through the Union headquarters especially in the tasks assigned to the International Frequency Registration Board, in order to meet the objectives in the I.T.U. Convention.

These Regulations are evolved from the Union's World Administrative Radio Conferences. Such a conference comprises accredited representatives of Member governments acting with credentials signed by the appropriate government authority, that is, Head of State, Head of Government, Minister of Foreign Affairs, etc., depending upon the normal internal regulation of the government concerned.

As regards the Radio Regulations there are provisions relating to space services. These resulted from the Union's Administrative Radiocommunication Conference in 1963. These Regulations have been accepted by nearly all Member governments.

Since 1963, there has been tremendous growth both in application and in future utilization of space radiocommunications techniques for all communication requirements.

Apart from meteorology and public telecommunication services, there is considerable interest in satellites for civil aviation and maritime purposes, both for communication and navigation, broadcasts and television distribution, increased space research and radio-astronomy.

These developments and the need for further refinement to the Radio Regulations has led to the I.T.U. decision to convene a Second World Administrative Radiocommunications Conference to revise and supplement the existing administrative and technical regulatory provisions, and to adopt as necessary new provisions insofar as they involve space radio techniques, including those for manned space vehicles and for the radio-astronomy service in order to ensure the efficient use of the radio spectrum.

This conference of Member Government representatives will commence on 7 June 1971 and, in our view, will meet the necessary technical and operating regulatory requirements in the telecommunication field. It will take up the matters requiring attention in the I.T.U. from the telecommunication viewpoint. The Conference has the authority to deal with the matters relating to harmful interference, and not only to amend the existing international regulations but also to adopt such new measures that are necessary for the space services and to make any consequential amendments to other general provisions.

The Final Acts of this conference will of course be subject to signature by the duly accredited delegations. Their entry into force will also be conditional on approval being given by the governmental agency of each member country provided for in the I.T.U. Convention.

If there are telecommunication matters which are not competent for the Conference at that time, the Union will have its Conference of Plenipotentiaries in 1972 to consider any changes in the basic instrument, i.e. the International Telecommunication Convention. However, at this stage, we envisage that the 1971 World Administrative Conference has been given an agenda to meet the basic requirements for the radiocommunication service aspects on which all space research and utilization is so heavily dependent.

Thus we believe, as has been implied by the Canadian Delegation, these Conferences of the Member Governments will be able to deal with all the telecommunication aspects that could require attention.

The Union is also evolving the desired technical operating standards and practices in the form of recommendations through its Consultative Committees, which also provide the basic planning standards for the development of the new regulatory requirements to be settled at the World Administrative Radio Conference.

I would like to make some references to questions of definitions in which there have already been comments in regard to air transportation. Well in the I.T.U. we have also had to evolve definitions in our statutes to meet the practical service requirements. We do not have a definition of outer space but there is a definition of "deep space" which is defined as "space at distances from the Earth equal to or greater than the distance between the Earth and the Moon". This was essential to meet the radio frequency needs of the space research probes. On the other hand there is a definition of "space service" which among other factors takes account of the fact that normal terrestrial radiocommunications utilize the ionosphere for relay, which may well be at a point higher than some of the points of delimitation referred to in your debates; this has been necessary for practical communication reasons and even though it may not directly affect resolution of your problem, I draw your attention to it.

This is a short summary of development which has been taking place in the International Telecommunication Union.

Separately, we have participated in the study by the Working Group on Direct Broadcasting which has fully recognized the I.T.U. studies in this matter, and produced a report from its first session - a report which was later endorsed by the technical sub-committee on the Peaceful Uses of Outer Space. The report has urged members to make available the telecommunication results of their further research and experimentation to the I.T.U. which is the competent authority to provide the basic regulatory framework for the telecommunication aspects involved in the use of outer space.

