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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
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DRAFT
(a)

DRAFT AGREEMENT ON LIABILITY FOR DAMAGE CAUSED BY OBJECTS LAUNCHED INTO OUTER SPACE
(agenda item 2) (A/AC.105/29; A/AC.105/C.2/L.19) (continued)

The CHAIRMAN observed that, since its fourth session, the Legal Sub-Committee had had before it three proposals on the item under discussion, submitted respectively by Belgium, Hungary and the United States. At the fourth session, revised texts of those proposals had been issued in the form of a comparative table (A/AC.105/29, annex IV). Since then the United States had submitted a new draft convention concerning liability for damage caused by the launching of objects into outer space (A/AC.105/C.2/L.19) to replace the one reproduced in the comparative table.

The members of the Sub-Committee had previously agreed on a number of points, which were summarized on pages 3 and 4 of document A/AC.105/29. It had been agreed, first, that the convention should apply to damage caused by space objects on earth, in air space and in outer space; secondly, that where only one State was involved in launching, that State should be liable and that the term "launching" included attempted launching; thirdly, there had been general agreement that international organizations engaged in space activities should be liable under the convention for damages caused by such activities.

Mr. REIS (United States of America) introduced the draft convention submitted by the United States delegation. The draft replaced earlier United States proposals on the subject including that contained in document A/AC.105/C.2/L.8/Rev.3. It reflected developments that had occurred since 1965, such as the signing 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 and it was designed to take into account the proposals introduced by the Belgian and Hungarian delegations, as well as the views expressed by other members of the Sub-Committee. The reasons for submitting the new draft had been explained by the United States delegation at an earlier meeting.

In 1963, the United States delegation had worked to include in what was later to become the General Assembly's Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (resolution 1962 (XVIII)) a rule asserting international responsibility for damage caused by the launching of space vehicles. It had therefore been pleased when, in July 1966, the Soviet delegation had proposed that the liability provision of the 1963 Declaration should be incorporated in the Treaty on Outer Space. Nevertheless, it seemed to be generally agreed that article VII of the Treaty did not go into sufficient detail to meet fully the needs of the international community - namely the establishment of a just and prompt method of adjusting claims for damage.

In fields other than that of outer space, the problem of liability had at various times been considered by States in an attempt to draft international conventions. However, those efforts had not been particularly successful, since some of the conventions had never entered into force or had been signed only with major reservations. Their few signatories prevented them from becoming very important. Such comparative lack of success might have been due to an over-zealous search for legal precision. In the matter of liability, it would be better to strive for a practical goal rather than for a perfect international instrument, which might be beyond the abilities of jurists and - more important - might not be acceptable to many Governments. Only a simple and expeditious procedure could secure the international co-operation which had long been sought by the United States and which was the object of the Treaty on Outer Space.

Taking account of those considerations, the preamble to the United States draft stated that the purpose of the convention was to establish a uniform rule of liability and a simple and expeditious procedure governing financial compensation for damage. As was indicated in the final preambular paragraph, such a procedure would contribute to the growth of friendly relations and co-operation among nations. The preamble had been brought up to date by the insertion of a reference to the Treaty on Outer Space and the deletion of the former references to the 1963 Declaration.

Article I contained the definitions necessary for the application of the rules laid down by the convention. The definition of "damage" had been simplified in that it now covered loss of life, personal injury or damage to property, whether partial or total. The definition of the term "launching State" had also been revised to apply to a contracting party that launched an object into outer space or that actively and substantially participated in a launching. The change had been made in response to the reservations expressed by various representatives - and particularly those of Belgium, France and the United Kingdom - concerning the imprecision of the earlier wording, wherein the launching State had been defined as any party which launched or procured the launching of an object into outer space.

