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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Thirteenth session

SUMMARY RECORDS OF THE TWO HUNDRED AND EIGHTH TO TWO HUNDRED AND TWENTY-FIFTH MEETINGS

held at the Palais des Nations, Geneva, from 6 to 31 May 1974

Chairman: Mr. WYZNER Poland

The list of representatives attending the session appears in document A/AC.105/C.2/INF.6.

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ABBREVIATIONS

ECA	Economic Commission for Africa
ECWA	Economic Commission for Western Asia
ERTS	Earth Resources Technology Satellite
FAO	Food and Agriculture Organization of the United Nations
ICAO	International Civil Aviation Organization
ITU	International Telecommunication Union
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPU	Universal Postal Union
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTH MEETING

held on Monday, 6 May 1974, at 3.15 p.m.

Chairman : Mr. WYZNER (Poland)

STATEMENT BY THE CHAIRMAN (item 1 of the provisional agenda)

The CHAIRMAN declared open the thirteenth session of the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space and welcomed the nine new members: Chile, the German Democratic Republic, the Federal Republic of Germany, Indonesia, Kenya, Nigeria, Pakistan, Sudan and Venezuela.

In its resolution 3182 (XXVIII) on international co-operation in the peaceful uses of outer space, the General Assembly had asked the Sub-Committee to give the highest priority to the draft treaty relating to the Moon and the draft convention on registration of objects launched into outer space, to which it had already devoted its twelfth session. It had also asked the Sub-Committee to give high priority to the question of elaborating principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements, to devote part of the current session to the legal implications of the earth resources survey by remote sensing satellites and thus to respond to the request of the Working Group on Remote Sensing of the Earth by Satellites. The Assembly had also agreed that, as time permitted, the Sub-Committee should consider matters relating to the definition and/or delimitation of outer space and outer space activities.

Thus, the Sub-Committee had a heavy workload for the present session; it must discharge its functions in a most constructive manner and members must demonstrate the same spirit of understanding and co-operation as in the past. In that regard, the Sub-Committee would be inspired by the strengthening of peaceful international co-operation on outer space as exemplified by the preparations for the Soyuz-Apollo flight in 1975.

ADOPTION OF THE AGENDA

The provisional agenda (A/AC.105/C.2/L.90) was adopted.

ORGANIZATION OF WORK

The CHAIRMAN said that, after consulting a number of delegations on the organization of the work of the session, he had certain suggestions to make to the Sub-Committee.

First, the Sub-Committee should begin its work with an exchange of views on the items before it. The general debate would take about three days and the rest of the first two weeks would be devoted to discussion of the draft treaty relating to the Moon and of the draft convention on the registration of objects launched into outer space.

Secondly, the Sub-Committee should re-establish Working Group I to consider the draft treaty relating to the Moon and Working Group II to consider the draft convention on registration. It had been suggested that the representative of Hungary should serve as chairman of Working Group I and the representative of Austria as chairman of Working Group II. The Sub-Committee should also establish a Working Group III, under the chairmanship of the representative of India, to deal with agenda item 4 entitled "The various implications of space communications: report of the Working Group on Direct Broadcast Satellites". The third week of the session would be devoted, in principle, to the examination of that item.

Thirdly, the meetings at which the above items were considered would be plenary meetings or working-group meetings, as appropriate.

Lastly, at the beginning of the fourth week, the Sub-Committee should take up agenda item 5 (Matters relating to the activities carried out through remote sensing satellite surveys of earth resources). It should devote appropriate time to that item, as recommended in General Assembly resolution 3182 (XXVIII), taking into account the progress made on the other items. The Sub-Committee would decide on how to allocate the remaining time in the course of the session.

The Chairman's proposals concerning the organization of work were adopted.

The CHAIRMAN suggested that the Sub-Committee should begin its general debate on the items of the agenda at the next meeting.

It was so agreed.

The meeting rose at 3.35 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND NINTH MEETING

held on Tuesday, 7 May 1974, at 3.15 p.m.

Chairman: Mr. WYZNER (Poland)

GENERAL DEBATE

The CHAIRMAN recalled that the item concerning the draft treaty relating to the Moon had been on the Sub-Committee's agenda since its eleventh session. Some of the provisions of the draft treaty raised issues that remained unresolved: the scope of the treaty, the legal régime governing the exploitation and use of the natural resources of the Moon (particularly with regard to the term "common heritage of mankind"), and the provision of information on missions to the Moon. There were still differences of opinion concerning the nature of the activities that could be permitted pending the entry into force of an international régime: activities of a scientific nature only or activities for any peaceful purposes. The Sub-Committee should, for the moment, occupy itself in ironing out the difficulties, so that the draft treaty could be completed at the current session, as the General Assembly had requested in its resolution 3182 (XXVIII).

Mr. PIRADOV (Union of Soviet Socialist Republics) gave an account of the space research work carried out by his country since the Sub-Committee's twelfth session (on communications, meteorology, the study of natural resources, etc.). Work concerned with the planet Mars had continued successfully; there had been the simultaneous flight of four automatic stations during the summer of 1973, and the Soyuz XII and Soyuz XIII missions, in September and December 1973 respectively, had enabled some very useful observations to be made, particularly with respect to the study of natural resources, the structure of the earth's crust, and ocean currents.

