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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE
Legal Sub-Committee

BELGIUM: PROPOSAL FOR A CONVENTION ON THE UNIFICATION OF
CERTAIN RULES GOVERNING LIABILITY FOR DAMAGE CAUSED BY
SPACE DEVICES

(Revision of Working Paper A/AC.105/C.2/L.7)

The Contracting Parties,

Recalling the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space adopted by the General Assembly of the United Nations on 13 December 1963 and embodied in resolution 1962 (XVIII),

Recognizing that activities in the exploration and peaceful uses of outer space may from time to time result in damage,

Recognizing the need to establish rules governing liability with a view to ensuring that compensation is paid for damage thus caused,

Have agreed as follows:

Article 1

"Damage" shall be understood to mean any loss for which compensation may be claimed under the national law of the injured person, as well as judicial and legal costs and interest.

"Launching" shall be understood to mean an attempted launching or a launching operation proper, whether or not it fulfils the expectations of those responsible therefor.

"Person" shall be understood to mean any individual or public or private corporation within the meaning of the national law of the person in question.

"Property" shall be understood to mean any movable or immovable property.

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"Territory of a State" shall be understood to mean the land areas of that State, its territorial and adjacent waters, ships flying its flag and aircraft registered there.

"Space device" shall be understood to mean any device intended to move in space and sustained there by means other than the reaction of air, as well as the equipment used for the launching and propulsion of the device.

"Applicant State" shall be understood to mean the State which has been injured or whose nationals or permanent residents have been injured, and which presents a claim for compensation.

Article 2

The provisions of this Convention shall apply to compensation for damage caused to persons or property by a space device or space devices. They shall not apply to compensation for damage caused in the territory (i) of the State from which the device or devices are launched, (ii) of the State which claims ownership or co-ownership thereof, (iii) of the State whose flag is flown by the device or devices.

Article 3

The following shall be held liable for damage within the meaning of article 1, at the choice of the applicant State, there being no joint liability or solidarity:

The State in whose territory the space device was launched, or

The State whose flag the space device flies, or

The State or States which claim for themselves or for their nationals the ownership or co-ownership of the space device.

Article 4

launch vehicle
The occurrence of the event causing the damage shall create a liability for compensation once proof has been given that there is a relationship of cause and effect between the damage, on the one hand, and the launching, motion or descent of all or part of the space device, on the other hand.

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The presence or absence of a relationship of cause and effect shall be determined in accordance with the national law of the person injured.

Article 5

The extent of the liability for compensation shall be determined in accordance with the provisions of the national law of the person injured, taking into account his culpa lata if any.

"Culpa lata" shall be understood to mean any act or omission perpetrated either with intent to cause damage or rashly and in full knowledge that damage will probably result.

*Application of
damages*

Article 6

- to be done*
- (a) Within twelve months after the infliction of the damage, or after the identification of the State liable under article 2, the applicant State shall present through the diplomatic channel, to the State which it holds liable, all claims for compensation concerning itself and its nationals and residents.
 - (b) If the applicant State or a person represented by it brings an action for compensation before the Courts or administrative organs of the State receiving the claim, it shall not at the same time present a claim for compensation for the same damage under the provisions of this Convention. The said provisions shall not be considered to require, by implication, the prior exhaustion of such remedies as may exist under the rules of ordinary law in the State receiving the claim.
 - (c) If the State receiving the claim has not taken, within six months after being approached, a decision considered satisfactory by the applicant State, the latter may have recourse to arbitration.

Within ninety days of the date of the request addressed to it by the applicant State, the State receiving the claim shall appoint one arbitrator, the applicant State shall appoint a second and the President of the International Court of Justice a third. If the State receiving the claim fails to appoint its arbitrator within the prescribed period, the person appointed by the President of the International Court of Justice shall be the sole arbitrator.

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The Arbitration Commission shall take its decisions according to law and by majority vote. It shall make an award within six months after the date of its establishment and its decisions shall be binding.

(d) Sums due in compensation for damage shall be fixed and payable either in the currency of the applicant State or in a freely transferable currency.

(e) The periods specified in this article shall not be subject to interruption or suspension.

(f) There shall be joinder of claims where there is more than one applicant in respect of damage due to the same event or where more than one State is liable and the damage was caused by more than one space device.

mandatory?

Article 7

This Convention shall be open for signature by States Members of the United Nations or of any of the specialized agencies or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention. Any State which does not sign this Convention may accede to it at any time.

This Convention shall be subject to ratification or approval by signatory States. Instruments of ratification or approval and instruments of accession shall be deposited with the Secretary-General of the United Nations.

This Convention shall enter into force thirty days after the date of the deposit of three instruments of ratification, approval or accession. For each State which deposits its instrument of ratification, approval or accession after the entry into force provided for in the preceding paragraph, this Convention shall enter into force on the date of deposit of such instrument.

Article 8

Each Contracting Party may notify the Secretary-General of the United Nations of its withdrawal from this Convention not less than five years after its entry into force. Such withdrawal shall take effect one year after receipt of the notice which must be in writing. Such withdrawal shall not relieve the Contracting Party concerned of any obligation or liability arising from damage inflicted before its withdrawal takes effect.

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Article 9

This Convention may be amended or supplemented at the proposal of one or more Contracting Parties. Such amendments shall take the form of additional protocols which shall be binding on such Contracting Parties as ratify, approve or accede to them. Such protocols shall enter into force when the majority of the Contracting Parties to this Convention have thus accepted them.

Article 10

The Secretary-General of the United Nations shall inform signatory States, and those which ratify, approve or accede to this Convention, of signatures, the deposit of instruments of ratification, approval or accession, the entry into force of this Convention, proposals for amendments, notifications of acceptance of additional protocols, and notices of withdrawal.

Article 11

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies to all signatory States and to any State Member of the United Nations which so requests.

In witness whereof the undersigned, being duly authorized, have signed this Convention.

Done at _____ on _____