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Communiqué

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Statement by Mr. J.A. Beesley, Canadian Representative on the First Committee on the International Cooperation in the Peaceful Uses of Outer Space

CHECK AGAINST DELIVERY

Communiqué No. 55
Le jeudi 10 décembre 1970

Déclaration prononcée par M. J.A. Beesley, représentant du Canada à la Première Commission concernant la Coopération internationale touchant les utilisations pacifiques de l'espace extra-atmosphérique

VERIFIER LORS DU DISCOURS

CANADIAN DELEGATION TO THE UNITED NATIONS

DELEGATION DU CANADA AUPRES DES NATIONS UNIES

Mr. Chairman,

We have only a brief period within which to deal with a field so broad, so important and so complex that we must each of us be highly selective, concrete and specific in our comments. Yet, before proceeding to specific issues, my Delegation feels constrained to offer some observations on some of the major questions of principle raised during our debate.

In a number of resolutions, we have joined together in reaffirming the common interests of mankind in furthering the exploration and use of Outer Space for peaceful purposes, in recognizing the importance of international co-operation in developing the rule of law in the exploration and peaceful uses of Outer Space, in urging increased efforts to promote applications of space technology for the benefit of all countries, particularly the developing countries, and in affirming that the benefits of space exploration can and should be extended to states at all stages of economic and scientific development.

The distinguished Swedish representative has directed our attention to the importance of broadening, diversifying, co-ordinating and more effectively applying international co-operation in the field of Outer Space and has called for "active involvement and leadership in joint endeavours" by the United Nations. The distinguished representative of the USSR has outlined to us some of the tremendous accomplishments by his country in space technology recently, and has drawn our attention to the importance for all mankind of the results of these experiments. The distinguished representative of the USA has given us a number of important practical examples of co-operation by his country as a space power on a bilateral basis, in a limited multilateral basis, and within the United Nations structure on a broader multilateral basis. Canada

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and Sweden have worked closely together recently on another level, bilaterally but within the United Nations framework, in attempting to focus attention upon the implications, social, technological, political, legal, cultural and economic for all mankind of new developments in direct satellite broadcasting. The distinguished Philippine Representative has demonstrated with eloquence and precision the urgency and importance of the application of space technology, particularly communications satellites, in the field of meteorology. A number of delegations have referred to the potential for all mankind of the effective utilization of resource satellites.

Mr. Chairman, we are prepared to examine some of the central issues facing us with a view to seeking possible approaches to fulfill the high aims which I have referred to and on which we are all agreed. We must, in our view, begin by recognizing certain important facts of life. The first is that, as yet, very few states possess the technology and the human and material resources which together constitute space capability. A second, at least as important, is that activities of space powers can have implications not merely for other states but for people -- for all mankind. A third is that for years to come many states will be unable to mount an independent space capability, and will even have difficulties in keeping abreast of technical developments flowing from space activities of other states. A fourth conclusion, which flows from the state of facts I have just outlined, is that international cooperation in the field of outer space is in large part dependant upon the willing cooperation of the space powers. What then is the role of the United Nations in the light of these facts?

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Mr. Chairman, the implications for all of us would be very serious indeed if the space powers were to ignore the consequences of their acts for other states and for mankind as a whole. However, they have not done so, and it is to the credit of the two major space powers that they have not relied solely upon state practice to develop the law of Outer Space. While initial explorations were carried out well before the development of agreed principles to regulate activities in Outer Space and on celestial bodies, the space powers have long since joined with other states in laying the foundation for a regime for Outer Space, albeit still incomplete, initially through joining with other states in the United Nations Declaration on Principles of Outer Space, and later in negotiating on the basis of the declaration the Treaty on Outer Space, and later still the Convention on Rescue and Return of Astronauts. It is important to note the basic principle upon which has been founded all of the rules of law thus far developed in the field of Outer Space namely, the "Outer space, including the moon and other celestial bodies is not subject to national appropriation by claim of sovereignty by means of use or occupation or by any other means". This rule of law is, as we have said before, of such far-reaching importance that its development and acceptance may well prove to be one of the most important achievements of the United Nations. This principle could not, of course, have become a rule of law without the willing participation by the space powers in the progressive development of international law of Outer Space, founded upon this principle. It may be arguable that it follows from this principle, as a necessary corollary, that Outer Space itself - as well as celestial bodies - constitute a common

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resource, which might be likened to the seabed beyond national jurisdiction, as the common heritage of mankind. What would be the implications of such a concept? Seemingly, space cannot be used up in the same way as the seabed through the extraction of its riches. Can it, however, be used up in another sense, through a new form of use or occupation, unknown to traditional concepts of international law, by means of utilization of space orbits? If the first fact of life is the limited number of states possessing space capability, the second the interest of the international community as a whole in the application of space technology, the third the technological science and information gap, and the fourth the co-operation of the space powers as the prerequisite to ~~secure~~ international co-operation, is there perhaps a fifth fact of life, if not yet a legal rule, namely the common interest of the international community in the environment being utilized? What are the consequences, not only legal, but practical, of acceptance of the principle of non-appropriation of space by any state? One of the issues which may have to be faced soon is the extent to which the common interest of all mankind in the space environment itself, as well as in the benefits of space activities, may require a systematization of space activities.