Inter-country co-operation, which had played a very important role in the progress of space science and technology, should make it possible to extend the benefits of that progress to all mankind. It was in that spirit that the USSR and the socialist countries had jointly embarked on a vast programme of concerted research - the Inter-Cosmos programme - under which 10 satellites had been launched. In addition, co-operation between States with different economic and social systems had made it possible for those States, despite their ideological, social and economic differences, to establish and maintain fruitful scientific, technical and economic relations based on the principles of sovereignty, equality, non-interference in domestic affairs and mutual advantage.

France had been the first country to sign a co-operation agreement with the USSR, and the two countries had scrupulously fulfilled the obligations stemming from that agreement. Scientific information was regularly exchanged between the two countries, and in December 1973, a Franco-Soviet satellite had been launched.

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* Incorporating document A/AC.105/C.2/SR.209/Corr.1.

There was also fruitful co-operation between the Soviet Union and India. With the help of a Soviet rocket, an Indian satellite had been placed in orbit, and the USSR Academy of Science was collaborating with its Indian counterpart.

Co-operation between the Soviet Union and the United States of America in the exploration and use of outer space for peaceful purposes was continuing sucessfully under the agreement concluded between the two countries in May 1972. Active preparations were being made on both sides for the joint flight of two manned space craft that was to take place during the summer of 1975.

The 1972 Soviet-American agreement was not limited to the technical aspects of co-operation in space; it also laid down the principle of the peaceful use of outer space according to the rules of international law, and thus contributed to the development of international space law.

As to the draft treaty relating to the Moon, one of the most difficult questions to solve was that of the status of the Moon's natural resources. To achieve a compromise which should satisfy all interested States, his delegation proposed that it should be stipulated in the treaty that the natural resources of the Moon should be capable of forming the object of common use by all States.

With respect to the draft convention on registration of objects launched into outer space for the exploration or use of outer space, his delegation thought that work should continue on the basis of a text stipulating that the State in which a space object was registered should inform the United Nations Secretary-General if the object was marked with a registration number or a conventional name. It was putting that variant forward as a compromise.

On the question of direct broadcasting satellites, there had been some interesting proposals in the Working Group on Direct Broadcast Satellites. It had been recognized that States should co-operate and, more particularly that they should facilitate the access of developing countries to the work done in that field, which was of special importance to them. His delegation also attached great significance to the principle of State responsibility. In its view, it was essential that television broadcasts relayed by satellite to foreign States should be permitted only by organizations authorized by the Governments of the States concerned and acting under their supervision. It welcomed the proposal along those lines made by the Austrian delegation at the fifth session of the Working Group.

With respect to the organization of work, he pointed out that the decision to hold meetings of the Committee's subsidiary bodies alternately at Geneva and New York had created difficulties for countries which found they were obliged to send large delegations of specialists to New York several times a year. The argument put forward in support of that decision was the desire to economize. In the periods between January and April or between September and December, however, it would not be much more expensive to hold meetings of the Legal Sub-Committee at Geneva than in New York.

For reasons of economy also, the Sub-Committee could give up summary records and be satisfied with verbatim records. The Sub-Committee might

sk the competent services of the United Nations to give it quantified stimates of all relevant costs, so that it could put forward a recommendation sed on a full knowledge of the facts.

Mr. GUY (Legal Adviser) said that the Legal Sub-Committee had a eat deal of work to do not only on the draft treaty relating to the Moon d the draft convention on registration of objects launched into outer ace, but also on the remote detection of the earth's resources and on tellite television. Its work, which would be of capital importance, rticularly for the developing countries, could be related to the question non-renewable resources, which had been considered by the General sembly at its sixth special session. Everyone knew that the utilization such resources was presenting some thorny legal problems and those problems re especially serious in the context of space. There, too, the conflict tween the concepts of sovereignty and freedom was very difficult to resolve. e problems encountered with respect to the law of the sea gave some idea those that were going to arise in the case of space.

Mr. MISHRA (India) congratulated the Chairman on his re-election d welcomed the nine new members of the Sub-Committee, most of them veloping countries.

His own country attached great importance to the preparation of legal struments concerning the peaceful uses of outer space. At a time when ectacular advances were being made in space research, the law should not g behind. In its resolution 3182 (XXVIII), the General Assembly had commended that the Legal Sub-Committee should make every effort at the esent session to complete the consideration of the items that were on its enda.

In respect of the draft treaty relating to the Moon, a number of problems ill remained. So far as the scope of the treaty was concerned, his legation was of the opinion that the treaty should apply also to celestial dies until such time as they formed the subject of other treaties. With gard to the legal régime of the natural resources of the Moon and other lestial bodies, he said that the debates in the Committee on the Peaceful es of Outer Space and in the First Committee of the General Assembly owed that most countries wanted certain principles to be enunciated in the eaty: first, the Moon and other celestial bodies and their resources re the common heritage of mankind; secondly, the States parties to the eaty should undertake to establish an international régime for the orderly d safe development of those resources and ensure equitable sharing by all ates of the benefits derived therefrom, taking into particular consideration e interests and needs of the developing countries; thirdly, the ex- ploitation of those resources should not be undertaken except in accordance th the international régime.