The question of liability itself was dealt with in article II. Paragraph 1 laid down the rule and paragraphs 2 and 3 defined its field of application. The words "launching, transit or descent" had been included so as to cover damage caused by a space vehicle from the moment it left the surface. Damage caused by an attempted launching was already dealt with in a definition in article I (b). Article II (1), moreover, established the rule of the absolute liability of the launching State. Indeed, the

convention would be useless if, as a condition for compensation, the presenting State were required to provide proof of negligence or fault on the part of the launching State, inasmuch as such proof would be impossible to obtain. [Paragraph 2 also provided that if the damage had been suffered as a result of a wilful or reckless act or omission on the part of the presenting State, the liability of the launching State would be diminished or extinguished, as appropriate.] Paragraph 3 stated that the convention would not apply to damage caused to persons and property within a launch facility or immediate recovery area for participation in or observation of the launching or recovery, or to space objects and their personnel during launching, transit or descent. That paragraph was designed to exempt the launching State from liability for foreign observers who accepted invitations to take part in or observe a launching or recovery. Such persons could be considered to have assumed any risk entailed. He wished to stress, however, that paragraph 3 did not imply that the launching State might not pay compensation: it might be paid, for example, under article VII of the Treaty on Outer Space. The United States delegation also wished to make it clear that the remedies it proposed would by no means displace existing remedies. For example, the rights of a State that was a party to the Treaty on Outer Space but not to the convention on liability would in no way be affected: such a State could seek compensation under article VII of the Treaty. On the other hand, a State could become a party to the convention on liability without having to become a party to the Treaty. Lastly, the rights available to an injured person in jurisdictions of the launching State remained unaffected even if his country were a party neither to the Treaty on Outer Space nor to the convention on liability. [The only limitation contained in the United States proposal was that if a State party to the convention did present a claim through the diplomatic channel it could not pursue a claim before the administrative agencies or courts of the respondent State. That provision was designed to discourage simultaneous litigation in different forums.] Again, the field of application of article II did not extend to injury sustained by an astronaut on a celestial body as a result of the space activities of a State other than his own. That possibility could of course have been covered by the draft but only at the cost of unnecessary complication in drafting. The desired goal was to establish a simple and expeditious procedure governing financial compensation for damage suffered by persons not connected with space activities; injury suffered by countries participating in such activities could be dealt with through the diplomatic channel, in the light of the provisions of the Treaty on Outer Space. The latter problem did, in fact, give rise to some serious difficulties.

Article III had to do with cases in which States engaged in combined space activities. Such cases might become more frequent in the future; the United States certainly hoped to increase the measure of its co-operation with other countries. In addition to bilateral arrangements, many countries might wish to co-operate with other States through international organizations. The United States looked forward to the launching of the first earth satellite by the European Space Research Organisation.

Article III dealt with injury arising out of co-operative launchings other than those involving an international organization. Paragraph 1 embodied a concept which was also contained in the Belgian and Hungarian proposals and which provided that the presenting State might proceed against any or all of the launching States individually or jointly for the total amount of damages. The other paragraphs of article III were designed to ensure that all the partners in a space venture were treated fairly. Paragraph 4 was new in that it recognized that States participating in a co-operative venture might wish to agree in advance on the terms for the sharing of their liability. It provided that if such States reduced the terms of their co-operation to writing and deposited a copy thereof with the Secretary-General of the United Nations, the presenting States would be informed as to those terms and would be bound to observe the proportionate shares of liability assumed by the various contracting parties. If for any reason payment of the specified proportionate share had not been made by one or more respondent States, a presenting State could demand payment from any other respondent State. That provision took account of two considerations: that the parties should be able to determine for themselves how they would share any liability, and that third parties should not be bound by such arrangements. Paragraphs 5 to 8 of article III dealt with relatively simple concepts. For example, paragraph 5 stipulated that, regardless of the number of respondent States, the total amount of compensation could not in any event exceed the amount that would have been payable if only one respondent State were liable. Paragraph 6 was a safety clause not unlike that contained in paragraph 4. Under paragraph 7, any respondent State which had not paid its share of the over-all liability to the presenting State would be required to reimburse the other respondent States for their payments in excess of their proportionate shares. Paragraph 8 incorporated an idea that had been suggested by the Belgian delegation: it stipulated that the specified period should not be subject to interruption or suspension.

