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

Sixth Session

SUMMARY RECORD OF THE EIGHTY-FIFTH (CLOSING) MEETING
held at the Palais des Nations, Geneva,
on Friday, 14 July 1967, at 3.25 p.m.

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Present:Chairman:

Mr. WYZNER (Poland)

Members:

Mr. COCCA Argentina

Mr. O'DONOVAN Australia

Mr. ZEMANEK Austria

Mr. BAL Belgium

Mr. SOUZA e SILVA Brazil

Mr. KOSTOV Bulgaria

Mr. PICK)

Mr. MILLER) Canada

Mr. RIHA Czechoslovakia

Mr. DELEAU France

Mr. HARASZTI Hungary

Mr. KRISHNAN India

Mr. OWADA Japan

Mr. DAMDINDORJ Mongolia

Mr. BEPEZOWSKI Poland

Mr. GOGEANU Romania

Mr. COLE Sierra Leone

Mr. LINTON Sweden

Mr. PIRADOV Union of Soviet Socialist Republics

Mr. SIRRY United Arab Republic

Miss GUTTERIDGE United Kingdom of Great Britain and
Northern Ireland

Mr. REIS United States of America

Secretariat:

Mr. STAVROPOULOS Under-Secretary, Legal Counsel

Mr. ABDEL-GHANI Chief, Outer Space Affairs Group

Miss CHEN Secretary of the Sub-Committee

ADOPTION OF THE LEGAL SUB-COMMITTEE'S REPORT ON THE WORK OF ITS SIXTH SESSION TO THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE (concluded)

Paragraph 8 (concluded)

The CHAIRMAN invited the Sub-Committee to resume its consideration of paragraph 8 of the draft report, which had been left pending at the 84th meeting.

Miss GUTTERIDGE (United Kingdom) said that in a sincere desire to facilitate agreement on the paragraph her delegation had revised its amendment. The new United Kingdom version would read:

"8. The texts of the three proposals were referred to the Sub-Committee's Working Group I. At the request of the Chairman, a comparative table of provisions contained in the three proposals was prepared by the Secretariat (A/AC.105/C.2/W.1/Rev.3) to facilitate the Working Group's discussion of the texts before it. Notwithstanding the fact that there were differences in the scope of the three proposals it was agreed that discussion should proceed on the basis of the subject headings set out in the comparative table, and the Working Group considered each of the following subjects: general duty, notification of accident, assistance in the territory of a contracting party, assistance outside the territory of any State, return of astronauts, and return of space objects. (The comparative table is reproduced in annex I to this report)."

Mr. PIRADOV (Union of Soviet Socialist Republics) said that all the members of the Sub-Committee were fully aware of his delegation's views on the subject. Since the United Kingdom proposal embodied the diametrically opposite position, the Soviet delegation considered it unacceptable.

Mr. REIS (United States of America) observed that when the Committee on the Peaceful Uses of Outer Space met to consider the report of its Legal Sub-Committee, it would rightly ask itself why the Sub-Committee had met for four weeks. While it would see that a number of representatives had put forward proposals, it would not be able to tell from the report what had happened to those proposals. That was because the draft report failed to state that two weeks had been consumed in a dispute as to the scope of the agreement on assistance.

The United States delegation agreed that controversial material should not be included in the report but it failed to see why the report could not say that it had been impossible to reach agreement on item 3 of the Sub-Committee's agenda (Draft agreement on assistance to and return of astronauts and space vehicles) during the approximately two weeks that had been spent on the item. The Soviet representative had stated that all members of the Sub-Committee were fully aware of the views of the Soviet delegation regarding item 3 that the agreement should deal only with the single topic of rescue of astronauts but even if that were so, it would not apply to the readers of the Sub-Committee's report.

He was convinced that if all members co-operated, a way would be found out of the difficulty.

Mr. BEREZOWSKI (Poland) felt that agreement could be reached on a very broad wording. He proposed that the beginning of paragraph 8, as it stood in the working paper, should be amended to read:

"The texts of the three proposals were referred to the Sub-Committee's Working Group I, which discussed the scope of the draft agreement and considered the questions, etc...".

Mr. PIRADOV (Union of Soviet Socialist Republics) observed that the United States representative's concern apparently did not extend to the fate of the astronauts of his country and all other countries. The Soviet delegation was more worried by the absence of concrete results than by any gaps in the report.

The Sub-Committee had made no progress on item 3 for four weeks. That was due not to his delegation, which had come to the Sub-Committee with clear, specific and constructive proposals, but to those who had refused to examine the nature of those proposals. The objective proposals of the Soviet Union had encountered incomprehensible opposition on the part of the United States delegation.

