

CONTRIBUTIONS OF THE UNITED NATIONS COMMITTEE ON THE
PEACEFUL USES OF OUTER SPACE: AN OVERVIEW

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I. INTRODUCTION

International cooperation in the field of Outer Space activities has followed technical progress closely even if not always simultaneously. This was all the more so, as it became soon evident that any potential application of space science and technology could only be beneficial if its inherent international character was recognized. The need for a fundamentally international approach towards the many questions and problems of Outer Space was soon generally recognized.

The United Nations, as the most advanced and most universal form of expression of humanity's interdependence today, constitutes a natural organizational basis and framework to ensure that this world-wide spreading of technology is carried out in such a way as to minimize potential dangers of friction among nations. Thus momentum towards resolution of key problems of Outer Space activities has come from the United Nations, the organization which has been established "to maintain international peace and security" and whose General Assembly has been entrusted to "initiate studies and make recommendations for the purpose of . . . promoting international cooperation in the political field and encouraging the progressive development of international law and its codification."

II. ESTABLISHMENT OF THE OUTER SPACE COMMITTEE

It was for this reason that on the morrow of the successful launching of the first satellites the initial questions relating to Outer Space reached the Agenda of the United Nations. They made their first appearance in 1957 in the context of the debate on disarmament. A year later a special item on Outer Space was placed before the General Assembly. It was then that an *Ad hoc* Committee on the Peaceful Uses of Outer Space was set up. By resolution,¹ the General Assembly later established the Committee on the Peaceful Uses of Outer Space, to succeed the *Ad hoc* Committee. In December 1961,² the Committee was made permanent and the membership established at 28, to be later enlarged to the present number of 37 Member States.

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¹U.N.G.A. Res. 1472 (XIV), December 12, 1959.

²U.N.G.A. Res. 1721 (XVI), December 20, 1961.

The present Committee's tasks are to review the scope of international cooperation in peaceful uses of Outer Space, to devise programs in this field which could be undertaken under the United Nations auspices, to encourage continued research and disseminate information on research, and to study legal problems arising from the exploration of Outer Space.

The Outer Space Committee held its first session in 1962. At the first meeting its new Chairman, Ambassador Franz Matsch of Austria, read into the record a carefully drafted statement, which had resulted from extensive US-Soviet negotiation, to the effect that the Committee would endeavor to proceed by consensus wherever possible and dispense with the need for voting subject to the understanding that the General Assembly rules of procedure, making voting possible, would continue to apply. The Committee has operated under this consensus procedure since 1962. Underlying the willingness to put normal rules of procedure aside was the general recognition of the need to obtain the agreement of both space powers for new courses of action if these were to prove effective.

III. SUB-BODIES OF THE OUTER SPACE COMMITTEE

There are various sub-bodies of the Committee, each of which has the same membership as the Committee. The Scientific and Technical Sub-Committee deals mainly with the exchange and dissemination of information, the encouragement of international programs of space research and making the results of exploration accessible to countries which are not engaged in it. This Sub-Committee also operates in education and training in the field of space and in the evaluation of the work done by the specialized agencies engaged in space research.

The Legal Sub-Committee was entrusted with the task "to study legal problems which may arise from the exploration and use of outer space." The new dimension, like those which man penetrated earlier, could not remain a legal vacuum.

IV. U.N. DECLARATIONS AND INTERNATIONAL AGREEMENTS

In 1962, the General Assembly solemnly declared that Outer Space including celestial bodies is free for exploration and use by all States on a basis of equality and in accordance with international law and that it is not subject to national appropriation by claims of sovereignty, by means of use or occupation, or by any other means.³

The two main landmarks in the legislative work of the United Nations as the focal point in the development of space law, however, are the Declaration of Legal Principles

³U.N.G.A. Declaration (XVII) (1962).

Governing the Activities of States in the Exploration and Use of Outer Space,⁴ unanimously adopted by the General Assembly of the United Nations on December 13, 1963, and the Treaty on Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, including The Moon and Other Celestial Bodies,⁵ which was opened for signature in London, Moscow and Washington on January 27, 1967 and entered into force on October 10, 1967.

