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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
LEGAL SUB-COMMITTEE

SUMMARY RECORD OF THE EIGHTH MEETING
held at the Palais des Nations, Geneva,
on Friday, 8 June 1962, at 3.20 p.m.

Chairman:

Mr. LACHS (Poland)

Secretary:

Mr. SCHACHTER

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CONSIDERATION OF LEGAL PROBLEMS ARISING FROM THE EXPLORATION AND USE OF OUTER SPACE (item 3 of the agenda) (continued)
General debate (concluded)

Mr. TUNKIN (Union of Soviet Socialist Republics) said on a point of order that Press Release No. OS/G/18 of 7 June 1962 gave a curious account of the meeting of the Legal Sub-Committee at which the Soviet and United States proposals had been introduced. After an introductory statement that the proposals introduced by the Soviet Union had immediately been described as "entirely unacceptable" by the United States, the press release merely reproduced the texts of those proposals - a draft declaration of basic principles and a draft international agreement on the rescue of astronauts and space-ships making emergency landings. It gave no account of the Soviet representative's introduction of the proposals, or of his subsequent reply to the United States criticism of them; yet almost a page was devoted to a report of the United States representative's statement. Although he had not been surprised to read the garbled United States press reports of the meeting, he was concerned that the United Nations Secretariat should have shown such an unjustified lack of objectivity. He would request the Secretariat to explain how such an unfortunate situation had arisen and to undertake that it should not do so again.

Mr. SCHACHTER (Secretary of the Sub-Committee) regretted that he had no personal knowledge of the press release, which was prepared by the Information Service of the European Office. The Secretariat's firm policy was, however, that all points of view should be represented equally, and it was sorry if that had not been done in the present case. He assured the USSR representative that he would immediately ascertain the facts and would ensure that a similar situation did not arise again.

Mr. TUNKIN (Union of Soviet Socialist Republics) said that he must insist that the Sub-Committee should receive an explanation either from a responsible official of the Information Service or from another United Nations official, and that in future the Information Service should fulfil its duty.

Mr. GLASER (Romania) said that the point of order raised by the USSR representative was of considerable importance for the Sub-Committee's discussions. Whereas the Committee on the Peaceful Uses of Outer Space had verbatim records of its proceedings, the Sub-Committee had only summary

records, which were less costly but less reliable if not done correctly. A speech might appear to have been reproduced in the summary record although the essential point had been omitted. The summary record of his speech at the Legal Sub-Committee's fourth meeting (A/AC.105/C.2/SR.4) had covered all the technical points he had raised but had summarized in one inadequate sentence the major part of his speech - a very full account of the history of the United States responsibility as the first State to use atomic bombs, to carry out nuclear tests and, most recently, to plan nuclear tests at very high altitudes, and an account of the United States attitude throughout the talks on nuclear disarmament. That misrepresentation of his speech had evidently been deliberate, as had been the omission from the press release of any account of the Soviet statement. It was essential that United Nations officials should act in accordance with their obligations under Article 100 of the United Nations Charter, and should be completely objective in the performance of their duties.

The CHAIRMAN said that, in regard to the request by the representative of the USSR, he would ask the Secretariat to inform the Sub-Committee at its next meeting of the steps taken to ascertain the facts concerning the press release and to prevent a recurrence. In regard to the complaint of the representative of Romania, the Secretariat would take steps to see that the essential elements of all speeches made in the Sub-Committee were reproduced in the summary records.

Mr. MEEKER (United States of America) said that the Sub-Committee was bound to be concerned at some of the statements just made, not because of their subject-matter but because they reflected on the performance by United Nations officials of their duties. In one of the statements serious doubts had been cast on the objectivity of the Secretariat. All delegations, familiar with the work of the United Nations over the years, had acquired the greatest respect for the way in which the Secretariat, under the leadership of distinguished Secretaries-General, had discharged its functions with entire fidelity. His delegation would not wish the record to stand without correction of the allegations concerning the Secretariat.

Miss GUTTERIDGE (United Kingdom) fully endorsed the views expressed by the United States representative. Her delegation greatly regretted that certain statements had appeared to reflect on the Secretariat and had contained apparently unjust allegations.

Mr. TUNKIN (Union of Soviet Socialist Republics) pointed out that he had not made a general attack on the United Nations Secretariat, but had raised the specific case of the press release, which had irrefutably and inadmissibly distorted the facts of the Sub-Committee's previous meeting. If the representatives of the United States and the United Kingdom were attempting to refute his comments on the press release simply from a desire to oppose any view expressed by the Soviet delegation, the Sub-Committee had a poor prospect of co-operating on any issue.

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

The CHAIRMAN invited the Sub-Committee to consider the draft proposals submitted by the Union of Soviet Socialist Republics (A/AC.105/C.2/L.1 and L.2) and the United States of America (A/AC.105/C.2/L.3 and L.4).

Mr. SPACIL (Czechoslovakia) welcomed the Sub-Committee's opportunity to begin its study of the specific problems which required immediate solution. On the threshold of a new era, it was important that the Sub-Committee should adopt a declaration of basic principles which would benefit future space flights and conduce to peaceful international relations. The draft declaration of basic principles proposed by the USSR in document A/AC.105/C.2/L.1 provided an appropriate basis for discussion. Some of its principles had been included in General Assembly resolution 1721 (XVI); others had been added as essential guidelines for scientific and technical development of the exploration and use of outer space. Many of those others extended or expanded principles already accepted. Operative paragraph 1 of the USSR proposal, for example, reiterated the principle expressed in the second preambular paragraph of resolution 1721 (XVI), that the exploration and use of outer space must be carried out for the benefit and in the interests of the whole of mankind; from that standpoint the remaining paragraphs of the draft declaration were fully justified.