The measure of damages was dealt with in article IV. It provided that the compensation which a State was liable to pay would be determined in accordance with applicable principles of international law, justice and equity. It had been suggested that it would be enough to refer to the law of the injured person's country, but the United States delegation had some doubts regarding that suggestion. Apart from the fact that the law of damages in some countries might not be satisfactory to others, any reference to municipal law would give rise to considerable complications in the case of federal States, and the United States in particular. It was also to be feared that many national parliaments would be unwilling to endorse a convention which, in effect, incorporated the law of every country. [In an attempt to solve the problem the United States delegation had contemplated including detailed provisions concerning the measure of damages. However, it had decided that the question would be better left to the presenting States and the respondent States or, failing that, to the appropriate claims tribunal.]

Article V dealt with damage caused by the space activities of international organizations. On that point, the United States delegation wished to thank its European and Australian colleagues for the assistance they had provided. It would also like to know their views, and those of the other members of the Sub-Committee, on the wording of that article. Since it followed that of the draft submitted in 1965, and detailed discussion had not been possible at that time, such discussion might now be usefully undertaken.

Article VI dealt with the presentation of claims. As in the case of the earlier text, it reflected the views of all members of the Sub-Committee, stipulating that claims should be presented through the diplomatic channel, which appeared to be the most expeditious method.

Article VII provided that a State was not liable under the convention for damage suffered by its own nationals or by nationals of other respondent States or by juridical persons beneficially owned by such nationals, to the extent of such ownership. [The last two proposed limitations were new. In the case of damage suffered by the nationals of a State participating in a co-operative space launching, it was felt that compensation arrangements would be better provided by the co-operating States themselves. The reasons were obvious for including the notion that a launching State should not be liable for damage suffered by a juridical person owned by nationals of that State.]

The limitation of liability and the apportionment of damages were the subjects of article VIII. In suggesting that the liability of the launching State or States should be limited, the United States delegation had felt that parliaments would probably be unwilling to ratify a convention that did not contain such a provision. The actual figure would, of course, have to be decided. Although it had an open mind on the subject, the United States delegation would have some difficulty in agreeing to an amount so small as to rob the convention of all meaning. The second paragraph of article VIII dealt with the apportionment of damages payable in the unlikely event that total claims exceeded the limit of liability provided. In sub-paragraph (b), the United States proposed that three fourths of the total sum distributable would be appropriated preferentially to meet claims in respect of loss of life and personal injury. In that respect, the provision departed from the 1952 Rome Convention on Damage caused by Foreign Aircraft to Third Parties on the Surface.

Articles X and XII provided a means for the impartial settlement of disputes arising out of the convention. A convention on liability would hardly be satisfactory if it failed to provide for such a contingency. A mere reference to the fact that contracting parties could, if they wished, appeal to a third party, would not really solve the problem. The competence of the claims commission established under article X would extend to any dispute arising from the interpretation or application of the convention. A similar provision was contained in article XII, which provided that any dispute that had not been settled by other peaceful means could be referred to the International Court of Justice for decision.

Article XI concerned the convertibility of currency, while articles XIII to XIX contained the traditional final clauses.

His delegation was ready to answer any questions concerning its proposal and would be glad to examine any other proposals.

Mr. HARASZI (Hungary), after pointing out that the draft convention submitted by his country was based on the principle of objective liability on the earth and of liability in case of faults causing damages in outer space, said that the draft now had to be amended in certain respects in view of the signing of the Treaty on Outer Space on 27 January 1967. His delegation would therefore like to introduce some changes in its text (A/AC.105/29, annex II).

The present text of article VI, paragraph 1, should be replaced by the following text, which was in line with the wording of article VII of the Treaty of January 1967;

"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".

The United States representative had criticized the word "procure" either in the meeting; however, that word had been used in article VII of the Treaty of January 1967, and the Hungarian delegation had only reproduced it in its revised text.

His delegation wished to make another amendment in its draft. In article I, paragraph 1(a), the words "Caused by an object launched into outer space; or" should be amended to read: "Caused by an object during its launching into outer space; or". The purpose of that amendment was merely to correct a drafting error.

