INTRODUCTION TO THE SYMPOSIUM ON INTERNATIONAL ORGANIZATIONS AND THE LAW OF OUTER SPACE

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The purpose of this symposium is to furnish a basis for analyzing the relationship between institutional and legal problems involved in the uses of outer space. These are not the only two elements of multidisciplinary problems arising from the variety of space applications which also include interrelated scientific, technological, political, economic and cultural aspects. But basic problems of organization and law, created on the Earth as a result of space activities, should be combined for consideration in order to take advantage of their experience during the first two decades of the space age. Each organization actively engaged in space and space-related activities is operating from a legal base and has had to adapt to the feasibility and availability of space technology, the practicalities of economics, and the impact of political and cultural factors. Successful current practices of existing institutions should be examined to determine whether they may be applicable to future operations; methods which have been found ineffective can thus be avoided. Proposals for the future must take account of functioning institutions and space law already in force.

The development of space science and technology has influenced significantly the creation of new institutions and the use by existing organizations to improve functions which they were already performing before the space age began. Unique features of space technology led the United Nations to create the Ad hoc Committee and then the permanent Committee on the Peaceful Uses of Outer Space, followed by the Outer Space Affairs Division. There was foresighted recognition of the need to establish basic concepts to guide nations in the conduct of their space activities and to define the role of the United Nations in coordinating space applications relevant to the functions of the specialized agencies.

Space technology was a new tool which enabled the International Telecommunication Union, for example, to improve the performance of its legal functions. Similarly, the World Meteorological Organization took advantage of space science and technology to meet its operational responsibilities in a highly specialized field. UNESCO found in the analyzed data beamed from satellites toward the Earth a wealth of information to use in connection with its economic, social and cultural programs. The same pattern was followed by the Food and Agriculture Organization and other agencies which found space applications relevant to the functions for which they were originally established. Information resulting from this new technology also proved helpful in programs designed to assist developing countries.

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The idea of establishing one international agency to cover all uses of space technology was considered during UN discussions in 1958, but was abandoned because it was not practical to remove vital portions of functions already being performed in connection with meteorology, communications, agriculture, aviation, navigation, and education. This situation has not changed and, indeed, the diversity and widespread uses of space science and technology have accentuated the trend toward decentralization coupled with the centralization of some common elements.

At the national level, which can be most easily followed by information on the institutions using space science and technology in the United States, the same influences were at work: decentralization of special functions with centralized coordination of matters requiring overall direction. Space applications developed by the National Aeronautics and Space Administration were used by U. S. agencies working in the fields of agriculture and land management, communications and transportation, aviation, water resources, arms control and disarmament. All, or even a portion, of the basic functions of a large number of organized governmental bodies could not be taken over by one agency, although the necessity for coordination of outer space activities was recognized.

Whether institutions were established or newly created, they were responsible for implementing the provisions of space law developed to guide States in the conduct of their space activities. The foundation for space law was solidly laid in space treaties, the 1967 Treaty on Outer Space providing basic principles from which subsequent space treaties have been elaborated as necessary. Assistance and Return of Astronauts and Space Objects, Liability for Damage, and Registration of Space Objects—these three treaties, as well as the draft Moon Treaty which is currently on the agenda of the UN Legal Sub-Committee, stem from articles in the original Treaty on Outer Space, often repeating the wording of the primary values foresightedly set forth in the 1967 Treaty in order to attain consistency in the developing legal regime. Proposals for future space law should not be in conflict with the existing system which has been constructed on the basis of consensus among the members of the Legal Sub-Committee and the UN Committee on the Peaceful Uses of Outer Space. To the extent that space law has been developed, it has facilitated and not hampered progress in using space science and technology for purposes beneficial to mankind. Consensus was achieved because no issue was presented for discussion in such irreconcilable terms that a compromise could not be reached. The probable adoption of future proposals will also depend upon presenting a reasonable basis for reconciling differing points of view.

