A photograph of an astronaut in a white spacesuit floating in space, with the Earth's horizon and atmosphere visible in the background. The astronaut is positioned centrally, looking towards the camera. The background shows the curvature of the Earth with a blue atmosphere and white clouds, set against the blackness of space.

IISL/ECSL Space Law Symposium, 9 April 2018
**The 50th Anniversary of the Rescue and Return Agreement:
Relevance and Challenges**

***The drafting and history
of the Rescue and Return Agreement***

Elina Morozova

Head of International & Legal Service

Intersputnik International Organization of Space Communications

The drafting and history of the Rescue and Return Agreement



Commended by **Resolution 2345 (XXII)**, 19 December 1967, *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space*

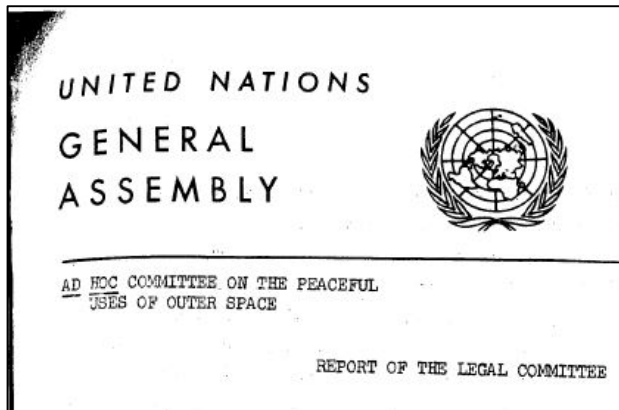
Opened for signature on 22 April 1968 in London, Moscow, and Washington

Entered into force on 3 December 1968, with the fifth instrument of ratification



Total number	Outer Space Treaty	Rescue Agreement	Liability Convention	Registration Convention	Moon Agreement
Ratification	107	96	95	67	18
Signature	24	23	19	3	4
Declaration	0	2	3	3	0

The drafting and history of the Rescue and Return Agreement



Distr.
GENERAL
A/AC.98/2
12 June 1959

Legal Problems Susceptible of Priority Treatment

Ad hoc Committee on the Peaceful Uses of Outer Space, Report of the Legal Committee, 1959

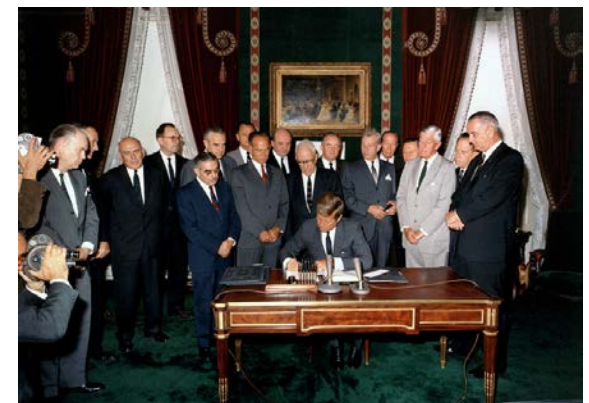
6. Re-entry and Landing of Space Vehicles

Problems of re-entry and landing of space vehicles will exist both with respect to unmanned space vehicles and later with respect to manned vehicles of exploration. Where space vehicles are designed for re-entry and return, it will be appropriate for the launching State to enter into suitable arrangements with the State on whose territory the space vehicle is intended to land and other States whose air space may be entered during descent. Recognizing, moreover, that such landings may occur through accident, mistake or distress, members called attention to the desirability of the conclusion of multilateral agreements concerning re-entry and landing, such agreements to contain suitable undertakings on co-operation and appropriate provisions on procedures. Among the subjects that might be covered by such agreements would be the return to the launching State of the vehicle itself and (in the case of a manned vehicle) provision for the speedy return of personnel.

It was also considered that certain substantive rules of international law already exist concerning rights and duties with respect to aircraft and airmen landing on foreign territory through accident, mistake, or distress. The opinion was expressed that such rules might be applied in the event of similar landings of space vehicles.