Finally I stress that in these matters the I.T.U. is cooperating closely with the other Specialized Agencies, in particular IMCO, ICAO, WMO and UNESCO, with an interest in space activities, and especially because of the critical role of telecommunication in their interests in space.

Having given this broad exposition of the I.T.U. situation, I and my colleagues will be available to assist the Committee.

Arrangements are being made for the distribution of the Agenda which has been approved for the Second World Administrative Radiocommunications Conference, and the I.T.U. report to the Peaceful Uses of Outer Space Committee on the development in space technology and studies, etc. during 1968.

ANNEX IV

Registration with the United Nations^{1/} of Objects launched into Outer Space^{2/}

Mr. Chairman,

The registration with the United Nations of objects launched into outer space has been frequently referred to in the current debate. It might be useful to make a brief statement on the history of this question and on the information already furnished by the Launching States and disseminated by the United Nations.

The question of registration was raised in the United Nations for the first time in 1959, that is some considerable time after the launching of Sputnik I by the USSR in October 1957 and Alpha I by the United States in February 1958. There was no reference to the question of registration in the first two resolutions adopted by the General Assembly on the question of the peaceful uses of outer space, namely resolution 1348 (XIII) adopted in 1958 and resolution 1472 (XIV) adopted in 1959. The question was taken up in the first instance by the Ad Hoc Committee on the Peaceful Uses of Outer Space in its session ten years ago, in May and June 1959. The report of the Ad Hoc Committee^{2/} stated the following regarding the necessity of identification and registration of space vehicles:

"It is expected that the number of space vehicles will progressively increase and in the course of time that number may become very large. This indicates the necessity of providing suitable means for identifying individual space vehicles. Such identification of space vehicles could be obtained by agreement on an allocation of individual call signs to these vehicles. The call signs could be emitted at stipulated regular intervals, at least until identification by other means has been established."

The report of the Ad Hoc Committee further referred to the fact that as a part of the problem of identification there arises the question of putting suitable markings on space vehicles so that, particularly in the event of their return to earth, they may be readily identified. The reasons given in the report for the desirability of maintaining a form of identification and registration may be summarized as follows:

1. In many cases it will be desirable to have several nations co-operate in the tracking of a space vehicle.

^{1/} (A/AC.105/C.216). The statement was delivered by Mr. A.J. Abdel-Ghani, Chief of the Outer Space Affairs Division of the United Nations Secretariat, at the 115th meeting of the eighth session of the Legal Sub-Committee on 13 June 1969.

^{2/} Doc. A/4141

2. It might also afford a convenient means for the notification of launchings to other States, thus enabling them to make appropriate distinctions between space vehicles so notified and other objects and to take appropriate measures to protect their interests, if necessary.

3. It also could be useful in preventing physical interferences between space vehicles and conventional aircraft.

4. Such identification would be useful where equipment is recovered from space vehicles which had re-entered the earth's atmosphere or where the question of liability arises in connexion with possible damage caused upon re-entry.

The General Assembly later took up this question in its resolution 1721 (XVI) adopted in 1961. The two relevant provisions in this resolution read as follows:

"The General Assembly,

1. Calls upon States launching objects into orbit or beyond to furnish information promptly to the Committee on the Peaceful Uses of Outer Space through the Secretary-General for the registration of launchings.

2. Requests the Secretary-General to maintain a public registry of the information furnished in accordance with paragraph 1 above."

In accordance with this resolution the States launching objects into outer space or beyond have been submitting to the Secretary-General information on such launchings. This information embodies a census of the names of satellites or space objects or any other designation as well as orbital parameters. For this purpose a public registry was established and is maintained by the Secretary-General. On receiving such information, the Secretary-General issues it in an information series under the symbol A/AC.105/INF. circulated on a general basis and the original copy is retained in the Outer Space Affairs Division. To this date the USA, USSR, Italy, France and Australia have submitted notifications of launchings. The first document in the series of information is dated 7 March 1962 and the last document issued is dated 6 June 1969. A set of the documents received and disseminated by the United Nations under the said symbol is also available to the members of the Sub-Committee for reference.