In addition to setting forth certain provisions of the Declaration of Legal Principles, the Outer Space Treaty includes numerous other principles: the obligation of States not to orbit any objects carrying nuclear weapons of mass destruction, not to install such weapons on celestial bodies or to station weapons in Outer Space; the use of the moon and other celestial bodies exclusively for peaceful purposes; the prohibition of the establishment of military bases, installations and fortifications, the testing of any types of weapon and the conduct of military maneuvers on celestial bodies; the avoidance of harmful contamination and adverse changes in the environment of the earth resulting from the introduction of extraterrestrial matter; as well as the access by States Parties to the Outer Space Treaty to stations, installations, equipment and space vehicles on the moon and other celestial bodies on a basis of reciprocity.⁶

Consequent to this Treaty three more international agreements to implement the basic rules laid down in the two instruments just mentioned were established: the Agreement on the Rescue of Astronauts, Return of Astronauts and the Return of Objects launched into Outer Space;⁷ the Convention on International Liability for Damage Caused by Space Objects;⁸ and the Convention on Registration of Objects Launched into Outer Space.⁹

The Agreement on the Rescue of Astronauts, Return of Astronauts and the Return of Objects Launched into Outer Space provides, *inter alia*, for: cooperation between the launching authority and a contracting party to effect a prompt rescue of the personnel of a spacecraft which, owing to accident, distress, emergency or unintended landing, lands in territory under the jurisdiction of the latter State; the obligation of the contracting parties to extend assistance in search and rescue operation for such personnel who have

⁴U.N.G.A. Res. 1962 (XVIII) (1963).

⁵18 U.S.T. 2410, T.I.A.S. No. 6347, 610 U.N.T.S. 205 (1967).

⁶Treaty on the Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 18 U.S.T. 2410, T.I.A.S. No. 6347, 610 U.N.T.S. 205 (1967).

⁷19 U.S.T. 7570, T.I.A.S. No. 6599, 672 U.N.T.S. 119 (1968).

⁸24 U.S.T. 2389, T.I.A.S. No. 7762 (1972).

⁹U.N.G.A. Res. 3235 (XXIX) (1974). For text of the Convention, see 3 J. Space L. 99 (1975).

alighted on the high seas or in any other place not under the jurisdiction of any State; the safe and prompt return of such personnel to representatives of the launching authority; and the obligation of each contracting party having jurisdiction over the territory on which a space object or its component parts have been discovered to take steps to recover the object or its component parts as well as the return of objects or their component parts found beyond the territorial limits of the launching authority to representatives of that authority.

The Liability Convention provides, *inter alia*, for rules of international liability for damages caused by space objects and a procedure for the presentation and settlement of claims. Accordingly, the Convention deals with the numerous matters relevant to the formulation of a system of liability and a procedure for compensation.

The Registration Convention provides, *inter alia*, for a central register of objects launched into Outer Space to be established and maintained on a mandatory basis by the Secretary-General of the United Nations, which would, in particular, assist in the identification of space objects and contribute to the application and development of international law governing the exploration and use of Outer Space.

V. CURRENT AREAS OF SPACE LEGISLATION

At present the Committee is concentrating on three further areas of space legislation: the draft treaty relating to the moon, the question of elaboration of principles governing the use by States of artificial satellites for direct television broadcasting, and the consideration of legal implications of remote sensing of the earth from space.

On the draft treaty relating to the moon, the Legal Sub-Committee has prepared the text of a preamble and 21 articles including final clauses.¹⁰ The main outstanding issue relates to the legal status of the natural resources of the moon. Another outstanding issue is whether the treaty should be applicable to the moon only or to other celestial bodies as well.

In the area of direct broadcast satellites, agreement has been reached on a set of draft principles dealing, in substance, with such issues as: purpose and objectives, applicability of international law, rights and benefits, international cooperation, State responsibility, duty and right to consult, peaceful settlement of disputes, copyright and neighboring rights, and notification of the United Nations. The question of consent and participation, program content and unlawful inadmissible broadcasts remain, however, yet to be solved.

¹⁰U.N. Doc. No. A/AC. 105/115 (1973). For text of the Draft Convention, see 1 J. Space L. 170 (1973).

The consideration of the legal implications of earth resources survey by remote sensing satellites has led to the formulation of a number of draft principles dealing with such basic issues as international cooperation, applicability of international law, participation, protection of environment and technical assistance. Other legal work of the Committee is mainly concerned with the study of questions relating to the definition and/or delimitation of Outer Space and Outer Space activities.