The drafting and history of the Rescue and Return Agreement

Session	Dates	Venue
<i>1st session</i>	28 May – 20 June 1962	Geneva
<i>2nd session</i>	16 April – 3 May 1963	New York
<i>3rd session</i>	9 – 26 March 1964	Geneva
	5 – 23 October 1964	New York
<i>4th session</i>	20 September – 1 October 1965	New York
<i>5th session</i>	12 July – 4 August 1966	Geneva
	12 – 16 September 1966	New York
<i>6th session</i>	19 June – 14 July 1967	Geneva
<i>Special session</i>	14 – 15 December 1967	New York

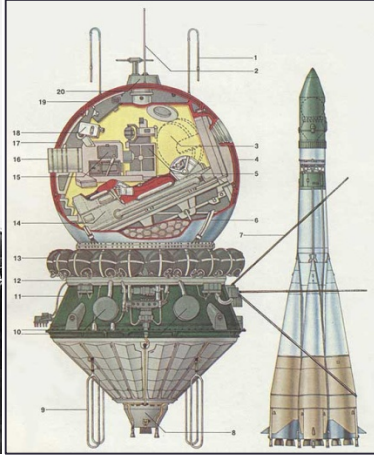


The drafting and history of the Rescue and Return Agreement

**Outer space should not
become a theater of cold war**

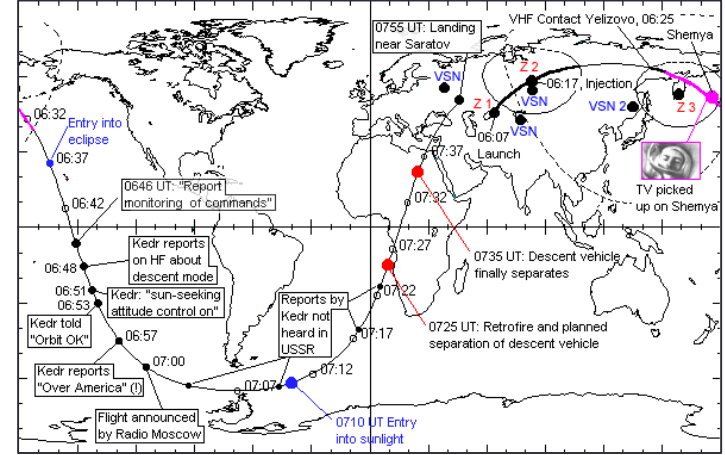


The drafting and history of the Rescue and Return Agreement



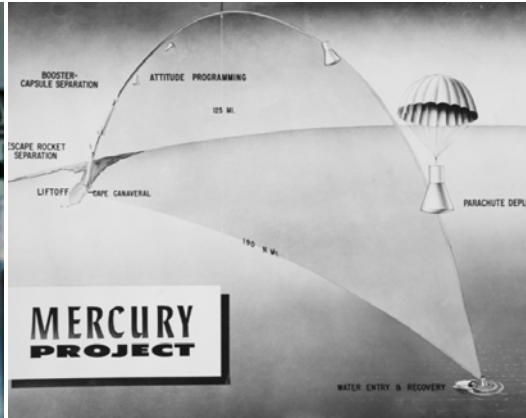
Yuri Gagarin
12 April 1961

Spacecraft: Vostok I
Spaceflight time: 1:48:00
Altitude: 175-302 km
Circles around the Earth: 1
Distance: 41 000 km



Alan Shepard
5 May 1961

Spacecraft: Freedom 7
Spaceflight time: 0:15:22
Altitude: 186,4 km
Distance: 483 km



Virgil Grissom
21 July 1961

Spacecraft: Liberty Bell 7
Spaceflight time: 0:15:37
Altitude: 189 km
Distance: 483 km

The drafting and history of the Rescue and Return Agreement

John Glenn

20 February 1962

Spacecraft: Friendship 7
Spaceflight time: 4:55:23
Altitude: 159-265 km
Circles around the Earth: 3
Distance: 121 000 km