References have been made in the debate to the range and diversity of space activities occurring outside United Nations auspices. Mr. Chairman, we share the concern expressed by other delegations over the possible wastage, duplication and lack of co-ordination of such activities. I should like to make clear, however, that it is definitely not the Canadian view, that no space activities can be carried on except under United Nations auspices. We are all committed under the Charter to

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international co-operation, and we are committed under Article 103 of the Charter not to enter into treaty commitments incompatible to the Charter obligations, but nowhere in the Charter are we precluded from international co-operation outside the United Nations. It is our view that in a field as dynamic as Outer Space technology we must eschew any measures which could stifle developments from which we all can benefit. Thus, while we should exert every effort to bring the United Nations through its Outer Space Committee and the specialized agencies into an analytical, co-ordinating, synthesizing and informational role, and perhaps gradually into a regulatory role in certain fields, we need not attempt to have the United Nations involved in every space activity being carried on. While international co-operation in the field of Outer Space must be encouraged, developed and extended in the common interest, states must in our view remain free to continue to seek other forms of international co-operation through national, bilateral and limited multilateral approaches, provided - and I emphasize this proviso - that such action is never antagonistic to but always complementary to the interests of the international community as a whole.

To take only one example of co-operation fulfilling the criteria just mentioned, the negotiations going on within INTELSAT on a number of issues important to all of us in the field of international communications, provide a case of international co-operation outside the framework of the United Nations. We would be sounding schizophrenic indeed if we were to say that a conference of plenipotentiaries, involving participants and observers together totalling more than 100 states, must be carried out solely under the United Nations auspices. What is important, in our

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view, is to ensure international co-operation, through all available means, and to ensure also co-ordination through the United Nations of all space programmes. In other words, what appears to be required is a pluralistic approach, with no one approach excluding others. There is, however, one fundamental principle which should motivate every state in its activities in space, and that is the common interest of mankind. Mr. Chairman, I shall now attempt to apply this principle to the specific issues before us.

Liability Convention

I have referred to the success of the United Nations in laying down the basis for a regime on Outer Space. One area where we have failed to achieve success, in spite of seven years of discussion and debate, is, in the language of Resolution No. L.547, tabled by Australia, in the elaboration of "an effective and generally acceptable Liability Convention." The Canadian Delegation feels strongly that the time has come to settle outstanding differences upon the two main issues remaining unresolved concerning the Convention, namely the legal rules to be applied in determining compensation payable to the victims of damage and the procedures for the settlement of claims. It is our considered view that, as set out in operative paragraph 5 of Resolution L547 "a condition of a satisfactory Liability Convention is that it should contain provisions which would ensure the payment of a full measure of a compensation to victims and effective procedures which would lead to the prompt and equitable settlement of claims."

It is essential in our view that such a convention, in order to be equitable, must be victim-oriented, that is to say, based on the

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principle of restoration of the victim to the condition equivalent to that which existed before the damage occurred. To this end, the convention must necessarily provide that account be taken of law of the place where the damage occurred, as well as of international law, and must provide for some means of compulsory arbitration procedures as part of the machinery to settle disputes. We share the view expressed by other delegations that the general view should be allowed to prevail in this case, and that sovereignty should be exercised by space powers in the most constructive way possible, namely by voluntarily accepting, by means of a binding international agreement, effective procedures for ensuring responsibility and full compensation for damage caused by their space activities.
Mr. Chairman if there is an area where the United Nations must assert leadership, it is with respect to the pressing need to conclude a Liability Convention before rather than after a serious accident. It is here in the United Nations that we can draw attention to the dangers to all of us, whether or not we are involved in space activities, however beneficial, and it is here in this forum that we can ascertain the views of Member States on the importance of reaching a solution to this problem and the approach to be taken to it. It is for these reasons Mr. Chairman that Canada has co-sponsored Resolution No. L.547 introduced today by the Delegation of Australia.