At the twelfth session of the Sub-Committee, there had been general pport for proposals which India had submitted in Working Group I. Under ose proposals, the results of scientific investigations carried out on e Moon and other celestial bodies should be disseminated on an inter- tional basis and shared with non-space powers. In addition, the States rties to the treaty should undertake to inform the international community any evidence of the existence of natural resources on the Moon, a proposal ich had also been submitted by the delegations of the United States of erica and Austria on different occasions. He hoped that there would be

no difficulty in arriving at an appropriate formulation on those issues.

So far as the draft convention on registration of objects launched into outer space was concerned, he thought that the Sub-Committee would be able to prepare a final draft at the current session, for relatively few problems remained to be solved. In his delegation's opinion, the convention should make it mandatory to mark objects launched into outer space and to report particulars of such markings to the Secretary-General. Indeed, it seemed to be generally agreed that marking should form an essential part of registration and would contribute to the application of the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777(XXVI), annex).

Mr. MILLER (Canada) said that his country attached particular importance to the draft convention on registration of objects launched into outer space - which was near completion - and to the question of direct broadcast satellites. Admittedly, less progress had been made in the latter problem, but the broad measure of agreement reached on a number of issues should facilitate the work of the Sub-Committee.

The basic principles underlying the Franco-Canadian draft convention on registration of objects launched into outer space[1] had in the main body been approved by the Sub-Committee and by the main Committee itself. The marking of space objects by launching States was the only problem still outstanding, and he was confident that the Sub-Committee would be able to resolve it at the present session. For that purpose, and after having consulted with other countries, Canada had prepared a redraft of the article on marking which should prove satisfactory and which he would introduce at the appropriate time. The redraft modified only slightly article III *bis*, the text of which was shown in brackets in the report of the Committee (A/9020 and Corr.1[2] annex II, appendix B), and thus did not make marking absolutely mandatory. It would, however, oblige launching States to communicate information concerning space objects which were marked. It was a compromise solution which should dispel the fears of some countries, and the acceptance thereof would not necessarily preclude the adoption later on, in the course of a review of the convention, of more comprehensive requirements on marking. He emphasized that the completion of the draft convention would represent a significant step forward and would, among other things, facilitate the application of the Convention on International Liability for Damage Caused by Space Objects.

The draft treaty relating to the Moon raised more delicate problems, particularly so far as the resources of the Moon were concerned. However, past efforts had not been made in vain; even though the formulations proposed had not met with general acceptance, they had been useful in presenting a fairly comprehensive range of alternatives and had stimulated further thought. His own country was willing to participate fully in the work of the Sub-Committee in that connexion, hoping at the same time that the Sub-Committee would be able to consider the other equally important items on its agenda.

1/ A/AC.105/C.2/L.86.

2/ *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 20*.

With regard to the principles to govern future activities in the field of direct broadcasting by satellites, the delegations of Sweden and Canada had jointly submitted a number of documents, in particular a text of principles that had been considered at the fourth session of the Working Group on Direct Broadcast Satellites, in 1973, and more recently, at its fifth session, a new working paper,[3] in which they endeavoured to answer various objections made over the past year with regard to those principles. The fifth session of the Working Group on Direct Broadcast Satellites had been very constructive - the various proposals submitted by the USSR, Canada and Sweden, the United States of America and Argentina had been compared, and the progress made by the Working Group should prove most useful to the Sub-Committee. Referring to General Assembly resolution 3182 (XXVIII), he expressed the view that the Sub-Committee should now begin to draft principles for direct television broadcasting by satellites by establishing a working group and dealing first with the less controversial principles. His delegation reserved the right to revert to that question during the consideration of agenda item 4 (The various implications of space communications: report of the Working Group on Direct Broadcast Satellites).

As to agenda item 5, concerning remote sensing satellite surveys of earth resources, his delegation was of the opinion that, if there was to be an international legal régime, it should not be so restrictive as to inhibit the development of a technology which was useful to all countries. Admittedly, the absence of any international regulation of remote sensing might, at least in theory, allow the technologically advanced countries to acquire a considerable advantage over others in the exploration and exploitation of natural resources and to exploit that advantage in their economic relations with the less advanced countries. However, Canada was convinced that that fear could be alleviated somewhat by establishing regional ground receiving and disseminating centres and by furthering international co-operation in the analysis, interpretation and dissemination of information obtained through remote sensing. He hoped therefore, that the Sub-Committee would endeavour to strike a balance between the imperative of the sovereignty of States, particularly so far as their natural resources were concerned, and the considerable benefits from remote sensing that were likely to accrue to mankind in many fields.

Lastly, in view of the heavy work programme and the other important items, he did not believe that the Sub-Committee would be able to devote much time to agenda item 6 (Matters relating to the definition and/or delimitation of outer space and outer space activities).

Mr. PERSSON (Sweden) stated that his delegation had on many occasions expressed its position regarding the problems of the drafting of a treaty relating to the Moon and a convention on registration of objects launched into outer space. It would play an active part in the two working groups and would be specially interested to learn the views of the new members of the Legal Sub-Committee.

He had listened with interest to the statement by the representative of Canada and especially to his remarks on direct broadcasting by satellite. Canada and Sweden had worked together on that question and had submitted various papers on the subject to the Working Group on Direct Broadcast

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3/ A/AC.105/WG.3/L.8

Satellites. The two Governments had, in the course of that work, formulated draft principles intended to institute an order, acceptable to all States, that was based on international co-operation and participation. Those draft principles, which took account of rules already applied by the international community, should gain support within the Sub-Committee.