The Soviet delegation was convinced that the wording proposed by the United Kingdom delegation for paragraph 8 would not help to give the Committee on the Peaceful Uses of Outer Space a clear idea of what had taken place in the Legal Sub-Committee.

Mr. ZEMANEK (Austria) said that any differences that had arisen in the Sub-Committee on the scope of the agreement would have to be mentioned in the report.

The CHAIRMAN pointed out that the Sub-Committee now had before it an additional proposal, that of the Polish representative.

Mr. O'DONOVAN (Australia) said that the Soviet representative himself had brought out that the texts before the Sub-Committee were different in scope when he had explained that the Soviet text related to rescue, although the wording of item 3 of the agenda referred to questions in addition to that of rescue. That was also clear from other paragraphs of the draft report. It was therefore difficult to see why the report would fail to mention, if only in passing, the differences that had emerged concerning the scope of the proposed agreement.

Mr. MILLER (Canada) said that it was important to explain the situation to the plenary Committee especially as much of the discussion had taken place in the Sub-Committee's Working Group and the Committee would therefore have no summary records to which to refer. In his opinion, the version proposed by the United Kingdom delegation faithfully reported what had happened in Working Group I.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that his delegation was prepared to see the report state the facts, but in that case it should stick strictly to the facts. He therefore suggested adding to the text proposed by the United Kingdom delegation a passage explaining that the United States delegation had refused to examine the proposals concerning assistance to astronauts contained in the comparative table prepared by the Secretariat.

Mr. REIS (United States of America) expressed the view that the vehemence of the Soviet representative's remarks was hardly likely to promote understanding.

The Sub-Committee had placed item 3 on its agenda in pursuance of General Assembly resolution 2222 (XXI) which had been supported by the USSR as well as by the United States and in which the General Assembly had requested the Committee on the Peaceful Uses of Outer Space "to continue its work on...an agreement on

assistance to and return of astronauts and space vehicles". However, the draft agreement submitted by the USSR at the beginning of the session dealt only with the rescue of astronauts and although the Soviet delegation had subsequently agreed to "discuss" the other points mentioned in the General Assembly's resolution, namely the return of astronauts and space vehicles, it had never agreed to negotiate on them.

The scope of the agreement to be drafted was that defined by the General Assembly in resolution 2222 (XXI). While the United States delegation could understand a desire to modify the scope of the agreement, what it could not understand or accept was the effort to do so by accusing it of bad faith.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that his delegation rejected the allegations of the United States delegation. The United States delegation had refused to discuss the comparative table, which consisted of the proposals reproduced by the Secretariat in accordance with General Assembly resolution 2222 (XXI). On the other hand, the Soviet delegation, desiring to remove all obstacles to the drafting of an agreement, had suggested that all the questions referred to in item 3 of the Sub-Committee's agenda should be discussed, including the return of astronauts and space vehicles.

Mr. ZEMANEK (Austria) said that the impasse in which the Sub-Committee appeared to find itself might be overcome by eliminating the disputed passages from paragraph 8. The paragraph would then read:

"The texts of the three proposals were referred to the Sub-Committee's Working Group I. At the request of the Chairman, a comparative table of provisions contained in the three proposals was prepared by the Secretariat to facilitate the Working Group's discussion of the texts before it (A/AC.105/C.2/W.1/Rev.3)."

That wording should suffice since it was clear from paragraph 7 of the draft report that the proposals were different in scope and since it was also clear enough from paragraph 9 what the results of the Sub-Committee's work had been.

Mr. PIRADOV (Union of Soviet Socialist Republics) considered the Austrian proposal worthwhile and thought it would be wise to adopt it.

Mr. REIS (United States of America) said that if that proposal was the only one on which the Sub-Committee could agree, it would be grateful to the sponsor. However, it was regrettable that agreement could not be reached on a text which would accurately indicate that there had been differences of opinion on the scope of the draft agreement on assistance and return. The representative of the Soviet Union argued that his delegation had been prepared to discuss all questions relating to the draft agreement, but actually it had concerned itself solely with rescue and had put aside the return of astronauts and space vehicles.

Mr. O'DONOVAN (Australia) said that he was afraid that if the Sub-Committee accepted the Austrian proposal it would end up with a paragraph 8 whose wording would be even more meaningless than the original text; there would be nothing to show that the Sub-Committee had discussed each of the questions referred to by the proposals contained in the comparative table (A/AC.105/C.2/W.1/Rev.3). If the Sub-Committee favoured the adoption of the Austrian proposal, the Australian delegation would bow to the will of the majority, but not with enthusiasm. He wished to make it clear that his interpretation of the discussion which had taken place during the first two weeks of the session was not that of the Soviet delegation.