Moscow, 21 February 1962

Letter From Chairman Khrushchev to President Kennedy



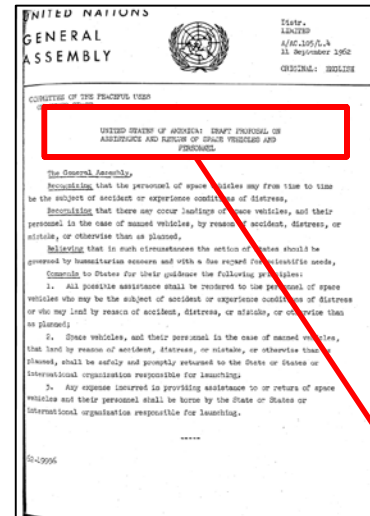
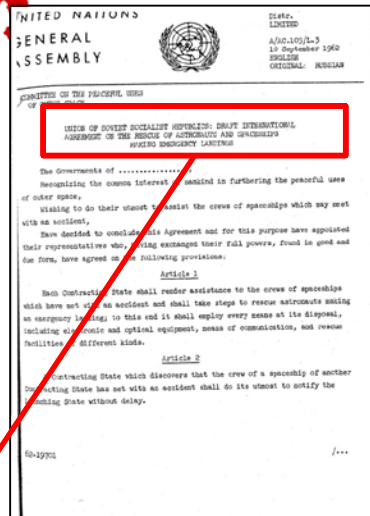
26.
MOSCOW--ADD K-GLENN (24)
THE TEXT OF KHRUSHCHEV'S MESSAGE, AS PUBLISHED BY TASS, SAID:
*ESTEEMED MR. PRESIDENT, ON BEHALF OF THE SOVIET UNION AND MYSELF
PERSONALLY I CONGRATULATE YOU AND THE AMERICAN PEOPLE ON THE SUCCESSFUL
LAUNCHING OF A SPACESHIP WITH A MAN ON BOARD.
*ANOTHER STEP HAS BEEN MADE IN THE EXPLORATION OF SPACE, AND THE
FAMILY OF THE COSMONAUTS HAS THIS TIME BEEN JOINED BY A CITIZEN OF
THE UNITED STATES OF AMERICA, LIEUTENANT COLONEL JOHN GLENN.
*SUCCESSFUL LAUNCHINGS OF SPACESHIPS, MARKING THE REACHING OF NEW
HEIGHTS IN SCIENCE AND TECHNOLOGY, MAKE US JUSTLY PROUD OF THE
UNLIMITED POTENTIALITIES OF HUMAN GENIUS TO SERVE THE WELFARE OF MAN.
*I SHOULD LIKE TO HOPE THAT THE GENIUS OF MAN, WHO PENETRATED
THE DEPTH OF THE UNIVERSE, WILL BE ABLE TO FIND A ROAD TO AN ENDURING
PEACE AND TO ENSURE PROSPERITY TO ALL PEOPLES ON OUR PLANET EARTH
WHICH, IN THE SPACE AGE, THOUGH IT DOES NOT SEEM TO BE SO LARGE, IS
STILL DEAR TO ALL ITS INHABITANTS.
*IF OUR COUNTRIES POOLED THEIR EFFORTS--SCIENTIFIC, TECHNICAL
AND MATERIAL--TO EXPLORE OUTER SPACE, THIS WOULD BE VERY BENEFICIAL
TO THE ADVANCE OF SCIENCE AND WOULD BE ACCLAIMED BY ALL PEOPLES
WHO WOULD LIKE TO SEE SCIENTIFIC ACHIEVEMENTS BENEFIT MAN AND NOT
TO BE USED FOR 'COLD WAR' PURPOSES AND THE ARMS RACE.
*PLEASE CONVEY HEARTY CONGRATULATIONS AND BEST WISHES TO ASTRONAUT
JOHN GLENN.
SIGNED N. KHRUSHCHEV. WE1012AES 2/21