The information furnished by the launching States is not identical in form and contents. The United States, for example, supplied information on the object launched by them as well as information on decaying satellites. The designation of objects follows that established by COSPAR as an international designation. Information was provided on the date of launching, the launched vehicle, the apogee, the perigee and other technical information. It also contains what is called the Satellite Category and this category is divided into four categories - (a) development of space flight techniques and technology; (b) space research and exploration; (c) practical applications of space technology; and (d) non-functional objects.

The USSR have submitted information on USSR launchings in chronological order using code or popular names for payloads, e.g. Cosmos 188, Molinya I, Zond 6, and so on.

It contains information on the date of launching, the perigee and the apogee as well as the purpose of launching such as for investigation of the upper atmosphere and outer space research for biology, meteorology, and so on.

The French Government in submitting information on their launchings used the international designation of COSPAR as well as code names, e.g. France I. The Italian Government used the code names San Marco I and San Marco II. The Australian Government used the code name WRESAT.

In resolutions adopted since the establishment of the "Registry", the General Assembly "Noted with appreciation that, in accordance with General Assembly resolution 1721 B (XVI), the Secretary-General continues to maintain a public registry of objects launched into orbit or beyond on basis of information being furnished by Member States."

The United Nations is not the only organization engaged in the registration of launchings. There are other organizations which gather and disseminate information on this matter. Under the programme of the International Geophysical Year, three world data centres were established. These are World Data Centre A in the USA, World Data Centre B in the USSR and World Data Centre C in Britain. These were established to collect data from numerous observational programmes and to make such data accessible to interested scientists and organizations. In this connexion COSPAR has set up a "Guide to Rocket and Satellite Information and Data Exchange".

The NASA's Goddard Space Flight Centre issues periodical reports reflecting data computed and compiled by the Smithsonian Astro-Physical Observatory. Another example is the Royal Aircraft Establishment in the United Kingdom, which also is concerned with collecting information on the various launchings. Some specialized magazine periodic publications collect and publish information on launchings.

The system of registration with the United Nations has been a subject of comment by several Member States on the Committee on the Peaceful Uses of Outer Space and in particular in this Legal Sub-Committee. These comments were made on several occasions and in particular on the occasion of the consideration by the Legal Sub-Committee of the Convention on Assistance and Return and in the current consideration on the Draft Convention on Liability. Of course, I do not need to go into this question as the distinguished delegates are fully aware of the comments made during the previous sessions of the Sub-Committee and recorded in its summary records.

ANNEX V

Unofficial list of topics prepared by the Secretariat
for informational purposes at the request of
the Legal Sub-Committee

- *1. The study of the legal and related implications of the current and foreseeable developments in the field of direct broadcast from satellites (Sweden, transmitted to the Secretariat at the current session).^{1/} The elaboration of a Convention on the use of direct broadcasting for the promotion of the ideals of peace, friendship and co-operation of peoples, for the promotion of social and cultural progress of mankind. (Romania, transmitted to the Secretariat at the current session, cf. A/AC.105/C.2/SR.113, pp. 14-15).
2. Consideration of the draft convention on the registration of objects launched into outer space for the exploration or use of outer space (France, A/AC.105/C.2/L.50/Rev.1; A/AC.105/C.2/L.45).
- *3. Utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based (Czechoslovakia, A/AC.105/C.2/L.46; cf. Japan, A/AC.105/C.2/SR.83, p.16).
4. Rules relating to man's activities on the surface of the moon and other celestial bodies (Poland, A/AC.105/C.2/L.53).
5. Study of the question of the legal status of substances, resources and products coming from the moon (Argentina, A/AC.105/C.2/L.54).^{2/}
6. Question of the usefulness and feasibility of establishing an intergovernmental International Agency for Outer Space Affairs (Czechoslovakia, A/AC.105/C.2/L.57).
7. Co-ordination of activities of specialized agencies in matters relating to outer space (France, A/AC.105/C.2/SR.104, p.33; cf. A/AC.105/C.2/L.50/Rev.1).
8. Definition of "space activity" and the drawing up of a list of such activities which require regulation (France, A/AC.105/C.2/SR.80, p.7 and SR.102, pp. 2-3; Argentina, A/AC.105/C.2/SR.112, p. 15).