VI. PURSUIT IN THE AREA OF SPACE APPLICATIONS

The Scientific and Technical Sub-Committee and its *ad hoc* working groups have, over the years, made a series of recommendations on exchange of information, encouraged international programs especially in the field of space applications, initiated UN sponsorship of international sounding rocket facilities, and contributed to education and training especially in the practical applications of space technology.

The need for a widespread exchange of information in the practical applications of space technology was recognized by the Committee at an early stage of its activity. As early as 1959 it was recognized that an international scientific conference for the exchange of experience in the peaceful uses of Outer Space would be essential to satisfy this need. The first United Nations Conference on the Exploration and Peaceful Uses of Outer Space was held in August 1968 in Vienna. It was conceived not only to be a meeting for exchange of information on a world-wide scale but also to examine the practical benefits of space exploration and the opportunities available for international cooperation with special reference to the needs of the developing countries. It was attended by 78 Member States, nine specialized agencies and four other international organizations. It provided an excellent opportunity for dissemination of information on practical applications of space research.

The possibility of holding a United Nations Conference on Outer Space Matters to follow the 1968 Vienna Conference is currently under consideration.

In keeping with this important concern of the Committee to ensure dissemination of information, Member States launching satellites and other space objects have been requested by the Committee to provide the United Nations with information on their launchings, for which a public registry was established by the Secretary-General in 1962. Members have also been urged to provide the Committee with information on their national and cooperative international space programs.

One of the main purposes of the Committee is to study practical and feasible means of giving effect to programs in the peaceful uses of Outer Space which could appropriately be carried out under United Nations auspices including assistance for the continuation on a permanent basis of research on Outer Space.

Expressing the interest of the Committee to promote international cooperation in furthering scientific and basic research projects the Committee has recently begun to encourage international cooperation towards the possible utilization of space technology in the generation of solar energy.

In the area of practical applications of space technology to which the Committee is giving increased importance, recommendations for international programs have been adopted in the field of space meteorology, space communications, navigation satellites, direct broadcast by satellites and remote sensing of the earth by satellites.

The Committee's concern with international cooperation in the application of space technology to meteorological programs and activities has been reflected in its recommendations to Member States and to the WMO for measures designed to advance the state of atmospheric science and technology, with a view to developing improved knowledge of basic physical forces affecting climate and the possibility of large-scale weather modification, and to develop weather forecasting capabilities through various means, including regional meteorological centers.

The Committee has also recognized the importance of space communications since its early development. Believing that communication by means of satellites should be made available to all nations of the world on a global and nondiscriminatory basis, and recognizing the important role played by the ITU in this area, the Committee urged sympathetic consideration of requests for technical and other assistance for survey of national communications needs and domestic communications facilities with a view to effective use of space communications.

Following the United Nations Conference on the Peaceful Uses of Outer Space, the Scientific and Technical Sub-Committee decided to promote more energetically international cooperation in the applications of space technology particularly for the benefit of the developing countries. A program designed to create awareness of the practical applications of space technology and to provide practical training and education in this field was initiated and an Expert on space applications to plan and coordinate this program was appointed.

A Navigational Satellite Working Group established by the Committee came to the conclusion that it will be technically feasible to develop a navigational service satellite system to meet particular needs of civil aviation and sea-borne traffic and to help resolve basic navigational requirements and made specific suggestions regarding this matter.

A Working Group on Remote Sensing of the Earth by satellites, established to examine ways for promoting the optimum utilization of the new technology for the benefit of all States, studied, *inter alia*, the potential of this new technology in solving specific environmental land resources problems and its legal implications and organizational aspects. This Working Group concluded that among the most useful potential applications of remote sensing data were the monitoring of the environment, studies in agriculture and forestry, geography and marine resources, atmosphere,

meteorology and use in cases involving natural disasters. On the organizational aspects, the Working Group outlined a possible future role for the United Nations in this area. A number of studies prepared upon recommendation of the Working Group related to the organizational and financial requirements for the establishment of one or more international regional data storage and dissemination centers with reception facilities under United Nations auspices. They were also related to the requirements for the establishment of an international center under United Nations auspices for data storage and dissemination. All these questions continue to be under consideration.