In connexion with agenda item 5, his delegation considered that attention should be given primarily to the question of organization in the remote sensing field. At the eleventh session of the Scientific and Technical Sub-Committee, Sweden had submitted a plan for an operational remote-sensing system for global needs.

His delegation reserved the right to revert to agenda items 4 and 5 when the Sub-Committee came to consider them.

The meeting rose at 4.50 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TENTH MEETING
held on Wednesday, 8 May 1974, at 10.45 a.m.

Chairman : Mr. WYZNER (Poland)

GENERAL DEBATE (continued)

The CHAIRMAN, referring to agenda item 3 (Draft convention on registration of objects launched into outer space for the exploration or use of outer space), outlined the background of the draft convention on registration of objects launched into outer space. The question had first been raised by the French delegation in 1968 but, because of other urgent matters before the Sub-Committee, had not been discussed substantively until its eleventh session, in 1972, when a joint Canadian-French draft convention had been submitted and a Working Group had been established to consider the proposal. At its twelfth session in 1973, the Sub-Committee, which had had before it a further draft convention, proposed by the United States of America, had re-established the Working Group, which had approved the text of the preamble and 10 articles and the title of the draft convention. That text had been reviewed by the Committee on the Peaceful Uses of Outer Space at its sixteenth session in June-July 1973 in the Committee's informal working group of the whole, which had reached agreement on the wording of a review clause but not on a text on the marking of space objects. The Chairman of the informal working group, reporting on the views of its members, had noted that a number of delegations were of the opinion that a provision on marking was an indispensable element of the convention and marking should be mandatory. The view had also been held that it would be desirable to include an article providing for marking to be applied internally or externally on the space object at the time of manufacture and for communication of that fact to the Secretary-General of the United Nations. A contrary view had been advanced to the effect that the convention should not contain any provision on marking, because there was not available, nor would there be in the foreseeable future, an economically feasible or technologically practicable marking system. Finally, the opinion had been expressed that a reasonable compromise might be the adoption of a provision for non-compulsory marking, while making mandatory the communication of information on marking to the Secretary-General. No further progress had been made on the draft convention at the twenty-eighth session of the General Assembly, which in its resolution 3182 (XXVIII) had requested the Legal Sub-Committee to try to finalize the text at its current session as a matter of the highest priority.

In conclusion, he drew attention to the Canadian proposal on the question of marking contained in document A/AC.105/C.2/L.92.

Mr. REINTANZ (German Democratic Republic) thanked all those who had extended a welcome to the new members of the Committee on the Peaceful Uses of Outer Space. The German Democratic Republic had for many years been contributing to the exploration and use of outer space. It was a

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* Incorporating document A/AC.105/C.2/SR.210/Corr.1.

member of INTERSPUTNIK and of the Inter-Cosmos research programme and had ratified the various space treaties. The German Democratic Republic therefore attached great importance to the work of the Committee, and particularly that of its Legal Sub-Committee, and looked forward to co-operating with other members in solving legal problems relating to space activity within the framework of the fundamental principles of international law. Co-operation in that field would be a step towards international political détente and to the improvement of international relations.

His delegation would support all proposals embodying a realistic approach to the questions to which the General Assembly had requested the Sub-Committee to give priority: namely, the draft treaty relating to the Moon, the draft convention on registration of objects launched into outer space and the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting.

Considerable progress had been made towards working out a final text for the draft treaty relating to the Moon, and some of the statements made at the 209th meeting held out hope that the outstanding problems could be resolved. However, the treaty should apply solely to the Moon and not to other celestial bodies; it was premature to deal in detail with the legal problems of the exploration and use of the planets in the earth's solar system.

The Sub-Committee should be able to complete its work on the draft convention on registration in due time; the statements by the Soviet and Canadian delegations at the 209th meeting were encouraging and hopeful in that regard.

With regard to the elaboration of principles governing direct television broadcasting by satellite, that technique should be utilized exclusively in the interests of peace, the reduction of international tensions and the development of friendly relations between all peoples and should be based on the principles of sovereignty, non-interference in domestic affairs, equality, co-operation and mutual benefit. Accordingly, direct broadcasting by satellite was admissible only if the receiving State expressly agreed to receive the transmission concerned. Such broadcasting without the consent of the State concerned was a violation of its sovereignty and an act of interference in its internal affairs.

Mr. MORRISON (Australia), after expressing his delegation's willingness to help the nine new members of the Sub-Committee to get their bearings, said that since the twelfth session a great deal of work had been done towards arriving at a consensus on the text of the draft treaty relating to the Moon. His delegation hoped that progress would continue and that it would become apparent early in the present session.

With regard to the draft convention on registration, he noted that the difficulties concerning the question of marking now appeared to be less formidable and that other delegations, like his own, had been able to move forward from their previous position. He drew attention, however, to his delegation's general reservation in relation to the text of the convention, which had been expressed at the 203rd meeting and was reproduced in the relevant summary record. If a consensus were to emerge on a satisfactory provision relating to voluntary marking and on a satisfactory provision relating to the review of the convention, Australia would be prepared to consider removing its general reservation on that text.