Operative paragraph 4 expanded the principle expressed in operative paragraph 1(b) of resolution 1721 (XVI) to make clear that the conquest of outer space must be carried out in accordance with the principles of the United Nations Charter and with other generally-recognized principles of international law, in order to develop friendly relations among nations and maintain international peace and security - in other words, as the representative of Romania had said,

for non-aggressive purposes. Paragraph 4 was, moreover, linked with paragraph 8 of the draft declaration, concerning the use of artificial satellites for the collection of intelligence information in the territory of foreign States. In the Eighteen-Nation Disarmament Committee the Soviet delegation had submitted specific and comprehensive proposals for prohibition of the use of outer space for military purposes. The action of certain States in regard to the launching of spy satellites made it essential, however, that such activities should be formally prohibited in the declaration of principles. The United States objections to paragraph 8 were unconvincing and suggested that the most guilty protested their innocence the most vigorously. No amount of protest could hide the fact that the use of such satellites was criminal, and incompatible with the aims of mankind in its conquest of outer space.

The provision in paragraph 5 that scientific and technological advances should be applied in outer space "in the interests of a better understanding among nations and the promotion of broad international co-operation among States" led inevitably to the conclusion at the end of the paragraph that the use of outer space for propagating war, national or racial hatred or enmity between nations must be prohibited. The United States criticism of that paragraph was unfounded: since the possibility of telecommunications in outer space was a recognized fact, it was essential to ensure from the outset that programmes disseminated throughout the world by such means would accord with the interests of all the nations and that outer space should not become a theatre of the cold war. If the United States maintained its objection to the paragraph, it must intend to follow the very course of action which the provision was designed to prevent.

Paragraph 6 also accorded with the basic principle expressed in paragraph 1. It could not be construed to mean that a veto could be placed on the exploration or use of outer space for peaceful purposes by any State; nor, indeed would such a veto be feasible. The rule that outer space was res communis omnium implied that each State maintained its own freedom but none might infringe the freedom of others. The second part of the paragraph provided sufficient flexibility, subjecting experiments to prior discussion and agreement; it was therefore completely acceptable.

The intention of paragraph 7 was to limit the exploration and use of outer space to States, and to exclude private firms entirely. Scientific and technical developments in outer space had such grave consequences and were so hazardous that they could not be equated with other scientific activities. They must be barred to private firms, which would take improper risks for the sake of commercial profit. The General Assembly resolution had been a beginning but the Sub-Committee must fulfil its duty to carry the matter a stage further.

The fact that both the Soviet Union (in document A/AC.105/C.2/L.2) and the United States (in document A/AC.105/C.2/L.3) had introduced proposals concerning the rescue of astronauts and space-ships making emergency landings showed that the problem required an immediate solution. The United States proposal was, however, drafted as a resolution in more general language; the Soviet proposal for an international agreement corresponded more closely to the actual need. A General Assembly resolution, even if adopted unanimously, would still be inferior to an international agreement setting out clear-cut rights and obligations, more capable of execution, and providing a better foundation for a legal system governing outer space.

Moreover, an agreement would be open for accession by all the States in the world - a most important point, since a space-ship in distress would obviously not always be able to select the territory of members of international organizations for an emergency landing. The Statement in the preamble of the United States draft resolution that "the action of States should be governed by humanitarian concern" was justified but did not go far enough. Although humanitarian assistance should of course be assured to the crews of space-ships engaged on peaceful purposes for the benefit of mankind as a whole, the situation could not be dealt with in the same way where a space-ship was launched for purposes incompatible with peaceful co-existence and international co-operation.

The United States proposal concerning liability for space vehicle accidents (A/AC.105/C.2/L.4) stated several important principles in such specific terms that the proposed advisory panel - with the establishment of which his delegation agreed in principle - would apparently have little to do. The Sub-Committee could not start to draft a text until it had studied carefully all the existing analogous agreements on sea and air rescue. It might therefore be preferable,

in a draft resolution such as that proposed by the United States, simply to recommend the constitution of an advisory panel and to state the guiding principles in more general terms. The advisory panel would certainly be more quickly formed of experts nominated by interested States on a fair geographical basis than of individual specialists nominated by the Secretary-General for there would be no need to submit a draft to governments for comment.

Mr. SCHACHTER (Secretary of the Sub-Committee), referring to the request made by the Indian representative at the preceding meeting that the Secretariat should submit information on various possibly relevant international conventions and agreements concerning rescue and assistance of aircraft and vessels in distress, said that the Secretariat had undertaken research and would be able to submit a fairly comprehensive paper on the most pertinent treaties within a few days. The paper would include material on a number of instruments to which the USSR representative had referred, such as the Chicago Convention of 1944 and particularly its annex on search and rescue, copies of which were already available. Reference had also been made to the Brussels Convention of 1938 relating to aircraft in distress. In addition, the Secretariat had examined some twenty-five or thirty bilateral and tripartite agreements, from which it would make appropriate selections.

Such agreements generally imposed an obligation to render assistance to aircraft, vessels and persons in distress. In some it referred directly to the duties of the master of a vessel, the commanding officer of an aircraft, or the personnel of a rescue service. Some specified the obligations of contracting States in respect of search and rescue operations by other contracting States, and conferred right of entry. Most of the agreements also provided for rescue and search services. Other typical provisions dealt with remuneration for assistance rendered; the competence of national courts in such issues as payment for salvage; the regulation of radio communications for rescue and assistance; the establishment of special frequencies; requirements for radio equipment; release from obligation where assistance was rendered by others; territorial applicability; and nationality, so as to make assistance obligatory irrespective of the nationality of the persons or vessels in distress.

The meeting rose at 4.20 p.m.