Miss GUTTERIDGE (United Kingdom) regretted that it was not possible to reach agreement on the revised version of paragraph 8 proposed by her delegation, which in her view was faithful to the facts. The United Kingdom delegation did not share the Soviet representative's view of the way in which the discussion on the draft agreement on assistance had developed. The question of the scope of that instrument had caused some difficulties for the United Kingdom delegation and although discussion had continued, the fact remained that there had been differences of opinion on that point.

Mr. MILLER (Canada) said that while he understood the motive of the Austrian representative, he could not support his proposal because its adoption would undo everything done at the 84th meeting. All of the points mentioned in paragraph 8 - which would be deleted under the Austrian proposal - should be kept, including the last, referring to the reimbursement of expenses, which it had been decided to add at the end of the first sentence.

He proposed that paragraph 8 should be adopted as it stood in the working paper, subject to the amendments introduced at the 84th meeting.

Mr. OWADA (Japan) said that his Government, which based itself on the principle that the Sub-Committee should scrupulously abide by its terms of reference under General Assembly resolution 2222 (XXI), felt that the three questions of assistance to astronauts and space vehicles, of return of astronauts and of return of space vehicles should be covered by a single instrument; that was the only way of satisfying all the States concerned while serving the interests of mankind.

The Sub-Committee's report should be a reflection of what had happened during the discussion, and the wording proposed by the United Kingdom delegation met that test. There was, therefore, no reason why the facts should not be stated in those terms. To keep silent about the facts did not make them any less real. While he would prefer not to have to accept the Austrian proposal, he would not object to it if it was approved by the rest of the Sub-Committee.

Mr. ZEMANEK (Austria) withdrew his proposal in favour of the Canadian proposal to adopt the wording contained in the Secretariat's working paper, as amended by the additions and modifications agreed on at the 84th meeting.

Mr. COCCA (Argentina) recalled that the Polish delegation had made a proposal which the Sub-Committee had not acted on. If that proposal was approved, his delegation would support the proposal which had been put forward by the Canadian representative and endorsed by the Austrian representative.

It should be noted that the description of the situation had not been entirely accurate: the Sub-Committee had had before it not three but two questions, namely the question of assistance to astronauts and space vehicles and return of astronauts, and the question of return of space vehicles. That was a distinction to which the Argentine delegation had already drawn attention.

Mr. O'DONOVAN (Australia) said that his delegation could support the Polish proposal.

Miss GUTTERIDGE (United Kingdom) felt that the Polish proposal had the ingredients needed for unanimous approval and ought to be considered.

The CHAIRMAN pointed out that, as it now stood, the first sentence of draft paragraph 8 read:

"The texts of the three proposals were referred to the Sub-Committee's Working Group I, which considered the questions on general duty under the agreement on assistance to and return of astronauts and space vehicles, notification of accidents, assistance in the territory of a contracting party, assistance outside the territory of any State, duty to return the personnel of spacecraft, return of space objects and reimbursement of expenses."

The representative of Poland had proposed the insertion of the words "discussed the scope of the draft agreement and" between the words "which" and "considered".

Mr. REIS (United States of America) accepted the Polish proposal.

The Canadian proposal was adopted.

The Polish proposal was adopted.

Paragraph 8, as amended, was adopted.

Paragraph 17 (concluded)

The CHAIRMAN recalled that the Soviet representative had proposed that the foot notes to paragraph 17, suggested in addendum 3, should be omitted. He (the Chairman) suggested that the notes at the bottom of page 1 and page 3 of addendum 3 should also be omitted.

It was so decided.

The CHAIRMAN recalled that the representative of Austria had proposed the insertion of the word "provisional" before the word "agreement" in the sub-heading dealing with the liability of international organizations, on page 2 of addendum 3.

It was so decided.

The CHAIRMAN suggested that where agreement was reached the paragraph should state that it was reached by the Sub-Committee as a whole and not only in Working Group II, as the draft report now indicated.

It was so decided.

Mr. PICK (Canada) observed that the first sentence of paragraph 17 stated that provisional agreement had been reached on certain points; it might be unnecessary to indicate in each case that agreement had been provisional.

The CHAIRMAN said that there was one point on which agreement had been final, that relating to definitions. Consequently, a distinction had to be made between the various points. It might be better to leave it to the Secretariat to make whatever changes of form were needed.

Paragraph 17, as amended, was adopted.

Paragraph 18

The CHAIRMAN drew attention to page 3 of addendum 3, where it was suggested that paragraph 18 be deleted.

Paragraph 18 was deleted.

Mr. REIS (United States of America) took it that the texts on which the delegations of Belgium, Hungary and the United States had agreed would be recorded in the report.

The CHAIRMAN assured the United States representative that it would.