Turning to the subject of direct broadcast satellites now being taken up by the Sub-Committee for the first time, he advocated that consideration should be given to the procedure and documentation by which the subject would receive detailed study and the precise aims of that study. The Working Group on Direct Broadcast Satellites had already managed to achieve a large measure of consensus and, in the view of his delegation, if given the opportunity, it might well be able to clear up all outstanding issues. It was equally important that procedures, documentation and aims should also be considered when the Sub-Committee came to deal with the matter of remote sensing.

Mr. RANDERMANN (Federal Republic of Germany) thanked those who had welcomed his delegation to the Sub-Committee, whose work the Federal Republic of Germany had for some years been following with great interest. The Federal Republic had signed and ratified the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies[4] (the outer space Treaty), to which it attached great importance. It had also ratified the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII) annex). As to the Convention on International Liability for Damage Caused by Space Objects, it was being submitted to Parliament for ratification.

His Government considered the continuous and harmonious development of space law to be an important prerequisite for future progress in the peaceful exploration and use of outer space. It was prepared to participate in the further work of the Legal Sub-Committee in accordance with the aims and principles of the Charter of the United Nations and also of the outer space Treaty. It wished to contribute to the establishment of a balanced legal framework for outer space activities, taking into account the current level of technological development and, as far as possible, the interests of all. His delegation was prepared to accept the consensus thus far reached on the draft treaty relating to the Moon and the draft convention on registration of objects launched into outer space. It was convinced that it would soon be possible to reach agreement on the marking of space objects, the only outstanding substantive problem connected with the convention on registration. Although less progress had been made on the draft treaty relating to the Moon - in particular, the question of the exploitation of the Moon's natural resources remained unresolved - a solution could be found if a realistic attempt was made to reconcile the legitimate interests of the developing countries with the need to avoid deterring countries from investing further resources in outer space activities. The Sub-Committee should also endeavour not to prescribe regulations for the too-distant future and not to set a precedent for the work being done on the law of the sea.

His delegation was pleased to note that the Sub-Committee would also have time to discuss the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting, and in that connexion looked forward to receiving the report of the Working Group on Direct Broadcast Satellites, which was to be commended for its excellent work. The central point still at issue appeared to be the relationship between the sovereign rights of States and the principle of freedom of information. His Government took the view that both those principles were of equal value and should both be taken into account.

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[5] A/AC.105/WG.3/L.8, Sect.4 (b) (ii).

His delegation was especially interested in the principle of "participation" first formulated by Sweden and Canada,2/ which merited further exploration and might prove particularly valuable to the developing countries.

It was also gratified to note that the Sub-Committee would be considering the legal implications of remote sensing of the earth by satellites. It took the view that any regulations on that matter should not be so restrictive as to inhibit the future development of remote sensing, which should not, however, have the effect of widening the gap between space and non-space Powers. A better knowledge of the possible legal solutions to that problem would facilitate the task of the Committee on the Peaceful Uses of Outer Space in making proposals for international co-operation in that field, as requested by the General Assembly in paragraph 13 of its resolution 3182 (XXVIII).

Mr. CHARVET (France) extended a welcome to the new members. The enlargement of the Committee on the Peaceful Uses of Outer Space appropriately reflected the increase in the United Nations membership which had occurred in recent years and would facilitate the elaboration of a body of space law which took into account the interests of all countries, and particularly the developing countries, to which progress in space technology could be of great assistance in the attainment of full economic independence and the solution of socio-cultural problems. His delegation also wished to congratulate the two major space Powers on the achievements of the previous year, which had provided a rich store of new knowledge in the outer space field.

France had been steadily pursuing its own space activities programme. In addition to purely national activities, it had accorded considerable importance to international co-operation in keeping with the spirit and letter of the outer space Treaty. In September 1973, under WMO auspices and in co-operation with the USSR, the United States of America and the United Kingdom, France had carried out at the Kourou base an international project for the comparison of meteorological measurement techniques. French measuring instruments had been used in Soviet space probes to Mars in August 1973. In November 1972, and January 1973, two space probes had been launched at the Thumba International Equatorial Sounding Rocket Launching Station (TERLS) within the framework of Franco-Indo-United States co-operation. France and the United States of America had also co-operated in the Skylab project, and France would be playing a role in the development of ultraviolet astronomy and the earth resources experiment package (EREP) system for remote sensing of earth resources. His country wished to maintain and increase such international co-operation in the future - particularly with the United States of America in connexion with the Orbiting Solar Observatory operation scheduled for May 1975 and with the Soviet Union in connexion with the ARAKS operation scheduled for January 1975.

The rapid development of space techniques served to emphasize the need to ensure that space law was not outstripped by technology, and in fact anticipated technology in certain fields, in order to avoid a situation in which new techniques of great potential benefit to mankind might one day

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2/ A/AC.105/C.3/L.8, sect.4 (b) (ii).

become a new source of international tension. For that reason, his delegation welcomed the very full agenda for the Sub-Committee's current session. The questions of direct broadcasting satellites and remote sensing satellite surveys had already been studied in sufficient detail for the Sub-Committee to proceed to the stage of elaborating legal principles governing those two subjects.

With regard to the draft treaty relating to the Moon, his delegation would continue to support all compromise proposals concerning outstanding points of disagreement, in an endeavour to bring the Sub-Committee's work on that subject to a rapid and successful conclusion.

