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Chairman: Mr. Ismail FAHMY
(United Arab Republic).

AGENDA ITEM 32

International co-operation in the peaceful uses of outer space: report of the Committee on the Peaceful Uses of Outer Space *(continued)* (A/6668, A/6804)

GENERAL DEBATE *(continued)*

1. Mr. ESCHAUZIER (Netherlands): The consideration of the report of the Committee on the Peaceful Uses of Outer Space [A/6804] is one of the events marking the transition from the first ten years of the space age into the next decade.

2. It is significant that the tenth anniversary of the launching of a satellite into orbit coincides with the coming into effect of the treaty governing the peaceful uses of the new environment which has now come within man's reach.¹

3. The conclusion of that Treaty demonstrates that, in our age of rapid and unheard-of scientific and technological advances, the community of nations has become aware that its own salvation may well depend on its ability to foresee the inherent dangers ahead and to forestall them by timely and concerted action rather than to seek remedies belatedly, when it may be too late.

4. We have at last come to realize that man's triumphant march is leading him along a dark precipice. It is for that reason that the significance of the outer space Treaty, to my mind, goes beyond its immediate objectives. It is also of paramount importance as a precedent for future action in other fields. At the same time, the Treaty is not a model of perfection and its shortcomings point to the moral that international instruments of this kind can rarely reverse the course of events which has already taken place. The best

¹ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex).

one can do, as is exemplified by the outer space Treaty, is to reconcile the ideal with the prevailing "hard facts" of the political and military situation.

5. On the occasion of the adoption of the resolution concerning the Treaty on outer space, at the twenty-first General Assembly, the Secretary-General stated:

"... the door is not yet barred against military activities in space, the crux of the difficulty is that space activity is already part of the arms race, a fact which we have to reckon with until humanity reaches the stage of an agreement on full and complete disarmament."
[1499th plenary meeting, para. 180.]

6. In this light the progress report of the Committee on the Peaceful Uses of Outer Space can be seen in its true perspective. It shows that some headway is being made in co-operative space activities and that international co-operation in the scientific exploration of outer space is already being translated into many practical and beneficial uses. The successful promotion of co-operation instead of continuing competition, and the practical results derived therefrom, would open the most hopeful prospects of avoiding waste of energy and resources as well as strife and conflict in outer space.

7. This applies in the first place to the big Powers themselves, and to such budding space Powers as are now coming into existence.

8. As the representatives of the Soviet Union and the United States have pointed out, co-operation between the super Powers separately with some other Powers which have meanwhile embarked on space activities of their own is taking place on an increasing scale. By way of interpolation, I should like to mention that I was struck by a news item in today's Press that the Government of the Soviet Union has sought assistance from the United Kingdom in receiving information from a Soviet space craft that is scheduled to reach Venus tomorrow.

9. But the most encouraging development would be the first signs of active collaboration between the two predominant space Powers themselves. This morning [1497th meeting] Mr. Fedorenko made a plea for abandoning selfish interests and for a policy of co-operation. At the same meeting the representative of the United States referred to a similar proposal by President Johnson. I wish to express my sincere hope that the day will not be far off when the two big Powers see their way clear to launching joint ventures, such as probing more deeply into outer space and attempting to reach the outer planets, the scope and burden of which may even be beyond the means of either of the two Powers individually.

10. Turning to some other topics, it would seem advisable to me to give wider publicity to the remarkable benefits of space technology, the so-called “spin-off”, for the development of what may be called conventional or down-to-earth industrial techniques. The promotion of world-wide communications by means of satellites in outer space, while raising many scientific, technical and economic questions, also has important political undertones, *inter alia* because of the possible impact of mass communications and their uses for development, education and cultural purposes.

11. It is therefore fitting that this agenda item has been given a high priority on the tentative list of topics to be discussed during the United Nations Conference on the Exploration and Peaceful Uses of Outer Space to be held in Vienna in August 1968.

12. My delegation notes with satisfaction that the Committee has spared no effort to comply with the specific recommendations contained in the resolution adopted by the twenty-first session of the General Assembly. I am referring in particular to the draft agreements on assistance to and the return of astronauts and space vehicles and on liability for damage caused by objects launched into space. These problems are closely related to article V and article VII of the space Treaty itself. While progress on matters of such complexity has been disappointingly slow—as the Chairman of the Committee stated candidly this morning—I do not doubt that they will prove to be successful in the end.

13. At this juncture I should like to express my delegation's great interest in the endeavours of the Committee to formulate a definition of outer space. In the words of Mr. Goldberg, the lack of such a definition was one of the “purposeful ambiguities” of the Treaty—and rightly so, it seems to me, since at the time of its drafting there was neither time nor hope for agreement on this matter. It would be dangerous, however, to leave this point open indefinitely, since it would appear to me that legal conflicts involving the question of the upper limit to which national sovereignty extends may arise in the not-too-distant future.

14. My delegation is therefore confident that the Legal Sub-Committee, in co-operation with the Scientific and Technical Sub-Committee, will pursue actively its deliberations on this subject and weigh the advantages and disadvantages of various approaches to this problem.