* These subjects have been proposed as sub-items of the item entitled "Study of questions relative to ... the utilization of outer space and celestial bodies, including the various implications of space communications".

^{1/} In the note transmitted to the Secretariat it was stated that "The Swedish delegation considers it also desirable that this sub-item be listed among the subjects given high-priority in the Sub-Committee's further work".

^{2/} The Argentine proposal specifies that this question be included in the work of the Sub-Committee at its next session.

9. Regulation of space traffic (Italy, A/AC.105/C.2/SR.112, p.7): avoidance of interference among space vehicles and between space vehicles and aircraft (A/4141, pp. 24-25); prevention of pointless occupation of orbits and frequencies (France, A/AC.105/C.2/SR.80, p.10; cf. A/4141, p.17).
10. Protection of satellites from damage or destruction (Czechoslovakia, A/AC.105/C.2/SR.80, p.15; cf. Argentina, A/AC.105/C.2/SR.113, pp. 11-12).
11. Interference harmful to radio-communications in the launching and/or the operation of a space object (Argentina, A/AC.105/C.2/SR.113, p.11).
12. Formulation of a body of rules for the frontiers between outer space and air space (India, A/AC.105/C.2/SR.83, p.7).
13. Study of safeguards against contamination of or from outer space with a view to formulating appropriate international standards (A/4141, p.25; cf. France, A/AC.105/C.2/SR.80, pp. 10 and 11).
14. Enunciation of a principle to the effect that States are entitled to protection from certain effects which the use of outer space by other States might have on their territory (France, A/AC.105/C.2/SR.80, p.11).

ANNEX VI

LIST OF DELEGATIONS, OBSERVERS AND SECRETARIAT

Chairman: Mr. Eugeniusz Wyzner (Poland)

Delegations

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Representative:

Prof. Aldo Armando Cocca
Presidente del Comité de Ciencias
jurídicas, políticas y sociales de la
Comisión Nacional de Investigaciones
Espaciales de la Argentina

Alternate:

Dr. Luis José Buceta
Consejero de Ambajada
Misión Permanente de la República
Argentina ante los Organismos
Internacionales en Ginebra

AUSTRALIA

Representative:

Mr. Bernard J. O'Donovan
Senior Assistant Secretary
Attorney-General's Department
Canberra

Alternate:

Mr. David W. Evans
First Secretary
Permanent Mission of Australia to
the United Nations
New York

AUSTRIA

Representative:

Mr. Karl Zemanek
Professor at the University of Vienna

Alternate:

Mr. Kurt Herndl
Deputy Permanent Representative of Austria
to the United Nations Office at Geneva

BELGIUM

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Professeur aux Facultés St. Louis,
Bruxelles

Alternate: M. Maximilien Litvine
Professeur à l'Université Libre de
Bruxelles

Adviser: M. R. Fourdin, Directeur d'Administration
Chef du Service des organisations
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Ministère des Affaires étrangères

BRAZIL

Representative: Mr. C.A. de Souza e Silva
Deputy Permanent Representative of Brazil
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Adviser: Mr. Paulo Fernando Telles-Ribeiro
Second Secretary, Brazilian Consulate,
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BULGARIA

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Professeur à la Faculté de Droit de
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Deuxième Secrétaire
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Adviser: Mr. L. S. Clark
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CHECHOSLOVAKIA

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FRANCE

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Mr. Blaine Sloan
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* * * * *

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