As to the draft convention on registration of objects launched into outer space, his delegation was grateful for the spirit of co-operation which had enabled the Sub-Committee, at its twelfth session, to reach agreement on all but one of the draft articles of the Franco-Canadian text. His delegation intended to reciprocate by acting in a spirit of compromise, which should enable consideration of the draft convention to be brought to a speedy conclusion. Since 1968, France had favoured the mandatory marking of space objects; other countries had opposed that position, adducing technical arguments concerning the difficulty and expense of marking. A consensus might be reached by shelving the question of a compulsory marking system through the use of a revision clause which would enable the matter to be considered at a later date when the large number of space objects would make the need for such a system obvious to all. If such a revision clause was generally acceptable, as it appeared to be, his delegation would have no objection to accepting a compromise article on marking which in substance reflected the text elaborated at the twelfth session. It only requested that, when a State marked a space object - and that would be merely a matter of practice, not a legal obligation - it should so inform the Secretary-General. His delegation appealed to all members to accept that compromise so that the draft convention on registration could be finalized and the Sub-Committee could have adequate time to consider direct satellite broadcasting and remote sensing - matters which were of even greater concern to many States, particularly the developing countries.

With regard to direct broadcast satellites, a question to which his Government gave the same priority as to the registration of space objects and the draft treaty relating to the Moon, he wished to pay a tribute to the delegations of Argentina, the USSR, the United States of America, Sweden and Canada which, at the fifth session of the Working Group on Direct Broadcast Satellites, had enabled a consensus to be reached on certain points which could be reflected in the future declaration of principles governing direct television broadcasting by satellite. For his delegation, such a declaration of principles would not be an end in itself but the first step towards the elaboration of a corpus of mandatory international law. Although it did not doubt that the space Powers were acting in conformity with the outer space Treaty and for the general good of mankind, changes could occur in States' philosophies and ideals, and it was necessary to avoid a situation in which direct satellite broadcasting might go unchecked.

His delegation was prepared to improve the terminology of its draft principles relating to remote sensing by satellite, but wished to hear the views of other delegations before taking a definite stance on the matter.

While his delegation favoured international legislation in that area, as in others, it was for the time being difficult, if not impossible, to go further than a declaration of principles - there were still too many problems to consider, particularly problems of organization, to enable highly specific rules to be adopted at the current stage.

A problem which had been neglected by the Sub-Committee in recent years was the definition and delimitation of space. While he realized that some delegations were not yet prepared to discuss that matter, he wished to emphasize its urgency and importance; the paradoxical situation had developed in which there existed a number of sound international space agreements whose scope was not precisely known. That situation would be sure to pose serious difficulties in the near future and create a risk of conflict between space law and air law.

Mr. VACHATA (Czechoslovakia) said that he wished to set out his delegation's position on the draft treaty relating to the Moon, the draft convention on registration of objects launched into outer space, and the problems of direct television broadcasting by satellites.

The Sub-Committee had achieved its most tangible results in the preparation of the draft treaty relating to the Moon. Simultaneously, research concerning the Moon and other celestial bodies had provided the practical experience necessary for formulating the principles to be enunciated by the treaty. His delegation was therefore convinced that full agreement could be reached at the present session on a final draft of the treaty, which would constitute a significant contribution to the progressive development of international law in the important field of outer space.

His delegation would like to make its contribution to the solution of the problems connected with the draft treaty that were pending. The question whether the scope of the treaty should be limited to the Moon or should extend to the planets and other celestial bodies could be decided on the basis of the compromise proposals put forward at the Sub-Committee's twelfth session by the delegations of Bulgaria and the United Kingdom, under which the treaty would relate to the Moon but would contain a provision that it could also be applied to the planets and other celestial bodies in the solar system until the entry into force of separate arrangements in regard to such bodies.

Another unresolved question concerned the provision of information to which States were committed under the outer space Treaty; some delegations considered that such information should be provided on completion of a particular mission, while others were of the opinion that it should be submitted before the mission. That problem, too, could be solved by a compromise in which it would be stipulated that information should be submitted as soon as possible; contracting parties would undertake to provide information on the purpose, time and duration of the mission as soon as it was begun, and information on its results, including scientific results, upon its completion. That solution would be fully in accordance with the generally accepted principles of international law, especially that of the sovereignty of States.

A number of specific questions had to be solved in connexion with the controversial problems relating to the exploitation of natural resources on the Moon and other celestial bodies. Firstly, his delegation proposed that the draft treaty should contain a provision prohibiting national appropriation of, ownership of, or any other property transactions relating to, the surface and subsoil of the Moon and other celestial bodies, since it had already agreed in article II of the outer space Treaty that such appropriation was inadmissible.

Secondly, the reasons why the concept of the "common heritage of mankind", as envisaged by some delegations was unacceptable to a number of other delegations, including his own, were well known from the Sub-Committee's twelfth session. A suitable compromise solution might be reached on the basis of the outer space Treaty, which stated that the exploration and use of outer space, including the Moon and other celestial bodies, should be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and should be the province of all mankind.

Thirdly, with regard to the establishment of an international régime, including machinery for the development, exploration and management of natural resources on the Moon and other celestial bodies, he wished to draw the Sub-Committee's attention to the fact that activities undertaken so far on the Moon and other celestial bodies had been exclusively for the purposes of scientific research and that the draft treaty should further international co-operation in that sphere in the interests of all mankind. His delegation therefore considered that the draft should not be overburdened by far-reaching commitments relating to activities in the distant future; it proposed the inclusion of a provision committing contracting parties to work out such an international régime as soon as the exploitation of those natural resources proved technically possible.