Direct Broadcasting Satellites

Canada is a co-sponsor, together with Sweden, India, Iran, Australia and Tanzania of a separate resolution on this important subject, (No. L546). The Canadian Delegation wishes to express its appreciation to the members of the working group on Direct Broadcasting Satellites

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for its extremely useful study on the matter, and more particularly to the delegation of Sweden for its outstanding contribution to those studies. We have welcomed the opportunity to work in partnership with Sweden in preparing together two working papers, the first largely on technical aspects, and the second on social, cultural, legal and other aspects of the matter. The studies of the working group have provided us all with an opportunity to view recent and future developments in this field knowledgably and with awareness of its implications for each of us.

We concur in the view that the working group has now completed the work that can usefully be done at this stage, and that the Outer Space Committee should hold itself ready to reconvene the working group when it appears useful to do so.

We need hardly stress the very significant potential benefits, not just for states, but for all mankind which could result from international co-operation in this new form of communication. Certainly, Canada as a country with a population spread over an extensive area comprising great distances has an obvious interest in the development and exploitation of a direct broadcast satellite system.

Mr. Chairman, my Delegation would like to emphasize also the importance we attach to the work being done in the field of outer space by international organizations such as the ITU, UNESCO and BIRPI and WMO. Each of the first three has undertaken or made plans for programmes of work in the fields of direct broadcasting satellites which have made or will make further significant contributions to our knowledge of that subject. These studies are of direct interest to the United Nations as the co-ordinator, through the Outer Space Committee of international activities

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in the field of direct broadcasting by satellites. This role of co-ordinator is a vital one, which is wholly appropriate to the United Nations, and is one where the United Nations can assert some leadership.

We await with interest the results of the Administrative Radio Conference which the ITU will hold in 1971, which will have important implications for the future of direct satellite broadcasting. Equally important is the programme of UNESCO including amongst other aspects, "the utilization of space communications for national development, education and cultural exchanges" and in particular "on the effects of the content of satellite broadcasts on cultural and social standards." Problems of copyright and neighbouring states within the range of direct broadcasting and of the legal protection of satellite transmissions against unauthorized use have also been referred to UNESCO and BIRPI for examination. Their recommendations will be of great assistance to the meeting of governmental experts who will eventually consider these questions. These studies and the necessity for their co-ordination illustrate, perhaps more clearly than anything else, the need for international co-operation and co-ordination of activities in the field of outer space.

I should like to make clear at this time that in the Canadian view a system of direct broadcasting from satellites would not constitute a radical departure in international co-operation. Through a gradualist approach to the development of a legal regime by the application of traditional principles of international law, coupled with the development of new principles, we consider that the real progress in devising a scheme of co-operation can be achieved. We have noted with interest and pleasure the view expressed by the distinguished representative of the USSR, as we

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understand it, in support of the elaboration of such a regime. It is our view that the United Nations working group has in the past two years made a substantial contribution to the eventual development of such a regime through its examination and crystallization of many issues relating to Direct Broadcast Satellites.

It is the general Canadian approach to the social, political, cultural and legal problems of direct satellite broadcasting that legitimate claims of national sovereignty need to be balanced against the importance of the free flow of communication. To this end, Canadian authorities have suggested that regional cooperation arrangements would be the most practical method of dealing with these problems. Here too, we favour a pluralistic and flexible approach.

It is the further Canadian view that the following activities should be undertaken in order to further international cooperation in direct broadcast satellites: a) agreement should be reached on frequency allocations of technical coordination procedures within the ITU; b) bilateral and multilateral cooperation arrangements should be concluded on use of direct broadcast satellites systems for development purposes; c) coordination should be improved among international organizations having a role to play with respect to direct broadcast satellites; d) regional and international cooperation programming should be facilitated including provisions against unauthorized interception of satellite programs; and e) detailed studies should be pursued in areas of law such as copyright, neighbouring rights and defamation with view to the eventual harmonization of applicable rules among various jurisdictions.

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Earth Resources Satellites

Canada regards the concept of the resources satellite, utilizing a combination of remote sensors and relaying scientific data concerning terrestrial and maritime resources back to earth for distribution to user agencies in all countries, as being one of the potentially most important developments of space research. Other speakers have pointed out the obvious potential of such satellites for both terrestrial and marine resources as well as in the monitoring of the human environment. In order for the maximum potential to be realized, however, information must be made available rapidly and in readily understandable form. It is, we think, important for member States to be made aware of the rapid developments of technology and management in the field of earth resources survey satellites so as to ensure that the necessary international liaison capabilities are devised. The United Nations may have a key role to play in this respect. However, many questions require careful consideration in determining the approach to be taken to this question. While we have no fixed view on the matter, it seems to us that the utilization of resource survey satellites is another case requiring a pluralistic approach combining bilateral, limited multilateral and ultimately perhaps general multilateral approaches. The first step would appear to be the analysis and clarification of the technical issues involved before consideration can be given to the political, economic and other aspects. It is our view, however, that ultimately political means should be carefully explored internationally for putting this technology to use for the benefit of all mankind, with due respect for the sovereign rights of States. My delegation, therefore,

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supports the decision that the Technical and Scientific Sub-committee should study these questions at its next session.

