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TOWARD A COSMIC LAW: HOPE AND REALITY IN THE UNITED NATIONS*†

STEPHEN GOROVE

IT WAS less than six years ago that the United States took an active part in the creation of the International Atomic Energy Agency,¹ the latest specialized Agency of the United Nations, and hoped to give encouragement to people everywhere that the atom would serve the peaceful pursuits of mankind rather than be used for the destruction of the human race. The wheels of the new Agency had hardly started to turn when the United States, once more responding to a scientific challenge, took the bold initiative, this time to bring under international control man's impending step into cosmic space.²

On January 10th, 1957, President Eisenhower in his State of the Union message stated America's willingness to enter into any "reliable" agreement which would "mutually control" the outer space missile and satellite developments.³ Two days later, in a prompt follow-up to this declaration, a memorandum was circulated in the United Nations.⁴ In it the United States expressed the belief that

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† The author wishes to acknowledge the courtesies received from the United Nations in connection with the use of their library facilities.

¹ For details and evaluation, see Gorove, *Humanizing the Atom: Establishment of the International Atomic Energy Agency*, 3 N.Y.L.F. 245-279 (July 1957).

² For a discussion of the dawn of the Cosmic Age and some of its legal implications, see Gorove, *On the Threshold of Space: Toward a Cosmic Law*, 4 N.Y.L.F. 305-328 (July 1958).

³ 36 Dep't State Bull. 123 (Jan. 28, 1957); N.Y. Times, Jan. 11, 1957, p. 10, col. 6.

⁴ U.N. Doc. No. A/C.1/783 (Jan. 12, 1957).

if mankind's advance into the unknown was to be a blessing rather than a curse, the efforts of all nations in this field had to be brought within the purview of a reliable control system.⁵

As the first step to assure that future "developments" in outer space would be devoted "exclusively to peaceful, scientific purposes," the United States proposed to bring the testing of "objects" propelled through outer space and traveling in the distant areas beyond the earth's atmospheric envelope under "international inspection and participation." While the memorandum contained no allusion to the types of activities or events to be meant by the word "developments" or in regard to the scheme of international inspection and participation, it did, by way of examples, refer to the wide range of experimental objects, such as earth satellites, intercontinental missiles, long-range unmanned weapons, and space platforms.⁶

A few days later, when questions of disarmament were under consideration before the First Committee of the General Assembly, the American delegate, Henry Cabot Lodge, Jr., made some slight but significant elaborations on the original proposals embodied in the memorandum. He stated that negotiations should strive to assure that both "research" and "development activities" concerning the propulsion of objects through outer space would be devoted exclusively to scientific and peaceful purposes. As an example of such an open project, he mentioned the American earth satellite which was developed with the knowledge and approbation of the scientists of the nations represented in the International Geophysical Year (I.G.Y.).⁷

The American proposal was strongly supported by most of the assembled nations.⁸ It was felt that, in view of the new and rapid scientific advances, its consideration became a matter of special urgency.⁹ Events had shown how the atomic weapons devised in 1946 had been rapidly outdated by new and more powerful weapons. Had the world taken united action in 1945 and 1946, it might have pre-

⁵ Ibid.

⁶ Ibid.

⁷ U.N. Gen. Ass. Off. Rec. 11th Sess., 1st Comm., 821st Mtg. 41-42 (A/C.1/SR.821) (Jan. 14, 1957); N.Y. Times, Jan. 15, 1957, p. 4.

⁸ U.N. Gen. Ass. Off. Rec. 11th Sess., 1st Comm., 822nd-828th Mtgs. (Jan. 15-25, 1957).

⁹ See remarks made by the delegates of the United Kingdom, Belgium, Sweden, the Philippines and France. U.N. Gen. Ass. Off. Rec. 11th Sess., 1st Comm., 822nd, 824th, 825th Mtgs. (A/C.1/SR.822) (Jan. 15, 21, 25, 1957).

vented the development of atomic and thermo-nuclear weapons. Hence, it was felt that the time to agree on banning the intercontinental ballistic missiles was today, while they were still in the developmental stage.¹⁰