His delegation was sure that the other outstanding questions could be solved without difficulty, as could the remaining minor technical matters that still had to be resolved in the drafting of the convention on registration of objects launched into outer space.

The Sub-Committee had so far made little progress in drawing up the principles governing direct television broadcasting by satellites for the purposes of an international agreement or agreements on that subject. The Czechoslovak delegation, which had already explained its position both in the Sub-Committee and at the twenty-seventh and twenty-eighth sessions of the General Assembly, welcomed the establishment of a separate working group to study the question in detail. An excellent basis for that group's work would be the documents prepared at the fifth session of the Working Group on Direct Broadcast Satellites, which his delegation would like to thank for its useful contribution.

The meeting rose at 11.45 a.m.

SUMMARY RECORD OF THE TWO HUNDRED AND ELEVENTH MEETING

held on Thursday, 9 May 1974, at 3.20 p.m.

Chairman : Mr. WYZNER (Poland)

GENERAL DEBATE (continued)

Mr. BIER (Brazil) said he hoped that the texts of the draft treaty relating to the Moon and of the draft convention on registration of objects launched into outer space would be completed as soon as possible. He recognized that that was no easy task, however, since there were a number of fundamental principles involved in both instances.

With regard to the treaty relating to the Moon, a number of elements were essential to any compromise solution, notably the inadmissibility of national claims of property over the Moon and its natural resources, as being the common heritage of mankind, and hence a provision for the establishment of an international régime to govern the exploitation of those resources. The new treaty should represent an appreciable advance compared with existing texts with respect to those controversial questions. The Legal Sub-Committee should therefore refrain from adopting with undue haste formulas which would not be wholly satisfactory, in particular in so far as the rights of States and the definition of legal situations were concerned.

The draft convention on registration called for the same careful approach and the Sub-Committee would not have finished its task until it could present a text that was acceptable to all its members. The question of marking, for instance, was still highly controversial. His delegation would prefer marking to be made mandatory but recognized that that would give rise to technical and economic difficulties.

In view of the urgency of the other items before the Sub-Committee, there was hardly any time to discuss agenda item 6 (Matters relating to the definition and/or delimitation of outer space and space activities). However, his delegation was willing to co-operate in any initiative that might lead to the settlement of that difficult question.

Brazil had made its views on agenda item 4 (The various implications of space communications: report of the Working Group on Direct Broadcast Satellites) known at the fifth session of the Working Group on Direct Broadcast Satellites. Both direct broadcasting and remote sensing posed a number of problems that required similar solutions, and he believed that an international legal régime should be established to cover both types of activity. The report of the Working Group on its fifth session (A/AC.105/127 and Corr.1), which clearly defined the issues and reflected the different points of view, was an excellent working basis on which the Sub-Committee could identify the areas where consensus was apparent and try to find an acceptable solution to problems which were still controversial. Its efforts should lead to the formulation of generally

acceptable legal instruments capable of guaranteeing that the new techniqu
would promote the exchange of ideas and information while scrupulously
respecting the sovereign rights of States. The two things were not
incompatible, in his opinion, provided that international mechanisms were
devised whereby receiving States could exercise control over broadcasts
directed to their territories.

Agenda item 5 (Matters relating to the activities carried out through
remote sensing satellite surveys of earth resources) was perhaps the item
that deserved most careful consideration at the present session. An arra
of documents had been prepared on the subject, which demonstrated the
importance attached to remote sensing by the international community.
While the question had been examined in detail by the United Nations from
the scientific and technical standpoints, the Scientific and Technical
Sub-Committee recognized that its legal aspects and associated organizati
problems should be studied at the same time. His delegation felt that
until an internationally agreed legal framework covering remote sensing
activities was established, it would be extremely difficult to make
organizational arrangements. Remote sensing activities were world-wide
and obviously had far-reaching international implications. While it was
easy to identify a certain number of principles of international law
applicable to remote sensing activities, there were no binding norms
relating to their economic and political implications. It was high time
that the rights and duties of States in that area were made explicit in a
international instrument. His delegation therefore hoped that the Legal
Sub-Committee was prepared, during the present session, to discuss the le
aspects of remote sensing. A number of documents had already been
distributed, and Brazil itself had submitted a set of draft articles on
remote sensing of natural resources (A/AC.105/122), in which it had tried
to approach the problem in a more systematized, comprehensive and perhaps
direct way, in the light of the proposals previously put forward by
Argentina, France and the Soviet Union. The legal framework envisaged b
Brazil would incorporate the following elements: the need to obtain
consent from States whose territory was being sensed; the right of those
States to participate in the sensing activities; the right of those Stat
to have access to the information obtained; the obligation on sensing
States not to disseminate information obtained on sensed States without
the latter's express authorization; the promotion of international
co-operation; universal participation in remote sensing activities over
international areas and free access to information obtained there; State
responsibility; the right of States to protect themselves against illega
remote sensing activities and promotion of the peaceful settlement of
disputes in that area in accordance with Article 33 of the Charter of the
United Nations; and the conclusion of bilateral and regional complementa
agreements. The Brazilian delegation was prepared to consider any furth
suggestion concerning the text it had submitted.

