

THE RETURN OF OBJECTS LAUNCHED INTO OUTER SPACE: SOME LEGAL QUESTIONS

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ABSTRACT¹

The 1967 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, was drawn up under heavy pressure from the space powers and in the shadow of the first fatal accidents linked to space activities. It provided the opportunity to describe in greater detail the duties listed in article V of the 1967 Outer Space Treaty. The Agreement attempts to draw out the logical consequences of the principle whereby astronauts are considered the envoys of mankind and of the principle of cooperation, although, looking at this from a different angle, one might also think of the space powers' interest in preventing their space objects, or remains of those objects, from being recovered and analysed by countries other than the launching State". Paradoxically, in spite of this being a "precautionary" international treaty, in that the intention was to establish rules so that those involved would know how they could and/or should react in the face of dangerous situations or tragic outcomes, for astronauts or space objects, it has not to date been applied to any extent, as accidents have so far been dealt with by the launching States.

I. INTRODUCTION

The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space², was drawn up under heavy pressure from the space powers and in the shadow of the first fatal accidents linked to space activities³. As can be seen, the text of this Treaty emphasises the dangerous, risky nature of space activities, given that during an actual activity or in the moments just before its completion, circumstances may fail to produce a positive outcome and unfortunately there have already been many

accidents that have led to the loss of human life, involving either astronauts or staff on the ground, as well as of objects.

The Agreement provided the opportunity to describe in greater detail the duties listed in article V of the Outer Space Treaty⁴, putting them in more concrete form and expressing human feeling. In this respect, Lacleta Muñoz points out that the Agreement "*only attempts to draw out the logical consequences of the principle whereby astronauts are considered the envoys of mankind and of the principle of cooperation, although,*

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looking at this from a different angle, one might also think of the space powers' interest in preventing their space objects, or remains of those objects, from being recovered and analysed by countries other than the launching State"⁵. This was in line with the various statements by representatives of States at the session of the United Nations General Assembly that approved Resolution 2345(XXII)⁶.

Paradoxically, in spite of this being a "precautionary" international treaty, in that the intention was to establish rules so that those involved would know how they could and/or should react in the face of dangerous situations or tragic outcomes, for astronauts or space objects, it has not to date been applied to any extent, as accidents have so far been dealt with by the launching States.

II. DRAFTING HISTORY

Although the USSR and the USA began their discussions in the recently created Legal Subcommittee, with their differences relating to the formal instrument to be used to regulate space cooperation⁷, they finally agreed in 1963 to draw up a treaty that focused on the matter of assistance to and the return of astronauts and space objects⁸.

The first substantive problem, posed at the 1962 and 1963 sessions of the Legal Subcommittee, and relating among other things to the general principles of space and liability, was whether to impose conditions on the return of space vehicles: the USSR proposed several conditions⁹, but the USA, and some of its allies, rejected them. However,

this impasse was, in a certain manner, resolved by General Assembly Resolution 1962 (XVIII)¹⁰, which declares that in the exploration and use of outer space, States should be guided by several basic principles, among which are some references to the topics of assistance and return¹¹. Subsequently, General Assembly Resolution 1963 (XVIII)¹² recommended that consideration be given to incorporating *in international agreement form*, the 1963 legal principles governing the activities of States in the exploration and use of outer space, and requested that UNCOPUOS continue to study and report on legal problems that might arise in the exploration and use of outer space. In particular, it was asked to arrange for the prompt preparation of draft international agreements on liability for damage caused by objects launched into outer space and on assistance to and return of astronauts and space vehicles.

Between that year and conclusion of the 1967 Outer Space Treaty, the Legal Subcommittee (UNCOPUOS)¹³ made statements on the two traditional, clear positions regarding the urgent necessity of negotiating and concluding the Rescue Agreement. On the one hand, the USSR always attached major importance to the conclusion of a binding international treaty on assistance to and the return of astronauts and space objects - the USSR even thought priority should be given to this before anything else (such as the legal principles of outer space, liability, etc.). On the other hand, the USA, its allies and the non-space powers tried to deal with the complex issue of liability first¹⁴. Concerning space objects, many

drafts were prepared and many debates took place during this period; however, the conflicting views of the USSR and the USA regarding making the return of space vehicles conditional or not constituted a serious obstacle to the work of the Legal Subcommittee¹⁵.