Mr. Krishna RAO (India) said that the humanitarian considerations which had so much importance in the case of assistance to astronauts had even more importance in the case of liability for damage caused by objects launched into outer space, particularly if one thought of the risks incurred by countries with large urban concentrations of people. It was therefore to be hoped that the space Powers would be as understanding to the other countries as the latter were to them in the consideration of the question of assistance to astronauts.

It augured well for the future that the two major space Powers were in agreement at least on the principles. However, they could not expect other countries purely and simply to endorse what they might have decided upon between themselves; on the contrary, it was desirable that any agreement that might be concluded should be worked out in the Sub-Committee itself, so that all members would be able to express themselves freely.

After reviewing the various points listed by the Chairman at the beginning of the meeting on which the members of the Legal Sub-Committee had reached agreement during the fourth session, he said that his delegation welcomed the fact that the principle of absolute liability was generally recognized in the three draft agreements before the Sub-Committee. However, strict limitations of that principle were specified in certain cases. For example, exemption from liability was provided for in the case of natural disaster by article III of the Hungarian draft, in the case of wilful misconduct by article 1 of the Belgian draft, and in the case of a wilful or reckless act or omission

on the part of the Presenting State by article II of the revised United States draft (A/AC.105/C.2/L.19). The exemption would be total or partial depending on the circumstances and on the different drafts.

His delegation was inclined to agree with the view expressed by the United Kingdom delegation at the 50th meeting, that the risk involved in a natural disaster should be borne by the launching State, a view which reflected the following question: "But for the launching, would the damage have occurred"?

In addition, he had reservations concerning the notion of wilful misconduct or of wilful or reckless act or omission. He was quite aware of the fact that the words "gross negligence" had been dropped from the United States text to avoid using words which could be interpreted differently by different legal systems; however, the words now being used were open to different interpretations by different individuals.

Furthermore, the fact remained that the new wording in the United States draft had the same meaning as the words "gross negligence". In that connexion, it might be useful to refer to an example given by a former United States representative at the Sub-Committee's 31st meeting. That representative had mentioned the case of aircraft which might collide with a space object in transit, even when the launching State had given warning of its intention in advance. He himself could not see that that would be a conclusive example of gross negligence or of a wilful or reckless act.

To take only a few of the possibilities it might be that the aircraft in question had not been properly controlled by the air traffic services of the launching State itself, or that the object had actually traversed the air-space of a country bordering on the launching State. Similarly, in the case of launching on the high seas in a zone in which the authorities of the launching State had made efforts to prevent the access of shipping, the question might arise whether those authorities really had the right to prohibit such access to a part of the high seas. Nor could it be said that there would be wilful misconduct, if an accident occurred to a ship of a third Power because it happened to be in an area of the sea which had been cordoned off for the recovery of a space object, but in which it was entitled to be under all the rules of customary international law.

As many delegations, including his own, had pointed out, space activities were considered extremely hazardous, at least at present. At the Sub-Committee's 50th meeting, the Austrian representative had pointed out that in most national legal systems hazardous activities were tolerated only on condition that the person engaging in such

activities assumed responsibility for any damage resulting, whether attributable to fault on his part or to mere accident. Moreover, the United States representative had expressed a similar view on the provisions of the Hungarian draft relating to "natural disaster". While one might agree that the United States wording was applicable to attempted sabotage of a space venture which would not infringe the rights of other States, it was difficult for the Indian delegation to accept the definition which emerged from the United States representative's analysis at the Sub-Committee's 31st meeting.

He would also like to reiterate the views he had expressed at the Sub-Committee's 37th meeting concerning the practical impossibility of limiting the measure of compensation. Similar provisions in the Vienna Convention on Civil Liability for Nuclear Damage could not be cited since the purpose of the Vienna Convention was to enable the developing countries to make greater use of nuclear energy; in addition, whereas that Convention contained very detailed safeguards and insurance measures for nuclear reactors, he was not aware of any similar international standards governing the launching and control of space vehicles. [He himself had already had occasion to propose that such world bodies as the Committee on Space Research (COSPAR) should be associated in the launching of space vehicles. He had also hoped that an international body would be set up which would exercise exclusive jurisdiction and control over space matters. It was understandable that the space Powers were reluctant to submit their activities to international control that would mean having to abide by certain standards - but they could not then ask the international community to agree to a limit on the measure of compensation. In view of the extent of the damage which could be caused in a heavily populated town, for example, it was not realistic to think in terms of a ceiling if at the same time it was firmly intended to apply the principle of absolute liability. In any case, it was too early to set such a ceiling, since no-one yet knew exactly how much damage might be caused by space vehicles, which at present used various means of propulsion.] He noted that similar views had been advanced by the representatives of Brazil and Austria at the Sub-Committee's 55th and 56th meetings respectively.

