

PART IV

ROUND TABLE

BY

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OPENING STATEMENT

Monsieur le Président, Mesdames, Messieurs,

J'ai accepté votre invitation à assister à votre colloque avec le plus grand plaisir, parce que le sujet que vous discutez aujourd'hui est une partie du chapitre de droit international à la naissance duquel j'ai participé.

We ought to be very grateful to the organizers of today's colloquium for raising an item which is of vital importance to not only space law but to international law in general.

We have come a long way since the Bishop of Headford in the 16th century wrote a book on the travels to outer space, in a car driven by 22 geese. We have also come a very long way from the beginning of outer space activities in the early sixties. You will recall that when the first attempts were made to reach outer space man's curiosity was mainly concentrated on what was happening beyond the earth. We were looking for life on Mars, on Venus. We were looking for other civilizations to establish contact with them. We were looking for the moon and to find a cell on the moon or primitive life on it. We have placed a man on the moon but all the experiments with the moon have failed because scientists are still uncertain whether the moon has an independent existence or whether it was detached from the earth and remained within its field of gravity.

But since the first stage of the development of outer space activities we have reached another stage which is characteristic for the colloquium of today. This other stage is more or even mainly earth-oriented. First we were space oriented. At present we are trying to reach and penetrate earth in dimensions which one cannot possibly do from earth.

Through geophysical satellites we penetrate the globe in a way we could never do from the surface of the earth, nor even from an aeroplane. From outer space we reach the most remote parts of our globe through telecommunication satellites. Also all the many rainbow-colours of the activities in

which outer space powers and those who are able to command these facilities are engaged are now concentrating on questions concerning the earth itself. We use outer space as a laboratory in which we try to construct instruments in a state of weightlessness in order to produce new metals which are used on earth and that is why we have developed industry to an extent we have never been able to do while limited to activities on our globe. Thus these earth-oriented space activities have brought about a situation which has married outer space and earth and has caused a kind of feedback reaction. All these activities need the intervention of lawyers. As much as we may dislike them we have to admit that their work is indispensable because we have to balance rights and obligations, the right and duties of States and individuals and to protect things which are most valuable and which are neglected in other chapters of law. Today we have heard a series of very interesting reports explaining the situation in various fields with which earth oriented activities are concerned. ITU is an earth activity, because it starts on our globe and it comes back to it. We have heard of the many questions arising out of the need to apply new rules to the multitude of States which exist today, 160, as compared with 40 or 50 in the days of Marconi, and is that why the Marconi-principle cannot be applied today : in outer space, who comes first cannot remain first. There must be an equitable division of the wavelengths. We had also the benefit of hearing the recent decisions of ITU concerning the frequencies of satellites, particularly geostationary satellites, which form a kind of limited natural resource. As it was said : « satellites géostationnaires sont des ressources naturelles limitées et afin de permettre un accès il faut le faire d'une façon équitable ». (Dr. Alphonse Noll — U.I.T.). In general these reports indicated a certain order in paying the way into outer space as to allocation of frequencies and the planification of activities in this field. We have also been the beneficiaries of very interesting information that seven thousand ships now on the waves, are equipped with ship-earth stations and helped by maritime communications (D. Dann — INMARSAT). INMARSAT plays an important role in earth-oriented space activities. A very interesting suggestion was made by Dr. Peter Malanczuk on the interpretation of the territorial scope of broadcasting from outer space. Finally we had an exchange of views on issues concerning copyright in regard to outer space activities. All the reports gave us a very interesting picture of the various aspects of these activities.

When I chaired the first session of the Legal Sub-Committee for the Peaceful Uses of Outer Space, 26 years ago, we had to consider the status of outer space and its peaceful use. Four years later I submitted to the General Assembly, the first Treaty on Principles Governing the Activities of States — in the Exploration and Peaceful Use of Outer Space including the Moon and other Celestial Bodies. We elaborated four more treaties ; three of which have come into force. However, this has been one particular

goal we have pursued in drafting the first treaty : the principle that the Charter of the United Nations and general international law applies to outer space. This was and has remained a generally accepted guide.

The essential issue which raises great practical difficulties is that resulting from the existence of sovereignty which is territorially determined, while outer space — which international law embraces — has become the common heritage of mankind. Now we have found ways and means to make the two concepts : sovereignty and the common heritage of mankind workable and practically applicable. Space is free for exploration to all and no one may extend his sovereignty to space and no one may take exclusive control over any part of space. The only exception is that States retain jurisdiction on their space objects and may reclaim them on return to earth. But when things come back to earth, sovereignty has to be respected. This is a factor which has created certain difficulty in law-making. Because if you follow events closely, you must have come to the conclusion that while we have made very much progress in establishing rules concerning outer space between the years 1962 and 1970, since 1970 there has been a slowdown in law-making. (The Treaty of the Moon has not been verified by the space powers.) After that the United Nations accepted only a series of principles, resolutions, or guidelines. This is undoubtedly due to the hesitation of States to commit themselves on essential issues which concern particular effect of outer space activities on events on our globe. I venture to suggest that in drawing conclusions from the rich agenda of today's meeting we should reflect on the function of telecommunications satellites in various domains of our daily life here on earth. It is not to fetter the activities in outer space nor limit them in any way or to any extent. I think the contrary is the case. It is like Watson used to say to Sherlock Holmes : « it is elementary » that you should really give telecommunication all possible support — by all possible means — for it is an invention which should extend its blessings in all respects as it is an important medium in the progress of human civilization, and knowledge, the progress of all mankind.