Strong as the preceding arguments may have appeared to many nations, they were considered insufficient for a Soviet acceptance of the American proposal. The Kremlin's position was that the threat was caused not by the missiles themselves, but by the warheads—the atomic and hydrogen weapons—with which they might be equipped. The Soviet Union also resented the fact that the American proposals for establishing control over the development of these missiles were silent on such questions as the military bases from which these rockets could be launched and the planes which could carry nuclear weapons.¹¹ Underlying these arguments was the sober realization by Russia of the hard fact that her security depended on long-range rockets while the United States was able to use short- and medium-range missiles and planes from its overseas bases. Hence, the proper solution, in Moscow's view, lay in the direction of the prohibition of the use of atomic and hydrogen weapons and the liquidation of American bases abroad.¹²

The American and Soviet differences of opinion seemed fundamental and the only platform upon which agreement could be reached at the time was to refer the matter to the Disarmament Commission and its Sub-Committee for study and future report.¹³ On February 14th, 1957, the General Assembly passed a resolution to this effect.¹⁴

The Sub-Committee, consisting of the representatives of the United States, the United Kingdom, France, Canada, and the Soviet Union, met in London during the ensuing months of 1957, hoping to find some basis for meaningful negotiations.¹⁵ It seemed, however, that the American offer to ban outer space missiles for military use and to prevent the development of outer-space weapons while opening:

¹⁰ U.N. Gen. Ass. Off. Rec. 11th Sess., 1st Comm., 822nd Mtg. (A/C.1/SR.822) (Jan. 15, 1957).

¹¹ U.N. Gen. Ass. Off. Rec. 11th Sess., 1st Comm., 828th Mtg. (Jan. 25, 1957).

¹² *Ibid.*

¹³ Such a Resolution was adopted on January 25th, 1957. For text, see U.N. Doc. No. A/C.1/785; cf. 36 Dep't State Bull. 920 (Feb. 11, 1957).

¹⁴ U.N. Gen. Ass. Res. 1011 (XI); U.N. Gen. Ass. Off. Rec. 11th Sess., 653rd Plenary Mtg. 1100 (Feb. 14, 1957).

¹⁵ The Sub-Committee has been working on problems of disarmament since 1954. Regarding its work, see Dulles, Rearmament and Peace, U.S. Dep't State Public Serv. Div., Washington, D.C. (July 22, 1957).

research on an international basis for peaceful purposes, was still a far cry from the Russian position that the ban should embrace any missile that could carry an atomic warhead.¹⁶

Faced with the possibility of a complete deadlock, the Western Powers, led by the United States, submitted a new proposal which was put forth as part of their new disarmament plan.¹⁷ According to its provision, three months after the entry into effect of the proposed disarmament convention, a technical committee was to be set up to study the design of an inspection system to ensure the use of outer space "exclusively for peaceful and scientific purposes."¹⁸ It was stipulated, however, that the provisions of the plan were inseparable and that it was only on that basis that they were offered for negotiation.¹⁹ In support of the Western position, the French delegate pointed out that the scientific problems were complex but could be solved if tackled early enough. Otherwise, the danger was that new war industries would become so advanced that no system of control could be fully effective. He expressed the hope that the experts would be able to indicate the way in which these devices could be controlled and their use limited to scientific research, faster postal services, and the exploration of outer space.²⁰

The Western plan was immediately rejected by the Soviet Union as containing "nothing new." In the opinion of the Soviet Government, it just reiterated the "old position" of the Western Powers which allowed "no advance."²¹

It was under these less auspicious circumstances that the Sub-Committee's report, reflecting the fundamental differences between the Western Powers and the Soviet Union, was submitted to the

¹⁶ Cf. N.Y. Times, April 26, 1957, p. 6, cols. 2, 5, 6.

¹⁷ The plan was sponsored by Canada, France, the United Kingdom, and the United States of America, and was entitled: "Working Paper: Proposals for Partial Measures of Disarmament." The heading to Art. VI of the same plan read: "The Control of Objects Entering Outer Space." See Fifth Report of the Sub-Committee of the Disarmament Commission (DC/113), Annex 5 at 6 (DC/SC.1/66) (Aug. 29, 1957).

¹⁸ *Ibid.*

¹⁹ See Art. XI of the Working Paper. *Id.* at 10. Cf. statements made by the American and French delegates. *Id.* Annex 6 (DC/SC.1/67) (Sept. 4, 1957); *id.* Annex 7 (DC/SC.1/68) (Sept. 4, 1957).

²⁰ *Id.* Annex 7 (DC/SC.1/68) (Sept. 4, 1957). For the British position emphasizing the establishment of confidence between States in the political field as a prerequisite to a comprehensive disarmament, see *id.* Annex 8 (DC/SC.1/69) (Sept. 4, 1957).