The drafting and history of the Rescue and Return Agreement



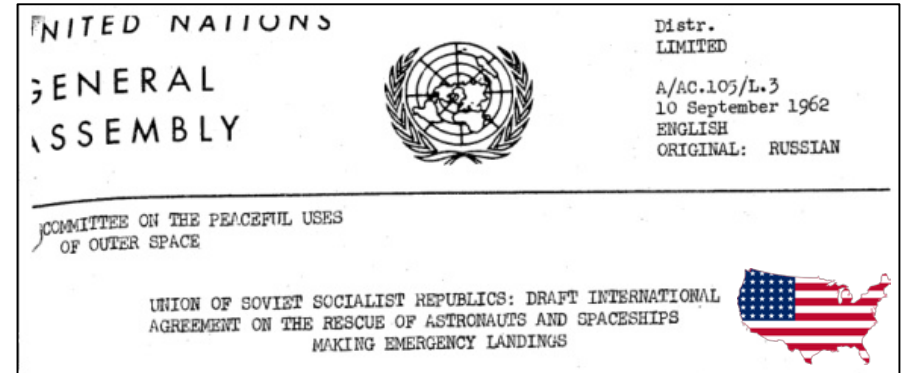
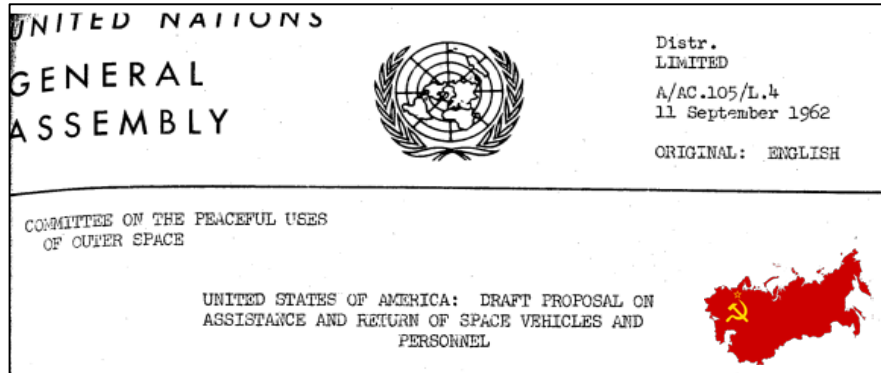
The two "mutually totally unacceptable" drafts, 1962



UNION OF SOVIET SOCIALIST REPUBLICS: DRAFT INTERNATIONAL AGREEMENT ON THE RESCUE OF ASTRONAUTS AND SPACESHIPS MAKING EMERGENCY LANDINGS

UNITED STATES OF AMERICA: DRAFT PROPOSAL ON ASSISTANCE AND RETURN OF SPACE VEHICLES AND PERSONNEL

The drafting and history of the Rescue and Return Agreement



International agreement

- Binding force
- Similar form of rescue agreements on aviation and at sea
- Specific and detailed standards of international conduct
- Non-controversial substance should not cause undue delay

General Assembly resolution


- The clear principles of assistance and return did not need a separate international agreement
- Resolution could be adopted in the shortest possible time
- + A proof that useful progress was being made by the Subcommittee

The drafting and history of the Rescue and Return Agreement

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

“7. ... **Such objects** [objects launched into outer space] **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.”

 In Resolution 1963 (XVIII), 13 December 1963, *International Co-operation in the Peaceful Uses of Outer Space*, the General Assembly requested the Committee

“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**”.

The drafting and history of the Rescue and Return Agreement

Return of spacecraft and astronauts

*“The key to the success
or failure of the Agreement
as a whole”*

**Criteria of the
“peaceful purpose”?**

**Espionage or collecting
data from outer space?**

Suggestions



Conditions
of the return
of spacecraft
and astronauts

- 1) Spacecraft
identification
- 2) Official
announcement
- 3) Peaceful
purposes



Return of all
spacecraft and
astronauts
unconditionally

*That did not affect
provisions for the rescue
of astronauts that were
to apply unconditionally*