With regard to a related matter, he observed that article I, paragraph 1 of the Hungarian draft (A/AC.105/29, annex II), stated that the provisions of the convention would not apply to nuclear damage resulting from the nuclear reactor of space objects. The Hungarian delegation had proposed that the question of nuclear damage should be

considered separately, because it wished to have an agreement on liability completed as soon as possible. However, he shared the view of other representatives, in particular the representative of Austria, that excluding the question of nuclear damage might well be inconsistent with the agreement's purposes. Damage caused by radioactivity was certainly the worst kind of damage imaginable and it should therefore be covered even if it was agreed that it would be dealt with by separate detailed provisions.

He was aware that the question of the utilization of space exclusively for peaceful activities was considered to be inextricably linked with the question of general and complete disarmament. He noted, article V of the Hungarian draft indicated that the launching State would be barred from any exoneration if the damage resulted from an "unlawful activity". At the Sub-Committee's 50th meeting, the Romanian delegation had interpreted those words as meaning activities against the interests of peace. If that was the interpretation to be given to those words, then his delegation unreservedly endorsed them although it recognized the validity of the comments of the Belgian representative, who had pointed out, also at the 50th meeting, that whether or not an activity was unlawful must be determined on the basis of legal texts. In his delegation's view, it was unfortunate that the Treaty of 27 January 1967 only provided a "selective" prohibition of non-peaceful activities, thus leaving room for misgivings, as was evident from the statements made, for example, by the representatives of the United Arab Republic, Ceylon and Pakistan at the 1493rd meeting of the General Assembly. His delegation would support the Hungarian proposals concerning that aspect of the question, on the understanding that the words "unlawful activity" described any non-peaceful activity undertaken in outer space as a whole, including the Moon and other celestial bodies. It did not want to perpetuate the subtle distinctions drawn in the Treaty of 27 January 1967 between the various sectors of outer space, whereby non-peaceful activities were to some extent made to look lawful. His delegation would even like to recommend that the draft agreement should provide for exemplary or punitive damages. If it was feared that such terms would be interpreted differently in different legal systems, it should be decided that in the case of damage resulting from an unlawful activity, the amount of compensation should be twice that payable in the case of a peaceful activity.

His delegation did not yet want to take up the other problems involved in drafting an agreement on liability for damage caused by the launching of objects into outer space. However, it reserved the right to make further comments on the revised United States

draft. Having enunciated the principles which, in its view, must be observed in the drafting of an agreement, his delegation hoped that the agreement would be concluded within the framework of the Sub-Committee's work.

Mr. REIS (United States of America) said, with regard to the question of exoneration from liability, that the example which the Indian representative had quoted as typifying the United States delegation's opinion on the subject had been taken from a summary record which might have compressed the statement of the United States representative so extremely that it became somewhat distorted. His own impression was that, in all the cases cited by the Indian representative, there would not in fact be, or at any rate might not be, any "gross misconduct". His predecessor had probably intended to refer to cases in which a launching State used its own territory and the request not to enter a given zone applied to a zone outside commercial routes. If, for example, an aircraft piloted by a national of the launching State and carrying a passenger of another nationality collided in such circumstances with an object launched into space, the liability of the launching State with respect to the passenger was at the very least doubtful.

Moreover, he was not convinced that the interests of the space powers on the matter in question differed from those of other countries. It should not be forgotten that there were already more than two space Powers. Their number would grow, as would the volume of all space activities, with the result that any conflicts of interest which might now exist between States would be still further reduced. Unless some ceiling - even if it were as high as several millions of dollars - was placed on the amount of compensation, States, and especially small States, would be discouraged from engaging in joint space ventures. Furthermore, there was some tendency to exaggerate the extent of possible damage, even if it was true that the risks would increase in the future.