²¹ *Id.* Annex 10 (DC/SC.1/71) (Sept. 4, 1957); *id.* Annex 11 (DC/SC.1/71) (Sept. 5, 1957); *id.* Annex 12 (DC/SC.1/73) (Sept. 5, 1957).

Disarmament Commission²² and subsequently to the General Assembly²³ and its First Committee.²⁴

Under the impact of the spectacular rise of the Russian Sputnik to the skies and Mr. Khrushchev's announcement that the Soviet Union would consider a cosmic space control system only as part of a general agreement between the United States and the Soviet Union,²⁵ the First Committee, on October 8th, 1957, gave unanimous priority to the disarmament issue and its space implications.²⁶

Two days later, before the same Committee, U.S. Ambassador Lodge responded to the Russian challenge. He reiterated²⁷ Washington's offer originally embodied in the Western disarmament plan for the establishment of a technical committee to work out an inspection system which would ensure the use of outer space exclusively for peaceful and scientific purposes. The only significant departure from the previous proposals seemed to be that the United States no longer insisted on making the missile control part of a package deal on arms limitations.²⁸ However, Washington made it clear that the United States would not enter into bilateral talks with the Soviet Union as Khrushchev had suggested since in its view the Western plan called for a multilateral study and the United States was not disposed to consider any alteration of this aspect of the proposals.²⁹ The underlying reason for the American position seemed to be the

²² The Disarmament Commission met on September 30th, 1957. See Doc. No. DC/113 (1957).

²³ Doc. No. A/3685 (1957).

²⁴ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm. (A/C.1/792) (Sept. 23, 1957).

²⁵ Mr. Khrushchev stressed that the major responsibility for peace rested on Moscow and Washington, irrespective of the interests of other major powers. He also added that there would be no problem if his country and the United States could agree on "peaceful coexistence." Subsequently, the official transcript made the text not agreement on "peaceful coexistence" but on "disarmament." See N.Y. Times, Oct. 8, 1957, p. 1; *id.*, Oct. 10, 1957, p. 32; *id.*, Oct. 11, 1957, p. 3.

²⁶ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 865th Mtg. (A/C.1/SR.865) (Oct. 8, 1957).

²⁷ Lodge's reiteration of the outer space proposal was actually a reinstatement since only a few days beforehand it was dropped from an American draft resolution circulated in the United Nations. One explanation given for the dropping was that some countries that had been asked to co-sponsor it had objected to an Assembly endorsement of this objective. According to another version, the United States was concerned that the language embodied in the proposal might interfere with the launching of American artificial satellites. The reason for the reinstatement, on the other hand, was considered to be the belief that any ignoring of the problems of outer space missiles would look "rather strange." See N.Y. Times, Oct. 9, 1957, p. 17.

²⁸ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 866th Mtg. 6-7 (Oct. 10, 1957).

²⁹ *Ibid.* See also the State Department's clarifying statement quoted in the N.Y. Times, Oct. 9, 1957, p. 13.

belief that progress toward disarmament could be achieved only by negotiation among the powers principally involved,³⁰ and the additional fact that the United States had no intention of bypassing its allies on such vital issues.³¹

The new American proposal to discuss the problems of space control without waiting for the conclusion of a general disarmament convention constituted a definite shift in United States policy which had previously emphasized the interrelationship of all aspects of disarmament. The plan met with wide approval,³² apart from the Soviet reaction which took the form of a strong denunciation without any specific allusion to the control of cosmic space.³³ While the Soviet representative emphasized that the Russian disarmament scheme would unconditionally prohibit the use of nuclear and thermonuclear weapons,³⁴ he made no mention of Khrushchev's offer to place them under international control.³⁵

The Soviet-led opposition³⁶ to the American proposal did not prevent the introduction along the same line of a draft resolution

³⁰ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 866th Mtg. (Oct. 10, 1957).

³¹ See President Eisenhower's statement, N.Y. Times, Oct. 10, 1957, p. 17.

It may be noted in this connection that the British Foreign Office shared the American view of a multilateral approach since it felt that cosmic space control was by its nature a problem which could not be dealt with separately. See N.Y. Times, Oct. 10, 1957, p. 17.

³² The United Kingdom supported the American proposal for the establishment of a technical committee because it felt that the first task was to identify the problem and to consider its technical aspects. Many other nations expressed similar support, realizing—as the Peruvian representative put it—that “science uncontrolled by law and morality meant world suicide.” See U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 868th-869th Mtgs. (Oct. 11, 14, 1957); cf. also the subsequent meetings.