15. In this connexion, perhaps consideration might also be given to a negative formula for defining outer space, such as the proposal that national sovereignty shall not extend to the lowest perigee of satellites actually in orbit.

16. Mr. BERARD (France) (*translated from French*): Mr. Chairman, thanks to your well-known interest in questions related to space, and your Chairmanship of the First Committee this year, our work on questions relating to the peaceful uses of outer space has started out in an auspicious atmosphere. We are aware of your wide experience and your outstanding abilities, and we are confident that under your enlightened leadership the First Committee's task will be carried out under ideal conditions throughout this session.

17. Our warm congratulations to you on your election extend also to our colleagues Mr. Tchernouchchenko and Mr. Torsten Örn, who are giving you their valuable support.

18. The fact that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space came into force a few days ago is perhaps likewise—at least we hope so—a good omen for the future of our work. In that connexion, my delegation would like to share in the satisfaction the Secretary-General expressed regarding the implementation of that agreement which, in his words, marks “the progress that has been made towards the legal control of man's adventure into space”. Like U Thant, my delegation considers that to be

“... the basis on which space law may be further developed, taking into consideration the accelerated scientific and technological progress in the field of space research we are presently witnessing”.

19. Nevertheless, to be frank, I must add that my delegation's satisfaction is tempered by some regret that the Treaty on Outer Space is not, in our opinion, as satisfactory as it might have been. Hence the French Government reflected at great length and scrutinized the Treaty's provisions carefully, taking into account also the progress of related work, before deciding to ratify this new international agreement on 28 September 1967.

20. Our task is to promote the development of international co-operation in the scientific and technological field by establishing the legal framework within which space activities can be freely carried out in the light of the recognized rules of international law. It is this legal aspect of our work that I should like to consider first.

21. During the twenty-first session, my delegation in this Committee expressed regret at certain shortcomings in the Treaty on Outer Space. In particular, we find it hard to see how, in the absence of a definition of outer space, it is possible to reconcile in practice the traditional principle of the sovereignty of States over their air space with the new principle, set forth in the Treaty, of renunciation by States of all sovereignty in outer space. We also find it hard to understand how the principle of the free use of outer space could have been established in the Treaty without at the same time proclaiming the need to prevent excesses that could result from abuse of that freedom by a particular State and prejudice the interests or sovereignty of other States.

22. In order to remedy those shortcomings, the General Assembly in resolution 2222 (XXI) of 19 December 1966 last year requested the Committee on the Peaceful Uses of Outer Space “To begin... the study of questions relative to the definition of outer space and the utilization of outer space... including the various implications of space communications.” My delegation is pleased to note that this study has in fact been begun, but to tell the truth, we are somewhat disappointed to note that it has not produced any significant results and that the questions raised are still unanswered.

23. With regard to the definition of outer space, the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space, after a preliminary discussion of that subject

at its Geneva session in June and July, acting on a proposal by the French delegation, invited the Scientific and Technical Sub-Committee to draw up a list of scientific criteria that could be helpful to the Sub-Committee in its study, and to give its views on the selection of scientific and technical criteria, indicating, of course, the advantages and disadvantages of each of them, that might be used in formulating a definition which would remain valid over a long period.

24. The report of the Committee on the Peaceful Uses of Outer Space indicates that the Scientific and Technical Sub-Committee did not consider it possible at the present time to identify scientific or technical criteria for such a definition, but it noted that a "definition of outer space, on whatever basis recommended, is likely to have important implications for the operational aspects of space research and exploration". From that, the Committee concluded that the Sub-Committee should continue consideration of the matter at future sessions and that Member States should be invited to submit further relevant material for the Sub-Committee's consideration [A/6804, para. 12].

25. The French delegation supports those views and shares the opinion of the Committee on the desirability of a new examination of the matter. If study of the Scientific and Technical Sub-Committee's observations should reveal that the physical criteria hitherto considered were not acceptable, the problem might arise of drawing up a strictly conventional definition based on an arbitrary limit between the area of sovereignty and the area subject to some other law.

26. However, another approach might conceivably be considered, one that would envisage a definition of space from the more pragmatic standpoint of the uses of outer space, space being defined in that case not by drawing an imaginary line across the universe, but on the basis of the activities engaged in, the procedures employed or the space vehicles used.

27. In any case, my delegation, while fully appreciating the difficulties of the task and the fact that it can be a lengthy one, does not feel that the formulation of a definition of space can be called impossible until the matter has been examined thoroughly and from every angle. Meanwhile, I shall merely reiterate that a definition of space would seem to be necessary first of all on the level of simple common sense, since we ought to know what we are referring to when we speak of outer space, and subsequently, on the level of legal technique. Moreover, it would be preferable not to create the precedent of evading the difficulties when drafting agreements whose area of application can be challenged. In that connexion, we could encounter that difficulty again in the very near future if we had to draft an agreement concerning the ocean bed.