Mr. SOUZA e SILVA (Brazil), drawing attention to the question of the final clauses, to which the United States representative had made only a passing reference, said that it was essential that the convention on liability should reproduce the wording of the Treaty on Outer Space in respect of provisions making entry into force subject to the full and unqualified participation of the space Powers.

Mr. OTSUKA (Japan) said that his Government's position on the liability convention was the same as that which it had adopted with regard to the draft agreement on assistance; in its opinion, the question of liability for damage caused by objects launched into outer space was closely linked, from both the juridical and the practical point of view, with that of the return of space vehicles. Both texts must be drafted with due regard for the relevant provisions of the Treaty on outer space. Any elaboration which those provisions might require must be in keeping with the spirit of the Treaty, which encouraged man's peaceful activities in space, and with the necessity of balancing the rights and obligations of a launching State against those of a State which was the victim of damage caused by objects launched into space. The latter consideration was doubtless even more important in the case of a convention on liability which was essentially of a juridical nature, than in the case of an agreement on assistance, where humanitarian considerations predominated.

With regard to the substance of the question, his Government supported the principle of absolute liability for damage caused by space vehicles, and thought that, given the nature of the damage which might be suffered, there should be no exoneration from liability save in altogether exceptional cases; it therefore also favoured the principle of unlimited liability. The adoption of those two principles was bound to raise many ticklish problems, but they were problems which must be faced if the aim was to draft an international agreement which by elaborating the provisions concerning liability of the Treaty on Outer Space would give them concrete expression. Moreover, any convention on liability should contain clear and precise provisions concerning procedures for satisfying claims and settling differences which might arise in connexion with the interpretation and application of the convention itself.

He would comment on individual clauses of the various drafts that had been submitted when the Sub-Committee came to consider them.

Mr. COCCA (Argentina) said that he would like first of all to warn the Sub-Committee against the risks it would run in departing from the Treaty on Outer Space or, still worse, in contradicting it. The text of that instrument, while not sacrosanct, must be respected, and the only permissible modifications were changes designed to improve or clarify it.

Turning to the convention on liability, he criticized the use of the word "objects", which he considered vague and which, in any case, gave rise to difficulties in Spanish. The term was supposed to refer to anything launched into outer space; but it would be better to speak of space vehicles - which were what the convention was really about - and to accord them a juridical status of their own. There had never been any legislation about maritime or aerial objects; the legislator had, as a rule, sought the exact term and spoken of ships or aircraft. If it was argued that space vehicles - rockets, satellites, space probes - were too numerous and too multifarious for an all-embracing term to be found, it might be pointed out that they all shared the particular attribute of being launched into outer space and that the law of the air also embraced a great variety of machines, some of which no longer existed - a fact which had not made it impossible to find a generic expression covering them all, including those subsequently invented.

The expression "space devices", which occurred in the Belgian proposal (A/AC.105/C.2/L.7/Rev.2 and Corr.1) was excellent, but the definition given, like that of the term "space objects" in the Hungarian draft (A/AC.105/C.2/L.10/Rev.1), was mainly technical in character. [What was needed, however, was a juridical definition and, in that connexion, three considerations should be borne in mind: first, the vehicle in question was by its very nature something constructed by man, and designed to be launched into outer space; secondly, it was in the spirit of both the convention being drafted and of the Treaty on Outer Space that the object of any such vehicle must be the exploration and use of outer space, including the Moon and the other celestial bodies, for exclusively peaceful purposes; thirdly, every element of the vehicle at the time of launching was an integral part thereof; whatever the reason for its subsequent detachment, should that occur. The thing in question was thus clearly a "vehicle" and that word could after all be taken to mean any device launched by man and having as its object the exploration and use of outer space, including the Moon and other celestial bodies, for exclusively peaceful purposes. It followed that military vehicles would be excluded from outer space by the instrument relating to liability, just as they were excluded from the skies by the various instruments embodying the law of the air.]