Registration of Space Objects

Canada attaches great importance to the conclusion of a treaty providing for the registration of space objects launched into outer space. It is for this reason that in April 1970 the Canadian Delegation submitted a paper to the Scientific and Technical Sub-committee on a proposed system of registration. Whether or not the view is taken that outer space constitutes a common resource, a minimal step, for purely practical reasons, would appear to be the establishment of some system to assist in the harmonization of space activities through the registration of space objects. A further reason why Canada has consistently favoured an effective international system for registration of objects launched into outer space is that such a system would be of great assistance in determining the identity of parties who may be liable in event of damage caused by such space objects. Some progress has been made on the general question by the report of the Scientific and Technical Sub-committee, and helpful information is being provided by the Secretariat in its paper on "Information on the Technical Aspect of Registration of Objects Launched into Outer Space" (Document A/AC 105 L52, April 14/70).

With regard to priorities, the Canadian view is that, given the urgent need of drafting a liability convention, that task should have first priority. Only thereafter should work on such questions as the regime of direct broadcast satellites, the definition and utilization

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of outer space, and a convention on registration be pursued. At that time also the Outer Space Committee might turn its attention to other important aspects of outer space activities such as the further development of regulatory agencies, and their relationship to existing international bodies, particularly those in United Nations family.

Application of Space Technology

Mr. Chairman, it is our view that the Scientific and Technical Sub-committee has already achieved a good deal in the way of first essential steps towards ensuring the eventual application of advance of space technology to all mankind, through the vigorous approach it has taken in attacking the scientific and technical issues involved. Obviously the task will be a continuing one, and its successful fulfilment requires the cooperation of member States, particularly space powers. The role of the United Nations is a developing one, and it must necessarily evolve and alter with the changing needs of the international community. The basic problem may be not so much the technological gap as the knowledge information gap. It is difficult enough for developed countries to keep abreast of the advance of space technology. The problem must seem virtually insurmontable to developing countries faced by so many demands upon their resources, both human and material. Here the United Nations could take on a role of real leadership in attempting to pinpoint needs and suggest ways of fulfilling these needs. Since the problem is so much a communications gap it is to that problem that we must direct our attention initially.

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We welcome, for these reasons, the proposal to set up technical panels composed of interested member States to study and report on practical trials of new techniques in the application of space technology, and we look forward to the possibility of Canadian scientists participating actively in these studies. Many other constructive suggestions also directed towards ensuring that the benefits of advancing space technology can be shared by all mankind are included in the report of the Scientific and Technical Sub-committee. We are hopeful that these suggestions will prove useful to the newly appointed expert for the promotion of Space applications. We shall follows with interest his ambitious programme and look forward to reports from him and countries participating in the technical panels.

The Secretariat also has an important role to play, and we welcome the information provided by the Secretariat to the Outer Space Committee on arrangements within the Secretariat for coordination on topics related to space activities. We think it would be useful also if summaries of information could be distributed to member States from time to time on topics considered by the working panel on Space applications in order to enable governments to keep informed on activities relating to space.

Before concluding, Mr. Chairman, I should like to pay tribute to Ambassador Haymerle for his outstanding leadership as chairman of the Outer Space Committee and express our pleasure at the election of Ambassador Waldheim as his most worthy successor.

I should like also to express the full support of the Canadian Delegation for the omnibus resolution L.548 tabled by the distinguished

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delegation of Austria, which Canada is pleased to co-sponsor. My Delegation will be unable to support the amendment tabled by the Czechoslovak and USSR Delegations since the subject of the liability convention is adequately covered, in our view, in a separate resolution. My Delegation is also pleased to announce its support and co-sponsorship of resolution L549 tabled by the delegation of the Philippines and a number of other delegations relating to the world weather watch.

Mr. Chairman, while I have touched only some aspects of the application of space technology to mankind as a whole, enough has been said by my Delegation and previous speakers to make abundantly clear that we are here engaged together in a vital task which we must take seriously, in spite of the inherent difficulties in coming to grips with issues so new, so complex and so intimidating, especially in terms of the potential consequences, good or bad for all, of space activities carried out by any of us. Canada is willing to participate by every means possible in the furtherance of international cooperation in the field of outer space, and to contribute in every way possible to efforts directed towards ensuring that the benefits of space technology can be shared by all mankind.