The deadlock in the Legal Subcommittee was broken by the continuous steps forward in space exploration, including arrival near the Moon. The USA proposed to prepare a treaty on the legal status of celestial bodies, and the USSR accepted, provided that the text would be the general and legal framework for outer space and celestial bodies. In the end, the 1967 Outer Space Treaty reproduced paragraphs 7 and 9 of the 1963 Space Declaration in its articles V¹⁶ and VIII¹⁷; thus, the final choice was not to make the return of space objects conditional.

At the Sixth Session of the Legal Subcommittee in 1967, the USSR tried to reach a definitive agreement on assistance to and the return of astronauts and space objects, and a brief, revised draft was proposed, without any references to the old discussion on whether to attach conditions. At last, and following the UN's usual method of working on the drawing up of space law, the final version of the text was prepared by the two superpowers, the USSR and the USA, as a "text negotiated backstage"¹⁸, and was approved by the UN within less than a week¹⁹.

III. THE LEGAL REGIME

The contracting States have several duties in regard to astronauts and space objects. Concerning astronauts, the Rescue Agreement establishes the following duties:

1. Notification of accidents: *"Each Contracting Party which receives information or discovers that the personnel of a spacecraft have suffered accident or are experiencing conditions of distress or have made an emergency or unintended landing in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State shall immediately: (a) Notify the launching authority or, if it cannot identify and immediately communicate with the launching authority, immediately make a public announcement by all appropriate means of communication at its disposal; (b) Notify the Secretary-General of the United Nations, who should disseminate the information without delay by all appropriate means of communication at his disposal"*²⁰.

2. Search and rescue in a contracting State's territory: *"If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party, it shall immediately take all possible steps to rescue them and render them all necessary assistance. It shall inform the launching authority and also the Secretary-General of the United Nations of the steps it is taking and of their progress. If assistance by the launching authority would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue*

*operations, the launching authority shall cooperate with the Contracting Party with a view to the effective conduct of search and rescue operations. Such operations shall be subject to the direction and control of the Contracting Party, which shall act in close and continuing consultation with the launching authority*²¹.

3. Landings in areas not under the jurisdiction of any State: *"If information is received or it is discovered that the personnel of a spacecraft have alighted on the high seas or in any other place not under the jurisdiction of any State, those Contracting Parties which are in a position to do so shall, if necessary, extend assistance in search and rescue operations for such personnel to assure their speedy rescue. They shall inform the launching authority and the Secretary-General of the United Nations of the steps they are taking and of their progress"*²².

4. Return of astronauts: *"If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party or have been found on the high seas or in any other place not under the jurisdiction of any State, they shall be safely and promptly returned to representatives of the launching authority"*²³.

With regard to space objects, the Rescue Agreement contains just one article²⁴, which provides a similar, but not equal, legal regime:

1. Notification of landing: "Each Contracting Party which receives information or discovers that a space object or its component parts has

returned to Earth in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State, shall notify the launching authority and the Secretary-General of the United Nations"²⁵. In this case, the differences with the astronauts' regime are: first, that the obligation of notification is not to be immediate²⁶; and, second, that this obligation applies only to space objects returning to Earth, so there is no mention in the text of return to celestial bodies²⁷. Concerning the last point, it was necessary to wait until the Moon Agreement for clarification²⁸; article 12.2 of this Agreement lays down explicitly that the rules of article 5 of the Rescue Agreement must be followed for the vehicles, installations and equipment or their component parts found in places other than their intended location on the Moon²⁹, and, in particular, that any State Party which learns of the crash landing, forced landing or other unintended landing on the Moon of a space object must promptly inform the launching State Party and the Secretary-General of the United Nations³⁰.

2. Recovery of foreign space objects in Contracting State's territory: *"Each Contracting Party having jurisdiction over the territory on which a space object or its component parts has been discovered shall, upon the request of the launching authority and with assistance from that authority if requested, take such steps as it finds practicable to recover the object or component parts"*³¹. In this second paragraph, the space object regime differs from that of the astronauts in two respects: first, a space object is recovered at the

request of the launching authority, while in the case of astronauts, all steps must be taken immediately to rescue them³², with assistance from the launching authority if requested³³; and, second, the State where the space object lands should take such steps as it finds practicable, while for astronauts the State must take all possible steps to rescue them and render them all necessary assistance. There is a difference in the words used but not in the meaning of the obligation, the USA having explained to delegations that the reference, for both astronauts and space objects, means "action within the limits of the facilities at the Contracting Parties' disposal"³⁴.