Section III (Addendum 4)

Miss GUTTERIDGE (United Kingdom) recalled that paragraph I(b) of the questionnaire had been amended.

The CHAIRMAN said that the wording agreed on at the 84th meeting would replace the text of paragraph I(b) that appeared in addendum 4.

Mr. DELEAU (France) indicated that the text of his questionnaire to be placed in the annex to the report was that in document PUOS/67/Conference Room Paper No. 1/Rev.1.

The CHAIRMAN indicated that the date to be inserted in the second, preambular paragraph of the questionnaire was 17 April 1967.

Section III, as previously amended at the suggestion of the United Kingdom representative was adopted.

The draft report as a whole was unanimously adopted.

CLOSURE OF THE SESSION

Mr. PIRADOV (Union of Soviet Socialist Republics) regretted to have to find that the results of the Sub-Committee's sixth session could have been more positive. In spite of the urgent need for an agreement on assistance to astronauts, no concrete progress had been made on substance, and the Sub-Committee had not fulfilled its mandate under General Assembly resolution 2222 (XXI). The state of affairs could

only be deplored. In the opinion of the Soviet delegation, it was due to the fact that the Sub-Committee had been able to begin its consideration of specific proposals only near the end of its session owing to specious difficulties raised by certain delegations. For its part, the Soviet delegation had done its utmost to overcome those difficulties by seeking agreement on practical questions and avoiding secondary or overly technical problems. For example, the extremely technical nature of the Japanese proposal would probably have slowed up the work and indefinitely postponed any results.

Nevertheless, the Soviet delegation remained optimistic and was convinced that the delegations concerned would review their position in the light of the work of the session. What was more, the need for an agreement on assistance to astronauts was so obvious that, given goodwill, it was sure to be reached quite soon. The Soviet delegation would do everything it could to help to reach it.

Mr. COCCA (Argentina) said that because of the complexity of the problems before the Legal Sub-Committee, it should in future be enabled to meet more regularly. Moreover, its agenda should be lightened somewhat so as to permit it to make a thorough study of certain questions. Once those questions had been dealt with, the Sub-Committee would find it much easier to pursue its work. He would also like to take the occasion to say that in the opinion of the Argentine delegation - an opinion shared by the delegation of Brazil - the Spanish title of the Committee on the Peaceful Uses of Outer Space might be improved. "Ultra-terrestre", the word used for "outer", was open to various interpretations, and consideration might be given to replacing it with a more precise term. The matter might be considered by the General Assembly.

Mr. OWADA (Japan) wished to assure the representative of the Soviet Union that his delegation was deeply interested in humanitarian questions. At the same time, it felt that the Sub-Committee's work was of the highest importance and that the legal instruments it prepared should be drafted as perfectly as possible. His delegation hoped that it was wrong in its impression that there had been a note of pessimism in the statement of the Soviet representative.

Mr. REIS (United States of America), Mr. PIRADOV (Union of Soviet Socialist Republics), Mr. ZEMANEK (Austria), Mr. COCCA (Argentina), Mr. OWADA (Japan), Miss GUTTERIDGE (United Kingdom), Mr. PICK (Canada), Mr. KRISHNAN (India) and Mr. DELEAU (France), who also spoke on behalf of the delegations of Australia and Belgium, after greeting the Legal Counsel, expressed their thanks to the Chairman for the objectivity, competence and courtesy with which he had guided the work of the Sub-Committee's sixth session. They also thanked the members of the Bureau and all the Secretariat services which had helped the Sub-Committee in its task. They hoped that the work it had done would serve as a basis for future progress.

Mr. STAVROPOULOS (Under-Secretary, Legal Counsel) regretted that other duties had prevented him from taking part in the Sub-Committee's work but noted with satisfaction that it had been able to reach partial agreement. Given the problems that had to be solved, it had not been very likely that total agreement could be achieved at their first examination. The beginnings of agreement reported by the Sub-Committee should serve as a basis for further work, which alone would make wider agreement possible.

The CHAIRMAN thanked the members of the Sub-Committee for the kind words they had addressed to him. Although the work of the session had not been as fruitful as they would have liked it to be, his optimism at the first 75th meeting had not been unjustified. The preparation of an international legal instrument, which in itself was a very difficult task, was, in the present case, complicated by the fact that the law of space was a new field. Nevertheless, agreement had been possible on certain points, and there had been a profitable exchange of views on others. There was no doubt, therefore, that further efforts would make it possible to achieve broader agreement in the near future.

After expressing his thanks to the various delegations for their co-operation and to the members of the Bureau and the Secretariat for their help, he declared the Sub-Committee's sixth session closed.

The meeting rose at 5.40 p.m.