³³ Mr. Gromyko, in one of the most unconciliatory speeches that any Soviet spokesman has ever made in the United Nations, told the First Committee that the responsibility for the lack of agreement on disarmament rested with the Western Powers, which had made the arms race, the setting-up of aggressive military blocs and the ‘cold war’ the basis of their foreign policy. See U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 867th Mtg. (Oct. 10, 1957).

³⁴ Doc. No. A/C.1/L.175 (1957). The proposal was subsequently amended to the effect that the renunciation would, at first, be only for a given period. See Doc. No. A/C.1/L.175/Rev.1 (1957).

³⁵ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 867th Mtg. (Oct. 10, 1957).

³⁶ The Polish representative supported the Soviet position by asserting that the prohibition of nuclear weapons would also lead toward the solution of the problem of intercontinental missiles or artificial satellites which would become a threat to mankind only if they were converted into nuclear weapons. Similarly, the Byelorussian delegate asserted that a satisfactory solution to the problem of control over intercontinental missiles and artificial earth satellites could be found only after agreement had been reached on the prohibition of the use of nuclear weapons. See U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 875th and 880th Mtgs. (Oct. 18 and 24, 1957).

sponsored by twenty-four Powers³⁷ which, *inter alia*, called for joint study of an inspection system designed to ensure that the sending of objects through outer space will be exclusively for peaceful purposes.³⁸ Vexed by the overwhelming support for this resolution,³⁹ as well as by a membership distribution unfavorable to her on the Disarmament Commission and its five-nation Sub-Committee, the Soviet Union moved quickly to propose their abolition and to recommend their replacement by a new permanent disarmament commission consisting of all Members of the United Nations.⁴⁰ The plan, however, largely because of the unworkable size of the proposed group, was not too eagerly received, notwithstanding a warning by the Soviet delegate that Russia would no longer participate in the two bodies unless there was a change in their composition.⁴¹

While the subsequent sweeping approval of the twenty-four-power-resolution⁴² marked a victory for the United States, this was somewhat offset by the somber realization of the fact that neither general disarmament nor the control of cosmic space could be meaningfully affected without Soviet participation.

Cognizant of the weighty implications and hoping that a top-level approach might help to overcome the impasse, on January 12th, 1958, one year after his original proposal, President Eisenhower, in a letter to Chairman Bulganin, reiterated America's proposal to limit

³⁷ The draft resolution was sponsored by the following nations: Argentina, Australia, Belgium, Brazil, Canada, Chile, Columbia, Cuba, the Dominican Republic, Ecuador, France, Honduras, Italy, Laos, Liberia, the Netherlands, Nicaragua, Panama, Paraguay, Peru, the Philippines, Tunisia, the United Kingdom, and the United States of America. See Doc. No. A/C.1/L.179 and Add. 1 (1957).

³⁸ The resolution also requested the Disarmament Commission to reconvene its Sub-Committee as soon as possible and the Sub-Committee to report to the Commission by April 30th, 1958, on the progress achieved. *Ibid.*

³⁹ The introduced amendments were not related to the outer space provision but to other aspects of disarmament. Cf. Doc. Nos. A/C.1/L.179/Corr.1 and Add. 1 (1957); A/C.1/L.181 and Add. 1 (1957); A/C.1/L.182 (1957); A/C.1/L.184 (1957).

A Yugoslav draft recommending that the Disarmament Sub-Committee be convened at an early date and urging its members to seek agreement on measures to ensure the peaceful use of intercontinental ballistic missiles and other outer space devices under control and inspection and requesting the Sub-Committee to report to the Disarmament Commission, was not pressed to a vote. See U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 886th Mtg. (A/C.1/L.180) (Oct. 21, 1957).

⁴⁰ U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 890th and 893rd Mtgs. (A/C.1/793, A/C.1/797, A/C.1/L.186) (Nov. 4 and 6, 1957).