3. Return of space objects: *"Upon request of the launching authority, objects launched into outer space or their component parts found beyond the territorial limits of the launching authority shall be returned to or held at the disposal of representatives of the launching authority, which shall, upon request, furnish identifying data prior to their return"*³⁵. This article essentially reproduces paragraph 7 of the 1963 Space Declaration³⁶ and article 8 of the Outer Space Treaty³⁷, that is, there is an obligation to return the space object³⁸, but also states that the space object is returned only on request received from the launching authority³⁹.

4. Elimination of possible danger of harm: *"Notwithstanding paragraphs 2 and 3 of this article, a Contracting Party which has reason to believe that a space object or its component parts discovered in territory under its jurisdiction, or recovered by it elsewhere, is of a hazardous or deleterious nature may so notify the*

*launching authority, which shall immediately take effective steps, under the direction and control of the said Contracting Party, to eliminate possible danger of harm"*⁴⁰. This is the launching authority obligation that is clearly in favour of the territorial State's interests; it could even have been considered "a method for the launching authority to discharge its obligation under international customary law not to cause damage to other States and to mitigate, and make reparation for, such damage as it may have caused"⁴¹ - this possibility was removed with the 1972 Liability Convention⁴².

5. Payment of expenses: *"Expenses incurred in fulfilling obligations to recover and return a space object or its component parts under paragraphs 2 and 3 of this article shall be borne by the launching authority"*⁴³. Therefore, if the launching authority requests the recovery of the space object⁴⁴, it has to pay the expenses incurred in that action, and can be required to pay as work proceeds or even in advance⁴⁵.

Finally, after examining the background and legal regime of the Rescue Agreement, especially the return of space objects, it can be said that this has to be absolute and unconditional⁴⁶.

IV. CONCLUSION- FUTURE PROSPECTS

Regarding the the history of space accidents, whether 'controlled or uncontrolled', there is clearly a need to check, as far as possible, for calculation errors, as in the case of Challenger, Columbia and Mars

Climate Orbiter. It is also necessary to plan for obvious hazards to activities in outer space, such as space debris, and threats that could come from space, such as the close flyby of Earth by the asteroid Apophis in 2029. There is also the important question concerning the future of space exploration, which is whether spacecraft should be crewed or dangerous missions left to robots.

With respect to space debris and space contamination, there are currently three orbits in which these are to be found: the low Earth orbit (LEO), the graveyard orbit, and the geostationary orbit. The latter is the most worrying as it is occupied by many satellites. It is estimated to contain some 3000 fragments of varying sizes (between 15 cm and 1 metre) and all sorts of objects, ranging from a simple bottle to repair and assembly equipment, as well as the remains of satellites that have been damaged or involved in accidents. The Pegasus rocket, for example, placed in orbit in 1994, exploded two years later, generating hundreds of thousands of fragments. Even the smallest are extremely dangerous. The astronaut Edward White lost a glove measuring about 30 cm in space, which disintegrated in the atmosphere one month later, but in the meantime travelled at 28.000 km per hour and could have destroyed a spacecraft had there been one along its trajectory.

With respect to threats from space, the astronaut Pedro Duque stated⁴⁷ that there is absolute mathematical certainty that the Apophis asteroid will come very close to Earth in 2029, possibly bringing down commercial satellites, and seven years later, in

2036, attracted by the planet's magnetic field, could fall into the sea, causing a huge tsunami. Accordingly, he asserted that the European Space Agency (ESA) was looking into the possibility of deploying a mission involving the launch of two satellites, one, dubbed 'Don Quijote', to divert the asteroid, and the other, named 'Sancho', to provide coverage in orbit for the first satellite. Duque pointed out that this mission was in the process of being analysed and that its objective would include the possibility of detecting asteroids that might come close to Earth, adding that this operation was a priority for ESA.

