

(Mr. Nakagawa, Japan)

whereby the inter-space Committee forwarded the whole text of the draft convention to the General Assembly for its consideration, was unable to support it in the Committee. This was because we preferred the notification of these two articles on the measure of compensation and especially on the settlement of claims more in line with the earlier proposals we had made with other delegations in document A/C.1/59.2.2/7. Our reservation on these articles is clearly recorded in paragraph 35 of the present report. This specific position of ours has been consistently maintained since our final discussion on the draft in the Legal Sub-Committee in June, and we still remain most reluctant to change our position on these two articles. From the viewpoint of protecting the legitimate interests of victims of damage caused by a space object, through effective and prompt payment of full and equitable compensation, we feel that the relevant text as presented to us in the General Assembly can hardly be called satisfactory. We would adhere to the view that the final text concerning the procedures for the settlement of claims should contain at least some indication that the decision of the Dispute Commission is to be final and binding. In article XIX of the text submitted to the General Assembly, however, the decision or award of the Dispute Commission is clearly stated to be of only a recommendatory nature, so long as the parties do not agree to make it binding. And also, in view of the total disappearance of reference to the Lex loci delicti commissi and the subsequent dilution of the concept of full compensation, my delegation entertains considerable apprehension regarding the degree of protection which victims could justifiably obtain under this formula.

From a slightly different angle, my delegation considers it most important that, in the best interest of the international community as a whole, this liability convention should strike an equitable and harmonious balance between the rights and obligations of launching States and those of non-launching States. In this respect, we do not feel that this balance and harmony is substantially secured by the present text, since it seems not to be sufficiently victim-oriented. My delegation wishes to remind this Committee that, in elaborating the convention on liability for damage caused by space objects, we are providing a new legal concept and are setting up a new legal framework which should serve as invaluable precedents for future lawmakers when they have to consider other liability conventions on other like matters. For example, the provision for state responsibility based on absolute liability is a novel one.

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(Mr. Nakagawa, Japan)

For all these reasons, my delegation is not in a position to cast an affirmative vote on draft resolution A/C.1/L.570, sponsored by Belgium and a number of other countries in which the General Assembly would commend the draft liability convention.

We regret very much indeed that we are obliged to bring this tone of concern and misgivings to the General Assembly, since we know that there are many in the outer-space Committee -- and, naturally, we respect their view -- who welcome, despite its above-mentioned shortcomings, the common draft text finally completed after years of hard work. We are also aware that there are those, and of course we respect their view also, who feel that this is about the best compromise draft Convention realistically, at least in the foreseeable near future and that, hence be it said, the Assembly should approve it.

However, we think it is our duty to point out to those countries which do not happen to be members of the outer-space Committee and therefore have not participated in the previous discussion, the points which we feel should be taken into consideration. In this connexion we have listened with great interest to the proposal made by the Canadian delegation to the effect that States should consider making declarations when they sign and ratify the convention, or even at a later date, to accept as binding the decision of any claims commission appointed under the convention vis-à-vis any other party which makes a reciprocal declaration.

My delegation wishes to indicate that it fully supports the idea and will be happy to see the proposal incorporated in the draft convention now before us. My delegation earnestly hopes at the same time that, once the convention enters into effect, the shortcomings I have pointed out will be remedied at the stage of implementation by the prompt and effective application of the relevant articles in such a manner as to secure the complete satisfaction of victims and that our misgivings in this connexion will prove to be groundless.