⁴¹ *Ibid.*

⁴² It was adopted by a roll-call vote of 57 in favor to 9 against, with 15 abstentions. See U.N. Gen. Ass. Off. Rec. 12th Sess., 1st Comm., 892nd Mtg. (A/C.1/798) (Nov. 6, 1957).

the use of outer space for peaceful purposes.⁴³ He made it clear that he regarded the question of assuring the peaceful use of outer space as the most important problem facing the world today.⁴⁴ The diplomacy of open correspondence between the President and the Soviet Chairman, however, yielded little, if any, positive results. In his reply of February 3rd, 1958, Marshal Bulganin revealed the unyielding Soviet position by stressing that any arrangement to limit the use of cosmic space for peaceful purposes had to be predicated upon a general disarmament agreement, including a ban on nuclear weapons and an American withdrawal from foreign bases abroad.⁴⁵

A more elaborate statement of the Soviet stand came shortly thereafter on March 15th, 1958, when the Soviet Union requested the inclusion in the agenda of the thirteenth session of the General Assembly of an item entitled: "The Banning of the Use of Cosmic Space for Military Purposes, the Elimination of Foreign Military Bases on the Territories of Other Countries and International Cooperation in the Study of Cosmic Space."⁴⁶ As intimated by the title, the Soviet note called for four specific measures:

- (1) A ban on the use of cosmic space for military purposes and an undertaking by States to launch rockets into cosmic space only under an agreed international program;
- (2) The elimination of foreign military bases on the territories of other States, primarily in Europe, the Near and Middle East, and North Africa;
- (3) The establishment within the framework of the United Nations of appropriate international control over the implementation of these obligations;
- (4) The establishment of a United Nations agency for international cooperation in the study of cosmic space.⁴⁷

The note also listed the proposed functions of the agency, namely:

- (a) To work out an agreed international program for launching intercontinental and space rockets with the aim of studying cosmic space, and to supervise the implementation of this program;

⁴³ N.Y. Times, Jan. 13, 1958, p. 6.

⁴⁴ Ibid. Also, the late Secretary of State Dulles referred to it as the most significant proposal to assure human survival "at this time." See N.Y. Her. Trib., Jan. 19, 1958, § 2, p. 3.

⁴⁵ Id., Feb. 4, 1958, p. 1.

⁴⁶ Doc. No. A/3818 and Corr. 1 (1958).

⁴⁷ Ibid.

- (b) To continue on a permanent basis the cosmic space research now being carried on within the framework of the I.G.Y.;
- (c) To serve as a world center for the collection, mutual exchange and dissemination of information on cosmic space research;
- (d) To coordinate national research programs for the study of cosmic space and to render all possible assistance and help towards their realization."⁴⁸

In its accompanying memorandum, Moscow once again reiterated its earlier position and charged that:

"In raising the question of banning the use of cosmic space for military purposes, the United States was making an attempt, through a ban of the intercontinental ballistic rocket, to ward off a retaliatory nuclear blow through cosmic space while maintaining its numerous military bases on foreign territories intended for attacking with nuclear weapons the Soviet Union and the peaceful States friendly to it."

The note added that the Soviet Government could not accept an approach to the problem which would take into account the security interests of some States while ignoring the security interests of others.⁴⁹

It was not until September 1958, that the United States countered the Soviet proposal by its own request to include in the agenda of the thirteenth session of the General Assembly an item entitled: "Program for International Cooperation in the Field of Outer Space."⁵⁰ As a result, both the earlier Soviet and newly proposed American items were included in the agenda as sub-items (a) and (b) of item 60 under the general title "Questions of the Peaceful Use of Outer Space" and were referred by the General Assembly to its First Committee⁵¹ for consideration and report.⁵²

The First Committee had before it two major draft resolutions: One submitted by the Soviet Union⁵³ and the other by a group of twenty States.⁵⁴ The former proposed that the General Assembly recognize the necessity for concluding an agreement to prohibit the launching of rockets into cosmic space for military purposes and to

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Doc. No. A/3902 (1958).

⁵¹ U.N. Gen. Ass. Off. Rec. 13th Sess., 752nd Plenary Mtg. (Sept. 22, 1958).

⁵² The Committee considered the item at its 981st-995th meetings. See U.N. Gen. Ass. Off. Rec. 13th Sess., 1st Comm., 981st-995th Mtgs. (Nov. 11-24, 1958).

⁵³ Doc. No. A/C.1/L.219 (Nov. 7, 1958).