Guidelines for solving problems of organization and management are clearly needed because some proposals for new international institutions are being advanced without considering organizations already operating in this field. There have been proposals for an international organization to manage, regulate and sometimes even to operate, every major space activity that has come or may come into being. Late comers to this field may know only one space application, such as remote sensing or direct broadcast satellites or orbiting colonies, and do not seem to realize that adoption of each

proposal would result in numerous separate and overlapping institutions. Some proposals make no provision for coordinating national and international activities while others assume that coordination is all that is required and yet fail to define "coordination." Some proposals overlook the role of the United Nations and its specialized agencies or show an obvious lack of knowledge of the UN budget and its operational capabilities as well as the history of international cooperation in space activities. Future space law proposals concerning international institutions should be based upon a thorough knowledge of all space applications and the ways in which existing institutions, both national and international, are already using space science and technology. Furthermore, proposals for the future should be realistic in identifying methods of solving problems of coordination, staffing, and financing.

There is also a tendency to propose new treaties for each space application, although the activity may adequately come under existing national arrangements and treaties. Considering the fact that each space treaty has a different membership of ratifying nations, it is obvious that too many treaties with differing rosters can create difficulties. As time goes on, there will be a question of how may treaties are required to solve individual problems. Partial approaches could result in inconsistencies which could not later be codified into a harmonious system of space law. The objective should be to strive, not so much for the maximum number of treaties as for the maximum number of States Parties to the total structure of space law created to ensure the most rewarding use and exploration of outer space.

Included in this symposium are also articles on two pending issues before the UN Legal Sub-Committee: remote sensing of the earth by satellites and the definition of outer space. They illustrate the fact that the problems which must be dealt with by institutions operating in accordance with law and arising from expanding use of the space environment, are multidisciplinary. No one problem can be singled out as being solely, or even primarily, concerned with science, technology, law, politics, economics or culture. All such elements must be identified to attain the total understanding necessary for decisions on proposed solutions. In the last analysis, the weightiest element in determining a course of action may depend upon whether or not a project is technically feasible or upon the amount of money available or upon public acceptance of a commitment to an objective. Whatever combination of elements is necessary for a complete evaluation of a space law proposal, one certainty is that an indepth factual knowledge of space science and technology is indispensable. Any difficulties likely to be encountered in formulating future space law will be caused by failure to become familiar with the scientific and technological space application for which the law is proposed. And, additionally, failure can result from not taking advantage of solutions which have proved successful in the past. Both science/technology and law can permit or prohibit, in their specialized spheres, the realization of certain activities and they must be carefully dove-tailed so as not to create unnecessary restrictions which prevent space technology from reaching its maximum potential in benefitting mankind.

This symposium is designed to be of assistance in understanding the multidisciplinary nature of space activities and the primary importance of law and institutions in establishing workable guidelines which can be implemented in accordance with the main objective of space law—the use of outer space for peaceful purposes for the benefit of all mankind. Those who seek to make contributions toward this objective will also be assisted by a recently published United Nations document: "Space Activities and Resources: a review of the activities and resources of the United Nations, of its specialized agencies and of other competent international bodies relating to the peaceful uses of outer space."[1]

By studying space institutions and law, we will be able to identify the kinds of benefits, technological and otherwise, that were contemplated in 1961 but are now actually accomplished. Foresight exercised at the beginning of the space age may now be measured in terms of specific results. A global index of organizations and their programs should form a realistic basis for plans designed to cover future eventualities. During the past 20 years, many space problems have been solved and now offer precedents for approaching new problems as they arise. The current generation of mankind is learning more about ways to cooperate. Strong regional patterns have emerged and bear continuing study. This symposium contains clear evidence of the fact that we are learning to work together as we have not in the past. The record thus far reveals an increasing level of interdependence among States as space technology brings us closer together in cooperation rather than in confrontation and conflict.

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[1]U.N. Doc. A/AC.105/193 (1977).