For consideration of questions relating to the use of satellites for transmitting radio and television programs intended for direct reception by the general public, the Working Group on Direct Broadcast Satellites was established to examine technical aspects as well as economic, social, cultural and legal implications. It affirmed the substantial potential for the application of direct broadcasts from satellites in the interest of all mankind, the need for the strengthening of large-scale international cooperation and stressed the belief that the United Nations, and in particular its Committee on the Peaceful Uses of Outer Space, should continue to pay special interest in coordinating activity in this field. It also underlined that the use of satellite-borne television for educational purposes, particularly in the developing countries, would contribute towards national programs of integration and community development and economic, social and cultural development in such areas as formal and adult education, agriculture, health and family planning.

The Working Group also studied some of the political and legal implications of direct broadcast satellites and dealt with a number of issues and matters for which the elaboration of principles in this field was considered essential, thus preparing the groundwork for the on going efforts of the Legal Sub-Committee.

As early as 1962 the Committee considered that the creation and use of sounding rocket launching facilities, especially in the equatorial regions and the southern hemisphere, under United Nations sponsorship, would contribute to international collaboration in space research and the advancement of human knowledge by opening up possibilities for nations wishing to enter the field of space research and providing opportunities for practical instructions and training in this field. The United Nations decided in 1965 and 1969 to sponsor two such facilities: The Thumba Equatorial Rocket Launching Station (TERLS), established in India; and the CELPA (Centro de Experimentacion y Lanzamiento de Proyectiles Autopropulsados) Mar del Plata, established in Argentina.

Furthermore, the Scientific and Technical Sub-Committee has done important groundwork in preparation for the work of its sister Sub-Committee, *i.e.*, in the field of registration of objects launched into Outer Space, in the study of potentially harmful effects of space experiments and the monitoring of the environment through space activities.

VII. FUTURE CHALLENGES FOR THE OUTER SPACE COMMITTEE

As space research, development of new technology and the range and frequency of practical applications steadily and rapidly increase and expand together with bilateral, regional and international programs of cooperation in those areas, new challenging questions emerge and call for attention by the Committee.

Earth-oriented space activities such as remote sensing and new communications systems are likely to experience a most substantial growth. More and more countries, including developing countries, become involved in such earth-oriented programs and benefit from international cooperation. To mention just one impressive example: Indonesia's first domestic communications satellite "Palapa" was successfully launched in July 1976, making Indonesia the first developing nation and the third country in the world to have its own domestic satellite system. For a nation such as Indonesia with thousands of islands which span great distance and with formidable terrestrial barriers, the "Palapa" system can play an important role in fulfilling the needs of the country and its people.

But there are also activities, oriented towards Outer Space, likely to expand: the study of the universe, the fate of matter, such as tele-explosion and cosmic rays; the study of the origins and the future of life itself; the search for intelligent life in the universe. In the context of the latter activities, questions have been raised recently whether there was need for international agreement to them since the consequences of making the presence of intelligent life on earth known could not be foreseen and might in the opinion of some be detrimental to the future of mankind.

Other new areas of space-oriented activities likely to generate proposals for further development of space law might well include the establishment of colonies on the moon and on orbiting earth satellites.

Measures that may be adopted for the regulation of activities in space in the interest of peace and security may be considered in the light of developments in the field of arms control, disarmament and of continuing scientific and technological progress. It may at some point appear desirable to extend the prohibition on the stationing of weapons of mass destruction in space to include all weapons. New technological development might, furthermore, open the question of interference with or destruction of satellites in space and thus crippling of early-warning systems which are an essential stabilizing factor. Recent news reports indicate the testing by major space powers of such potentially disquieting weapons as the so called hunter-killer satellites, which use bursts of laser rays to disable enemy spacecraft. Such issues, as may be described as demilitarization of outer space, have a close bearing on and interdependence with peace and stability in general, as well as other developments in the area of arms control or limitation.

Legal aspects will not be the only ones to be considered when dealing with such new or expanded programs, whether earth- or space-oriented. Many other aspects of a scientific, technological, political, economic, or cultural nature will have to be taken into account. Our approach to such new challenges will have to be multidisciplinary. New forms of international cooperation will in some instances become necessary. In accepting these challenges the Outer Space Committee will continue to discharge its duties and the importance of our work will grow.