⁵⁴ It was submitted at the 983rd meeting. See Doc. No. A/C.1/L.220 (Nov. 13, 1958).

eliminate all foreign military bases on the territories of other countries along the lines proposed in the detailed Soviet note of March 15th, 1958.⁵⁵

The twenty-power-draft aimed at a less spectacular agreement. It proposed the establishment of an *ad hoc* committee for the purpose of reporting to the fourteenth session of the General Assembly on:

“(a) The activities and resources of the United Nations, of its special agencies and of other international bodies related to the peaceful uses of outer space;

(b) The area of international cooperation and programs in the peaceful uses of outer space which could appropriately be undertaken under the United Nations auspices to the benefit of States irrespective of the stage of their economic or scientific development;

(c) The future United Nations organizational arrangements to facilitate international cooperation in this field;

(d) The nature of legal problems which may arise in the carrying out of programs to explore outer space.”⁵⁶

The draft resolution also requested the Secretary-General to render appropriate assistance and recommend any other steps in order to encourage the fullest international cooperation for peaceful uses of outer space.⁵⁷

The twenty-power-resolution was, indeed, a very modest proposal. Unlike its counterpart in 1957, it did not specifically provide for a joint study of an inspection system to assure the peaceful uses of outer space.⁵⁸ It only aimed at a general exploratory inquiry designed to assess United Nations' activities, the area and form of United Nations' cooperation, and the nature of legal problems likely to arise in the peaceful uses of outer space.

The draft, however, created somewhat of a dilemma for the Kremlin: Should the Soviet Union continue to insist on both aspects of its March proposal, namely, the ban on the use of cosmic space for military purposes coupled with the elimination of foreign military bases and the setting up of an international agency for the study of cosmic space? Or was there something to be gained from the establishment not necessarily of a United Nations agency but of an essen-

⁵⁵ Thus the Soviet draft resolution was but a restatement of the March proposals mentioned above. See notes 46-49 *supra*.

⁵⁶ Doc. No. A/C.1/L.220 (1958).

⁵⁷ *Ibid*.

⁵⁸ Cf. note 37 *supra*.

tially technical organ even without first agreeing on the ban and the liquidation of foreign bases?

To be sure, Russia was interested in the study of the scientific aspects of outer space and related activities, such as the continuation of cosmic space research within the I.G.Y., the collection and dissemination of information resulting from it, and the coordination of national research programs much more than it was desirous to partake in a legal study that might involve her in a premature commitment. This was already evident from the second part of its March note under which these science-oriented functions were assigned to the proposed agency.⁵⁹ Thus Moscow decided to drop the first half of its proposal relating to the ban and the bases and, in a revised draft, suggested that the General Assembly recommend the establishment of a preparatory group to lay down program and rules for a committee entrusted with the research-promoting activities.⁶⁰

As a response and gesture toward the Soviet Union, the twenty Powers amended their draft to incorporate the basic features of the revised Soviet proposal, including the continuation of the I.G.Y. research, the exchange and dissemination of information and the coordination of national research programs.⁶¹

⁵⁹ See note 48 supra.

⁶⁰ The operative part of the revised Soviet draft read:

"The General Assembly . . .

1. Recommends the establishment within the framework of the United Nations of an international committee for co-operation in the study of cosmic space for peaceful purposes;

2. Recommends the establishment of a preparatory group consisting of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom, France, India, Czechoslovakia, Poland, Rumania, the United Arab Republic, Sweden and Argentina, to draft the programme and rules of the proposed international committee;

3. Recommends that the preparatory group, in its work of preparing the programme and rules, should proceed on the basis that the international committee for co-operation in the study of cosmic space should have the following functions:

to continue on a permanent basis the cosmic-space research now being carried on within the framework of the International Geophysical Year;
to organize the mutual exchange and dissemination of information on cosmic-space research;

to co-ordinate national research programmes for the study of cosmic-space and render all possible assistance and help in their realization;

4. Requests the preparatory group to report the results of its work to the General Assembly at its fourteenth session;

5. Recommends that this international committee, after it has been established, should decide on an appropriate form agreement providing for close relationship with the United Nations."

See Doc. No. A/C.1/L.219/Rev.1 (Nov. 18, 1958).

⁶¹ The main body of the revised twenty-power draft resolution read:

"The General Assembly,

Recognizing the common interest of mankind in outer space and that it is the common aim that it should be used for peaceful purposes only,

However, the revised twenty-power-draft failed to register Soviet support, largely because of the composition of the proposed *ad hoc* committee. Under the revised Soviet draft, the membership of the preparatory group was evenly divided between the Soviet bloc and the Western nations, with some of the so-called 'neutralists' holding the balance.⁶² Under the revised twenty-power-resolution, the membership structure of the *ad hoc* committee was considered less favorable to the Soviet bloc⁶³ and the draft eventually met with their rejection.