Another major debate on the future of space exploration is to do with whether spacecraft should be crewed or whether dangerous missions should be left to robots. NASA has experienced some success with space robotics, as in the case of the Rover vehicle which, without some difficulties, was able to move around on the Martian surface, analysing rocks and sending back photos of the vehicle's surroundings. NASA is nevertheless continuing to place their faith in crewed flights, which imply greater control over the security of the astronauts and appropriate management of the investments required for the smooth running of the missions.

Recently, Discovery revealed the vulnerability of the space shuttle design when the spacecraft's cameras filmed a piece of insulation foam becoming detached during lift-off. It should be borne in mind that that problem is similar to the one which led to the Columbia disaster in 2003, so much so that Russia offered to help the USA if for some reason

Discovery's seven crew members had problems returning to Earth at the end of their mission onboard the International Space Station (ISS). After lift-off, NASA acknowledged that pieces of insulation had become detached from the fuel tank and that although they did not damage the spacecraft, they did present a serious hazard to the astronauts. Furthermore, photographs of the exterior of the shuttle were taken both by the astronauts and from Earth from every possible angle, which led to the detection of numerous dents caused by detached foam, although according to the technicians, they did not pose a risk to the spacecraft during its re-entry into the atmosphere. However, astronaut Steve Robinson had to perform a spacewalk to remove loose insulation material that could have been dangerous during Discovery's return to Earth. Subsequently, when the return date had been set, NASA detected more cracks in the insulation shield beneath one of the windows of the Shuttle's crew compartment, although decided not to repair it as it did not consider it to be dangerous. In the end, Discovery returned successfully, in spite of these technical problems being compounded by inclement weather at

Cape Canaveral, which forced the shuttle to be diverted to California.

NASA was obliged to announce, during the Discovery mission, that it would suspend all shuttle flights until all problems relating to shedding of the main external tank insulation had been resolved. Despite that, as the Agency's Administrator, Michael Griffin, pointed out subsequently, preparations for the launch of Atlantis were maintained, to continue the ISS construction work. Bill Parsons, the new Director of the Kennedy Space Center, has said it would be difficult to carry out the five space shuttle missions NASA has scheduled in 2007 (March, June, September, October and December), owing to the countless logistical obstacles that the five missions are likely to encounter. The main problem is to do with NASA's ability to judge the optimum flight conditions of the three available shuttles after their return to Earth – bearing in mind that the objective of all the flights scheduled for 2007 is completion of the ISS, which will have to be achieved by 2010, when the shuttle programme ends

¹ This paper has been prepared in the framework of the Research Project "Convergences and divergences among the outer space law and particular sea spaces law", Spanish Ministry of Science and Education, SEJ2004-06116.

² The "Rescue Agreement", adopted by the General Assembly in its Resolution 2345 (XXII), 19 December 1967 (115 votes to none, with no abstentions) opened for signature on 22 April 1968, and entered into force on 3 December 1968 (89 ratifications, 24 signatures, and 1 acceptance of rights and obligations, as of 1 January 2007).

³ Cheng, B.: *Studies in International Space Law*, Clarendon Press Oxford, 1997, p.417. See also below, part I.

⁴ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, or "Outer Space Treaty", adopted by the General Assembly in its Resolution 2222 (XXI), opened for signature on 27 January 1967, entered into force on 10 October 1967, 98 ratifications and 27 signatures (as of 1 January 2007). Article 5: "States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident,

distress, or emergency landing on the territory of another State Party or on the high seas. When astronauts make such a landing, they shall be safely and promptly returned to the State of registry of their space vehicle. In carrying on activities in outer space and on celestial bodies, the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties. States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in outer space, including the Moon and other celestial bodies, which could constitute a danger to the life or health of astronauts”.

⁵ According to Lacleta, this Agreement is moreover one whose application does not require *"the adoption of specific legal measures (perhaps in relation to customs and passports?)"*. Lacleta Muñoz, J.M.: “El Derecho en el espacio ultraterrestre”, Real Instituto Elcano de Estudios Estratégicos Internacionales y Estratégicos, Documento de Trabajo 18/25, de 8.4.2005, p.8. <http://www.realinstitutoelcano.org/documentos/187/Lacleta%20pdf.pdf>