The drafting and history of the Rescue and Return Agreement



German Titov

6 August 1961

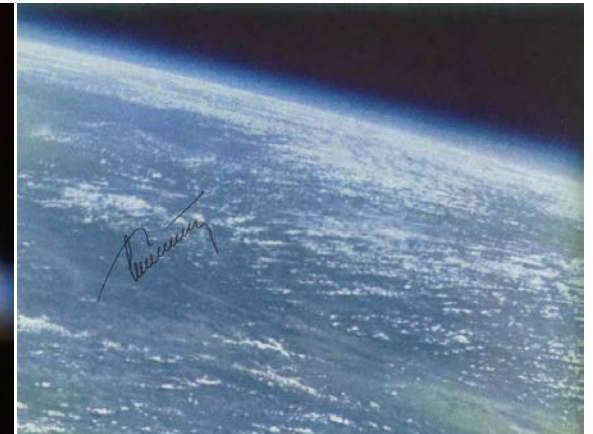
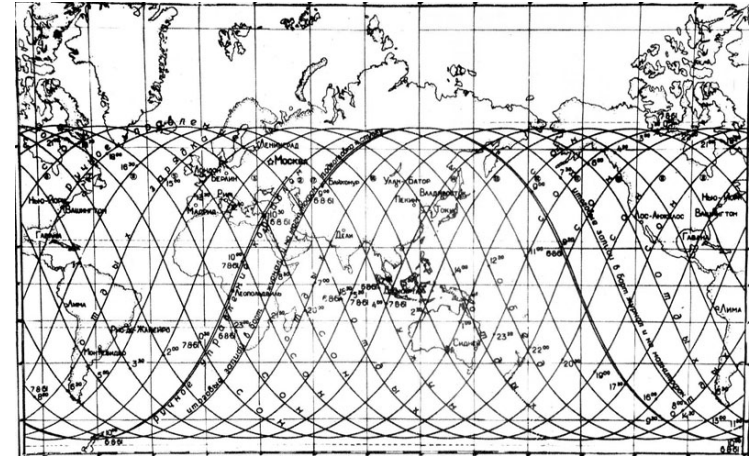
Spacecraft: Vostok II

Spaceflight time 25:18:00

Circles around the Earth: 17

Distance: 703100 km

The first cameraman in space



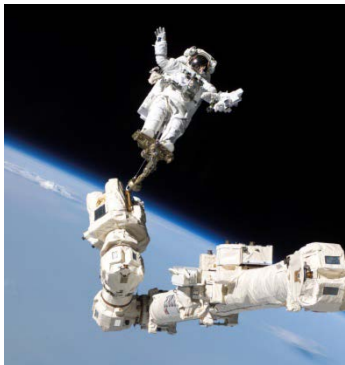
The drafting and history of the Rescue and Return Agreement



*The 1963 Declaration of Legal Principles
Governing the Activities of States in the Exploration and Use of Outer Space*

*The 1967 Treaty on Principles Governing the Activities of States in the Exploration
and Use of Outer Space, including the Moon and Other Celestial Bodies*

***States shall regard astronauts as
envoys of mankind in outer space***



peaceful purposes

The drafting and history of the Rescue and Return Agreement

No one could agree that the fate of an astronaut
would hang on lawyers' debate



The drafting and history of the Rescue and Return Agreement

The scope of the Agreement

**Agreement on the
Rescue of Astronauts,
the Return of
Astronauts and
the Return of Objects**
**Launched into
Outer Space**

Suggestions



The USSR suggested to withdraw from the discussion of and delete the “return” provisions from the Agreement:

Agreement on the rescue of astronauts,
~~return of space objects~~
~~and astronauts~~



A number of states considered the “return” provisions essential.

The Committee was requested to draft an agreement specifically on assistance to and return of astronauts and space vehicles

The drafting and history of the Rescue and Return Agreement

Finding a balance
between the principle of humanity
and the principle of sovereignty



Launching authority



Contracting party

The drafting and history of the Rescue and Return Agreement



The drafting and history of the Rescue and Return Agreement

Article 2, the Rescue and Return Agreement



“... ***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 ... 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”.

Article 5, the Rescue and Return Agreement

“**Contracting Party** which has reason to believe that a space object or its component parts ... 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**”.



The drafting and history of the Rescue and Return Agreement

International organizations’ participation in the Agreement

“Launching authority”



Suggestions



Space activities
should be carried
out **exclusively**
by states

States and IGOs
should not be
placed on an equal
footing

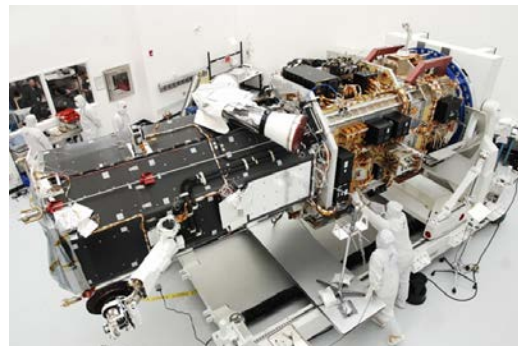
IGOs have neither territory, nor
nationals, nor sovereignty