The Ad Hoc Committee, which was created in pursuance of the

Bearing in mind the provision of Article 2, paragraph 1, of the Charter, which states that 'the Organization is based on the principle of the sovereign equality of all its Members,'

Wishing to avoid the extension of present national rivalries into this new field,

Desiring to promote energetically the fullest exploration and exploitation of outer space for the benefit of mankind. . . .

Considering that an important contribution can be made by the establishment within the framework of the United Nations of an appropriate international body for cooperation in the study of outer space for peaceful purposes,

Desiring to obtain the fullest information on the many problems relating to the peaceful uses of outer space before recommending specific programs of international cooperation in this field,

1. Establishes an ad hoc committee on the peaceful uses of outer space consisting of the representatives of Argentina, Australia, Belgium, Brazil, Canada, Czechoslovakia, France, India, Iran, Italy, Japan, Mexico, Poland, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America and requests it to report to the General Assembly at its fourteenth session on the following:

(a) The activities and resources of the United Nations, of its specialized agencies and of other international bodies relating to the peaceful uses of outer space;

(b) The area of international cooperation and programs in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices to the benefit of States irrespective of the state of their economic or scientific development, taking into account the following proposals, among others:

(i) Continuation on a permanent basis of the outer space research now being carried on within the framework of the International Geophysical year;

(ii) Organization of mutual exchange and dissemination of information on outer space research; and

(iii) Coordination of national research programs for the study of outer space, and the rendering of all possible assistance and help towards their realization;

(c) The future organizational arrangements to facilitate international cooperation in this field within the framework of the United Nations;

(d) The nature of legal problems which may arise in the carrying out of programs to explore outer space;

2. Requests the Secretary-General to render appropriate assistance to the above-named committee and to recommend any other steps that might be taken within the existing United Nations framework to encourage the fullest international cooperation for the peaceful uses of outer space."

See Doc. No. A/C.1/L.220/Ref.1 (Nov. 21, 1958).

⁶² Cf. note 60 *supra*.

⁶³ Cf. note 61 *supra*.

General Assembly's approval of the revised twenty-power resolution, came into existence against the heavy odds of Soviet opposition.⁶⁴ The absence and complete lack of participation by the Soviet bloc and also by the 'neutralist' nations, has not prevented the remaining Members of the Committee from attempting compliance with the General Assembly's Resolution.⁶⁵ Though the Report which emerged from their meetings⁶⁶ constitutes a significant contribution to the entire field of inquiry outlined by the Assembly's Resolution, much of its usefulness is substantially reduced by the fact that the first nation to blaze man's trail into space, which only recently claimed to have landed a man-made object on the moon,⁶⁷ and which now has put up the first "interplanetary station,"⁶⁸ has failed to participate in its drafting.

The preceding survey of the United Nations' efforts to lay the foundations for the modest beginnings of a legal system governing cosmic space in a sense typifies the endless swinging of man's pendulum between the poles of his hopeful expectations and the stubborn realities of his environment.

While a large segment of mankind pinned its hopes on the United Nations and believed that a much preferable alternative to the present system of reliance on deterrence by retaliation might be found in the form of an international inspection system ensuring that cosmic space would be used solely for the benefit of man,⁶⁹ the hard fact remained that almost two years of negotiations failed to produce any formula on which a generally acceptable agreement could be reached.

⁶⁴ It was adopted by a vote of 54 in favor, 9 against, with 18 abstentions, at the General Assembly's 792nd plenary meeting. See Gen. Ass. Res. 1348 (XIII) (Dec. 13, 1958).

⁶⁵ The Ad Hoc Committee met from May 6th to June 25th, 1959, in the absence of the representatives of the Soviet bloc, India and the United Arab Republic. See U.N. Gen. Ass. Ad Hoc Committee on the Peaceful Uses of Outer Space, Summary Records of Meetings. Doc. Nos. A/AC.98/SR.1-6 (1959).

⁶⁶ The Report, *inter alia*, touched upon some of the legal implications arising out of man's exploration of space and, at the same time, stressed that premature codification might prejudice later efforts to develop the law based on a more thorough understanding of the practical problems involved. See U.N. Gen. Ass., Report of the Ad Hoc Committee on Peaceful Uses of Outer Space. Doc. No. A/4141 (July 14, 1959).

⁶⁷ N.Y. Times, Sept. 14, 1959, p. 1, col. 8.