⁶ See above. For instance, Mr Wyzner, the representative of Poland: "My colleagues will, no doubt, appreciate the significance, in humanitarian terms, of the Agreement for those brave men and gallant men who are, in the words of Article 5 of the Outer Space Treaty, the 'envoys of mankind in outer space', who are risking their lives, as recent tragic accidents have demonstrated, in endeavours which serve the interests of all... The Agreement on Rescue and Return is also a further collective step in the quest for peace since, among others, it eliminates possible sources of dispute and friction between States"; Mr Goldberg, the representative of the USA: "The treaty text represents agreement on implementing that famous phrase from the Outer Space Treaty that astronauts are 'envoys of mankind'... The United States considers that the Assistance and Return Agreement which we have adopted represents a just balancing of the interests of all Members of the United Nations, the space Powers, the near-space Powers, the cooperation space Powers and all who are interested in outer space"; and Mr Fedorenko, the representative of the USSR: "The Agreement on the Rescue of Astronauts will certainly be of great importance, ensuring the speedy rescue of

astronauts in case of... The Agreement ... can be truly called a humanitarian act of international law on the part of the Member States of the United Nations towards the courageous explorers of those vast cosmic expanses, the men who are, in the words of the Outer Space Treaty, 'envoys of mankind' in space" (Doc. A/PV.1640, 22nd session of the General Assembly).

⁷ While the USSR proposed concluding international treaties, the USA preferred to use just the UN General Assembly Resolutions.

⁸ Doc. A/AC.105/C.2/SR.25 (30 April 1963).

⁹ "(i) Foreign spacecraft would be returned without delay only if they had identification marks and their launchings had been officially announced, and (ii) spacecraft containing devices for the collection of intelligence information would not be returned" (Cheng, B.: *Studies in International Space Law*, see above, note 3, p.268).

¹⁰ Resolution 1962 (XVIII) of 13 December 1963, Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space.

¹¹ "7. The State on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and any personnel thereon, while in outer space. Ownership of objects launched into outer space, and of their component parts, is not affected by their passage through outer space or by their return to the Earth. Such objects or component parts found beyond the limits of the State of registry shall be returned to that State, which shall furnish identifying data upon request prior to return. [...] 9. States shall regard astronauts as envoys of mankind in outer space, and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of a foreign State or on the high seas. Astronauts who make such a landing shall be safely and promptly returned to the State of registry of their space vehicle."

¹² Resolution 1963 (XVIII) of 13 December 1963, international co-operation in the peaceful uses of outer space.

¹³ <http://www.unoosa.org/oosa/COPUOS/Legal/index.html>

¹⁴ According to Cheng, the reasons are not difficult to identify: "whilst the United States [...] has a world-wide network of tracking and other facilities sited in its own territory and, thanks to numerous bilateral agreements, in a number of foreign countries, [...] the

Soviet Union does not have the same resources as the United States for recovering returning spacecraft and astronauts from the high seas in all parts of the world [...] The net result is that the chances of Soviet astronauts requiring assistance from third States are, relatively speaking, much higher [...] Furthermore, the imminence of man's landing on the moon and the possibility of large manned stations in space and other space probes in the near future unquestionably made the Soviet Union even more anxious than before to bring about an international agreement on assistance to and the return of astronauts" (Cheng, B.: *Studies in International Space Law*, see above, note 3, pp.266 and 267).

¹⁵ "While no longer referring to intelligence-gathering devices, the revised Soviet draft at first made the return of foreign spacecraft conditional upon their having been launched 'for purposes of peaceful exploration and use of outer space' and the launching State having 'officially announced the launch of these objects and the purposes of launching'. Subsequently, the Soviet draft referred merely to 'foreign spaceships, satellites and capsules launched in accordance with' the 1963 Declaration [...] the United States and many States of the Western bloc voiced the fear that, especially in the absence of an arbitral clause, these conditions would give rise to endless difficulties in practice" (Cheng, B.: *Studies in International Space Law*, see above, note 3, p.270).

¹⁶ See above note 4.

¹⁷ "A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return".

¹⁸ Phrase used by the Indian delegate, doc. A/AC.105/C.2/SR.86 (14 December 1967).

¹⁹ The Legal Subcommittee received it on 14 December 1967, and in spite of complaints about lack of time, etc. from its

members, the proposal was discussed, amended, approved and passed to the General Assembly (the First Committee was bypassed), which finally voted unanimously in favour of it, but with negative opinions voiced on the speed of the procedure and the fact that the liability problem was still unresolved.

²⁰ Article 1.