States can **choose**
how they should
conduct their space
activities

IGOs should be
treated **in the**
same manner
as states

The drafting and history of the Rescue and Return Agreement



Smaller nations are willing to participate in space activities by pooling financial resources, techniques, and knowledge

The exploration and use of outer space are expensive and complex activities

International organizations

The drafting and history of the Rescue and Return Agreement

International organizations' participation in the Agreement

International organizations
should be regarded as
“launching authorities”
on certain conditions

Already
engaged



Article 6, the Rescue and Return Agreement

Where an *international intergovernmental organization* is responsible for launching, the term *“launching authority”* shall refer to that organization, provided that

- (1) that *organization declares its acceptance of the rights and obligations provided for in the Rescue and Return Agreement and*
- (2) *a majority of the States members of that organization are Contracting Parties to the Rescue and Return Agreement and to the Outer Space Treaty.*

The drafting and history of the Rescue and Return Agreement

Dispute Settlement

**There are no dispute
settlement rules in the
Rescue and Return
Agreement**

**Free to choose
among the peaceful
means of dispute
settlement**

Suggestions



The US draft provided
for the **compulsory
jurisdiction** of the
International Court
of Justice



Number of States
considered this only
possible on the basis
of **mutual consent**
of the parties

Only **38 of 115** states
parties to the statute of
the International Court
of Justice regarded its
decisions as having
binding force

The drafting and history of the Rescue and Return Agreement

States Parties to the Agreement

**A humanitarian nature
and a noble character
of the Agreement**

**A spacecraft in distress
would not be able to
select the territory of
its emergency landing**

Recognition of a state?

Suggestions



The Agreement
should be open
to **all states in
the world**



Provided for
participation by
**states within the
United Nations**



The drafting and history of the Rescue and Return Agreement

States Parties to the Agreement

Recognition of a state
is a result of a deliberate
decision

Such recognition
could not be inferred
from participation
in a treaty

Article 7, the Rescue and Return Agreement

This Agreement shall be open to all States for signature. Any State which does not sign this Agreement before its entry into force ... may accede to it at any time.



The drafting and history of the Rescue and Return Agreement

**Interrelation
between
the Rescue and
Return Agreement
and the Liability
Convention**

**Possible conflicts
of the absolute
obligation to
return
astronauts with
national laws**

**Final say
in the search
and rescue
operations**

**Entry into force and
amendments**

**... and some
others**

The drafting and history of the Rescue and Return Agreement

In mid-December 1967, a **Special Session** of the Legal Subcommittee was convened at the request of the USSR and the USA delegations, which presented a **single revised draft Agreement**. The draft Agreement was **approved**.

Meeting No.	Dates	Time
<i>86th meeting</i>	14 December 1967	3:20pm – 6:55pm
<i>87th meeting</i>	15 December 1967	11:00am – 12:30pm
<i>88th meeting</i>	15 December 1967	3:40pm – 5:40pm
<i>89th meeting</i>	15 December 1967	8:30pm – 10:10pm

On 16 December 1967, the Committee **approved** the draft Agreement and **submitted** it to the General Assembly.

On 19 December 1967, the General Assembly **endorsed** the Agreement by a unanimous vote of **115 States**.



The drafting and history of the Rescue and Return Agreement

27 January 1967

Ed White, Virgil Grissom, Roger Chaffee



24 April 1967

Vladimir Komarov



All possible efforts were to be made to **protect astronauts**
from unknown and unforeseeable dangers

The drafting and history of the Rescue and Return Agreement

The drafting and history: 1962, 1963, 1964, 1965, 1966, 1967



The two initially "*mutually totally unacceptable*" drafts submitted by the **USSR** and the **USA** and their further efforts to discuss the drafts



Hard work of the **Legal Subcommittee** and contributions of its **member states** – it was them who helped overcome deadlocks and opened the way to further progress in agreeing upon and adopting the Rescue and Return Agreement

The drafting and history of the Rescue and Return Agreement

**Congratulations on the 50th anniversary
of the Agreement on the Rescue of Astronauts,
the Return of Astronauts and the Return
of Objects Launched into Outer Space!**



A photograph of an astronaut in a white spacesuit floating in space, with the Earth's horizon and atmosphere visible in the background. The astronaut is positioned centrally, looking towards the camera. The text is overlaid on the image.

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Thank you!

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