⁶⁸ According to American scientists, the term "interplanetary station," used in the text of the Tass announcement of October 4th, 1959, appeared to be a misnomer for what could be better described as a "cislunar satellite." See N.Y. Times, Oct. 5, 1959, p. 16, cols. 1, 8.

⁶⁹ For an evaluation of alternatives, see Gorove, On the Threshold of Space: Toward a Cosmic Law, 4 N.Y.L.F. 305-328 (July 1958).

The record revealed that the Soviet Union persistently looked upon the question of prohibiting the military uses of outer space not as a separate issue but as a part of the general aspects of its over-all security. Thus, any Soviet participation in the control of outer space activities became dependent upon an agreement on the complex and highly sensitive problem of disarmament in regard to which so little progress has been made in the past. Mr. Khrushchev's recent proposal in the United Nations for complete disarmament⁷⁰ seems only to have reaffirmed the basic Soviet position.⁷¹

Even more disheartening than the failure to reach an understanding on cosmic space control, was the Soviet opposition to the General Assembly's Resolution on such less ambitious, if not preliminary, essentials as the composition of a technical study group and its terms of reference. The Soviet Union, conscious of its new scientific achievements, seemed no longer satisfied with the allocation of membership seats on the basis of the principle of wide geographic distribution but demanded additional voice for the Soviet bloc countries in the composition of the proposed organ as a price for its participation.⁷² The firm Soviet stand has already reaped benefits for the Kremlin as manifested by the Western Powers' willingness to accept the composition of a new ten-nation disarmament group⁷³ and their similar willingness to create a twenty-four-power outer space committee largely in accordance with the Soviet demand.⁷⁴ This, in turn, may well set

⁷⁰ N.Y. Times, Sept. 19, 1959, pp. 8-9.

⁷¹ James J. Wadsworth, President Eisenhower's adviser, and the chief United States negotiator at the Geneva talks on a ban of nuclear weapons tests, described disarmament as a "long, hard road," and said it probably could only be achieved if there were "major concessions from present positions by the Soviet Government." See N.Y. Times, Oct. 5, 1959, p. 17, col. 1.

⁷² Cf. note 62 supra.

⁷³ The Western nations in the group are Canada, France, Italy, the United Kingdom, and the United States. The Soviet bloc countries include Bulgaria, Czechoslovakia, Poland, Rumania, and the Soviet Union. See N.Y. Times, Sept. 7, 1959, p. 1, col. 6.

⁷⁴ The twenty-four-power committee consists of twelve Western nations: Argentina, Australia, Belgium, Brazil, Britain, Canada, France, Iran, Italy, Japan, Mexico, and the United States. The Soviet bloc members of the committee include Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Rumania, and the Soviet Union. Finally, the five neutral members of the committee are Austria, India, Lebanon, Sweden, and the United Arab Republic.

The General Assembly, in its resolution of December 12th, 1959, establishing the committee, *inter alia* requested it to:

"(a) Review, as appropriate, the area of international cooperation, and study practical and feasible means for giving effect to programs in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices, including *inter alia*:

the pattern for similar changes in the membership structure of related bodies or study groups. Beyond their immediate and more direct aspects, such developments may be considered as an indication of the steadily increasing power position of the Soviet Union, a trend which has been discernible for some time but has grown in scope and intensity largely because of the lack of enlightened Western leadership and the widespread existence of public apathy.

As to the future chances of a workable international system of cosmic space control, our short-term expectations, on the basis of past and present trends in the world community,⁷⁵ do not seem to hold out much of a prospect for a speedy agreement. In the long pull, the trends may change along with our environment. The exploration and conquest of the cosmos with its infiniteness of resources and space may even put an end to man's inhibitions and petty rivalries, his distorted world outlook—the products of an earthly environment. Against this hope of the terrestrial mortal will have to be set the reality, whatever that will be, of the cosmic man's universe.

(I) Assistance for continuation on a permanent basis of the outer space research carried on within the framework of the International Geophysical Year;

(II) Organization of the mutual exchange and dissemination of information on outer space research;

(III) Encouragement of national research programs for the study of outer space, and the rendering of all possible assistance and help towards their realization;

“(b) Study the nature of legal problems which may arise from exploration of outer space. . . .” See N.Y. Times, Dec. 12, 1959, p. 2, cols. 3, 4; Dec. 13, 1959, p. 44, cols. 1-4.

⁷⁵ For a brief discussion of some of the major trends in the world community, see Gorove, *op. cit. supra* note 69, at 324-325.