²¹ Article 2.

²² Article 3.

²³ Article 4.

²⁴ Article 5.

²⁵ Article 5.1.

²⁶ Canada pointed out this omission, which was understandable mainly because this immediacy requirement was included in previous drafts (doc. A/AC.105/C.2/SR.86, 14 December 1967, p.17).

²⁷ Except we consider that the Moon (or other celestial bodies) is implicitly included in the expression "any other place not under the jurisdiction of any State".

²⁸ Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, the "Moon Agreement", adopted by the General Assembly in its Resolution 34/68, opened for signature on 18 December 1979, entered into force on 11 July 1984, 13 ratifications and 4 signatures (as of 1 January 2007).

²⁹ Article 12.2 of the Moon Agreement: "Vehicles, installations and equipment or their component parts found in places other than their intended location shall be dealt with in accordance with article 5 of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space".

³⁰ Article 13 of the Moon Agreement: "A State Party which learns of the crash landing, forced landing or other unintended landing on the Moon of a space object, or its component parts, that were not launched by it, shall promptly inform the launching State Party and the Secretary-General of the United Nations". These rules (articles 12.2 and 13) can be extended to the space objects in other celestial bodies, according to article 1 of the Moon Agreement: "The provisions of this Agreement relating to the Moon shall also apply to other celestial bodies within the solar system, other than the Earth, except insofar as specific legal norms enter into force with respect to any of these celestial bodies. 2. For the purposes of this Agreement reference to the Moon shall include orbits around or other

trajectories to or around it. 3. This Agreement does not apply to extraterrestrial materials which reach the surface of the Earth by natural means".

³¹ Article 5.2 of the Rescue Agreement.

³² Article 2 of the Rescue Agreement.

³³ However, this obligation of cooperation of the launching authority is the same independently of whether it is an astronaut or a space object, even if this obligation is better defined in article 2 than in article 5.2.

³⁴ Doc. A/AC.105/C.2/SR.86, 14 December 1967, p.21. Curiously, France proposed to use, for article 2, article 25 of the 1944 Chicago Convention ("to provide such measures of assistance ... as it finds practicable"); however, this suggestion was not taken up for article 2 (astronauts), though it was, to some extent, for article 5.2 (space objects), doc. A/AC.105/C.2/SR.86, 14 December 1967, p.13).

³⁵ Article 5.3.

³⁶ See above note 11.

³⁷ See above note 17.

³⁸ Without any other requirement, except the duty of the launching authority, upon request, to furnish identifying data prior to the return.

³⁹ Concerning the return of astronauts, there is no need for a prior request, the State just has to return them promptly (article 4). Article 5.3 also maintains the same duty to furnish information about the space object, as described in note 38. The French Delegation suggested referring to the representatives of the launching authority (for instance, an embassy), instead of the launching authority itself (doc. A/AC.105/C.2/SR.86, 14 December 1967, p.8), in order to make the return of both astronauts (article 4) and space objects (article 5.3) easier.

⁴⁰ Article 5.4.

⁴¹ As was stated, for instance, in the Corfu Channel Case (*ICJ Report 1949*, p. 4). See above, note 3, Cheng, B.: *Studies in International Space Law*, pp.280 and 289.

⁴² Convention on International Liability for Damage Caused by Space Objects (the "Liability Convention"), adopted by the General Assembly in its Resolution 2777 (XXVI), opened for signature on 29 March 1972, entered into force on 1 September 1972 (84 ratifications, 24 signatures, and 3 acceptances of rights and obligations, as of 1 January 2007).

⁴³ Article 5.5.

⁴⁴ Even if there is no explicit reference, it is absolutely clear that if there is no recovery

request, the launching authority has no duty to pay for the cost of that operation.

⁴⁵ For that reason, France proposed changing the verb in the first draft "shall be reimbursed" to "shall be borne" (doc. A/AC.105/C.2/SR.86, 14 December 1967, p.13).

⁴⁶ However, it may be said that the return of the space object should be "subject to the receipt of compensation for any damage caused [...] under article VII of the Space Treaty" (see above, note 3, Cheng, B.: *Studies in International Space Law*, p.283), or, even, subject to the payment of the cost of the recovery (see above, note 45 and the related text).

⁴⁷ <http://www.europapress.es/noticia.aspx?cod=20070313123909>