28. The study of questions relative to "the utilization of outer space and celestial bodies, including the various implications of space communications" has made even less progress over the past year than the definition of outer space. I feel obliged to mention my delegation's special interest in the study of that matter, aimed at fixing the extent and the limits of freedom in the use of space, and preventing the conflicts, and even abuses, that it can create.

My delegation therefore regrets that the proposal it submitted to the Legal Sub-Committee for drawing up a list of outer space activities, and examining which of them should be made subject to regulation in accordance with an order of priorities to be established, was not accepted [*ibid.*, annex III, appendix III].

29. We would like to see such a study pursued, for example, in the form of a common agreement on those types of outer space use which are already creating concrete problems and which it would be useful to regulate in the interests of fair and profitable utilization of outer space.

30. I am thinking, for example, of the very topical problems of assigning priority orbits and frequencies to satellites, as well as of the general problems raised by the various implications of space communications. These are, in fact, included in the Committee's agenda, thanks to your initiative, Mr. Chairman, and that of one or two delegations.

31. Some aspects of the treaty must be rounded off by special agreements, as we have agreed, and this is likewise being studied by the Legal Sub-Committee.

32. In that connexion, my delegation is happy to note that the Sub-Committee's work has made some progress, not only with regard to the drafting of an agreement on assistance to and return of astronauts and space vehicles, but also on a draft agreement on liability for damages caused by the launching of objects into outer space. There is already agreement on a number of points, and my delegation is of the opinion that all-embracing agreements could be concluded fairly rapidly if the Legal Sub-Committee could resume its work during the early months of 1968.

33. Without going into the agreements in detail, I should like to make my Government's position clear on several points. In our opinion, the agreement on assistance must cover both astronauts and space vehicles; its terms, especially those dealing with the search for and rescue of astronauts must, apart from indisputable humanitarian concerns, take due account of the sovereignty of States on whose territories the measures stipulated will be implemented; and in a general way, the content of the agreement must be in harmony with existing national laws and with the financial and technological resources of each State.

34. With regard to the agreement on liability for damages, which interests a greater number of countries at the present stage, certain basic decisions must be reached soon, especially with regard to the sharing of liability in the event of a joint launching by several States (and in certain circumstances the choice of only one of them); the extent of the launching authority's financial liability (which should in our opinion be unlimited); the basic principle of liability (which in our opinion again must be the notion of risk); and the type of damages covered by the draft agreement. With regard to the two agreements, my delegation is hopeful that they will both be open and applicable not only to States but also to international organizations. Furthermore, we wonder whether it would not be fair to establish a connexion between the two agreements, and to provide, for example, that a relationship of mutual dependence should exist between the obligation to pay compensa-

tion for damage caused and the right to recover a space vehicle that has fallen on the territory of another State.

35. I should now like to turn briefly to the more specifically technological and scientific part of our work and to say that my delegation approves the conclusions reached by the Scientific and Technical Sub-Committee on the various items that traditionally fall within its purview and which the Sub-Committee examines with authority and competence. However, the most important event we shall have to deal with in 1968 will be the United Nations Conference on the Exploration and Peaceful Uses of Outer Space to be held at Vienna next August. Ten years after the launching of the first object into space signalled the beginning of the conquest of outer space, at a time when American and Soviet scientists are successfully carrying out launchings aimed at the planet Venus and are perfecting plans for landing the first man on Earth's natural satellite, that Conference will furnish the opportunity for an extraordinary scientific stocktaking. France, which as the Chairman of the Committee on the Peaceful Uses of Outer Space stated in this Committee on 13 September [*ibid.*, *annex I*], has established itself as an independent space Power, having developed a booster to launch scientific satellites into earth orbit, intends to participate actively in the work of the Conference, bearing particularly in mind the contribution it can make to international co-operation in the realm of outer space.

36. My country is engaging in many types of co-operation in this direction: with the United States, thanks to whose assistance we have been able, for example, to put the first

French satellite into orbit; with the Soviet Union, with which valuable scientific experiments were successfully carried out a few days ago; with Argentina, India and Pakistan in the sphere of sounding rockets; with South Africa, Upper Volta, the Republic of the Congo, Spain, Greece and Lebanon for ground-based tracking observations. We are also co-operating with our European partners in the European Space Vehicle Launcher Development Organization and the European Space Research Organization; we are associated with many international programmes; we are preparing various projects with Brazil, with the Federal Republic of Germany and with other countries, for we are aware that of all activities, space activities can least afford to proceed in a vacuum and that it is a field peculiarly suited to international co-operation for extending man's knowledge and making it available to all.

37. These are the comments I wished to make on the report of the Committee on the Peaceful Uses of Outer Space and on international co-operation in the area with which we are concerned.

38. These are the thoughts that will guide my delegation in determining what attitude to adopt towards the draft resolutions that will be submitted to us for consideration and will help to determine the orientation of the Committee's future work. We hope this work can be carried out, successfully and promptly, so that we may make our contribution to the development of the new knowledge now within the reach of mankind.

The meeting rose at 3.50 p.m.