Those matters of terminology were essential, and he had therefore felt it necessary to stress them. Again, he would welcome a revision of the Spanish translation of the words "natural or juridical persons" in article VI of the revised United States draft

(A/AC.105/C.2/L.19), which would be more correctly rendered by the Spanish equivalent of the French expression "Personnes physiques et morales" than by "Persones naturales y juridicas".

Summarizing his delegation's position on the definition of a space vehicle, he thought that the "vehicle" in question should be defined as clearly as possible, preferably in the article entitled "definitions", which might otherwise just as well be omitted; that should be the main concern of the Sub-Committee, which still had no clear or precise idea of what was meant by a "space vehicle".

On the question of compensation, he agreed with the Japanese representative that in the agreement being drafted, which must be essentially a juridical instrument, provision should be made for all possible damage and for the methods of assessing it. In that connexion, he drew the Sub-Committee's attention to his delegation's position with regard to the question of potential danger and of damage, direct or indirect, instant or delayed, which was on record in the report of the Legal Sub-Committee on the second part of its third session (A/AC.105/21 and Add.1 and 2) provision would have to be made for the possibility of a State's having ceased to be a party to the convention at the time when delayed damage occurred and for the way in which the principle of the time limit for claims would be applied.

With regard to the definition of the launching State, it would be better not to speak of States Parties whose territory or facilities were used for the launching of a space vehicle into outer space, for there would be cases in which such launching would be carried out under the auspices of an international organization and in the framework of international co-operation. Such cases were indeed likely to be in the majority, and the Convention should be drafted accordingly. He therefore agreed with the United States representative that it was better not to speak of space powers, but to seek to promote the active participation of all States through the medium of international organizations, whose rights should, of course, be safeguarded in all respects.

The liability of the launching State should be objective, not absolute; that did not mean that it would be unlimited but simply that it would not be expressly limited. If a ceiling was to be set, it should be linked to the risk of accident involved in the space venture, and should vary according to the magnitude of the launching. There were arguments in favour of both principles of liability, and in the present case a combination of the two might prove to be preferable.

So far as the time limit for the presentation of claims was concerned, the period fixed should be two years from the date of identification of the State liable (as in

(the Belgian proposal), and not one year. In Argentina, for example, on whose territory a large number of fragments of space vehicles had fallen in 1965, it had not yet been possible to determine the ownership of the vehicles in question; the task was rendered more complicated by the disintegration which occurred during descent.

With regard to the final clauses, he welcomed the fact that, in all three proposals before the Sub-Committee, the Secretary-General of the United Nations was designated as the depositary of the instruments of ratification and accession.

As to the settlement of disputes, the United States formula for an arbitration commission was interesting but it might be more practical to establish a permanent arbitration commission, composed of jurists representing the different juridical systems and regions of the world.

Mr. O'DONOVAN (Australia) said that the drafting of a convention on liability was of considerable interest to Australia, which, apart from acting as a launching State for an international organization, possessed an extensive territory with a largely urban population. Like the agreement on assistance, the convention on responsibility was of a humanitarian character. Notwithstanding the difficulties of its task, the Sub-Committee must apply itself directly to the formulation of the text in question. In doing so, it must follow the example of scientists and technologists, and not allow itself to be put off by problems which at the outset might appear insoluble. Like them, it must press on and if it did, its efforts would be successful.

His delegation had examined the three drafts before the Sub-Committee, but thought none of them ideal. However, all three would provide a useful framework for the detailed examination of the problem.

ORGANIZATION OF WORK

After a brief exchange of views, in which Miss GUTTERIDGE (United Kingdom) and Mr. RIHA (Czechoslovakia) took part, it was decided that the 13th meeting of the Sub-Committee should be a plenary meeting.

Mr. LITVINE (Belgium) announced that his delegation would submit a revised proposal which would take into account intervening developments, including the adoption of the Treaty on Outer Space. The text would be submitted to the Sub-Committee on Monday, 26 June 1967.

The CHAIRMAN said that in that case the Secretariat might draw up a comparative table of the three revised proposals before the Sub-Committee.

The meeting rose at 5.40 p.m.