Mr. OHTAKA (Japan), referring to the question of the draft trea
relating to the Moon, said that three issues had been left unresolved sin
the twelfth session of the Sub-Committee. The first related to the scop
of the future treaty. His delegation was prepared to agree to the
application of the treaty to other celestial bodies until such time as
separate arrangements were made for them. The proposals made in that

respect by Bulgaria[6/] and by the United States of America[7/] seemed to him to
be equally satisfactory. He hoped that the Sub-Committee would find a
generally acceptable formula on the basis of those two texts. The United
Kingdom proposal[8/] also represented a further step towards a generally
acceptable solution.

His delegation had made clear on a number of occasions its position
with respect to the protection of the lunar environment. Like many other
delegations, it was seriously concerned about the possible disruption of
the lunar environment and the adverse effects of radio-active material on
that environment. His Government's position was quite definite: the
errors on the Earth must not be repeated on the Moon, and if notification
of missions made to the Moon was not given until after launching, it might
be too late to take effective measures to protect the lunar environment.

The third pending problem was that of the Moon's natural resources and
particularly the concept of "the common heritage of mankind". In his view,
it was quite premature to include such a concept in the draft treaty since
nothing was yet known about the quantity, quality and even the feasibility
of the exploitation of those resources. In the circumstances, the
formulation of article X proposed by Bulgaria seemed to be the most
realistic approach.

His country attached great importance to the early completion of the
draft convention on the registration of objects launched into outer space.
Once adopted, the convention would contribute greatly to the establishment
of a satisfactory international régime and in particular to a procedure for
notification and registration. The consultations held on the subject in
1973 had made it possible to reach a considerable measure of agreement.

The question of marking remained pending, but thanks to the efforts
made between sessions by the Canadian delegation a solution was in sight.
He appreciated the goodwill displayed by the different delegations and
supported in principle the Canadian proposal (A/AC.105/C.2/L.92).

At its fifth session, the Working Group on Direct Broadcast Satellites
had considered the principles which should govern the use by States of
satellites for direct television broadcasting. It had succeeded in
identifying the areas of agreement and disagreement on the possible content
of the future "international agreement or agreements" referred to in
paragraph 1 of General Assembly resolution 2916 (XXVII). With regard to
the requirements which must be met by organizations in order to be permitted
to carry out direct television broadcasting by satellite, it did not seem
wise to make them universally applicable, since the relationships between
broadcasters and Governments varied from country to country. His
delegation therefore had serious reservations about the text proposed by
the Soviet Union for article VII of the draft principles (A/AC.105/127,
annex II). It believed that the responsibility for the programme content
of direct television broadcasting by satellites should be left to the

6/ A/AC.105/115, annex I, B.1.

7/ *Ibid.*, annex I, B.12.

8/ *Ibid.*, annex I, B.15.

broadcasting organizations themselves, since there were many countries in which they were not under the direct control of the Government.

With regard to the scope of the future principles, he believed that they should be limited in the first instance to direct television broadcasts by satellite, excluding broadcasts purely intended for reception by domestic audiences only. However, in cases where direct television broadcasting by satellite intended for reception by those audiences resulted in transborder radiation, those principles could be applied, on certain conditions. With regard to the principle of prior consent, his delegation wished to reiterate that international direct television broadcasts by satellites should be conducted in a spirit of mutual understanding and co-operation among the countries of the world. The international community might thus be able to avoid unnecessary conflict which would otherwise hamper the progress of that promising technique. It was with that in mind that his delegation had repeatedly expressed doubts as to the wisdom of introducing the principle of prior consent. If that principle was adopted, the broadcasting of programmes could be hampered or stopped altogether by the unilateral will of a receiving State. For the same reasons, his delegation was unable to subscribe to the principle of the right of participation by a receiving State.

International direct television broadcasting by satellites should therefore be governed by the arrangements concluded between the broadcasting State and the State or States at which the broadcasts were aimed.

With regard to transborder radiation, it was to be hoped that ITU would establish a generally acceptable technical standard to determine whether a State conducting direct television broadcasts by satellites had taken all available technical means to reduce to the maximum extent practicable radiation over the territory of other countries.

With regard to remote sensing of the earth by satellites, which was carried out in accordance with the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, his delegation did not see why such activities should be regarded as illicit under international law. Remote sensing by satellites of resources in areas outside national boundaries could not in itself do any harm to the State in which the sensed resources were to be found. However, his delegation appreciated the political implications to which the distribution of remotely sensed data to a third State would inevitably give rise. Some measures for international adjustment in that area would have to be explored in the future. It would then be necessary to strike an equitable balance between the benefits which the optimum utilization of such data could bring to a region as a whole and the sovereign rights of its individual member States to block their utilization, while bearing in mind the value of the data from the standpoint of the environment and of water resources for regional development.

Mr. FOURDIN (Belgium) said that he thought the Sub-Committee should be able to settle at the present session the two questions still outstanding in connexion with the draft treaty relating to the Moon: the scope of the treaty and the exploitation of lunar resources.

With regard to the scope of the treaty, Belgium had supported from the outset the Soviet proposal to limit the treaty to the Moon, because it considered that as far as space exploration was concerned it was best to proceed step by step. However, Bulgaria had recently submitted a working paper (A/AC.105/C.2/L.93) containing a proposal which took substantially into account the views of those who thought the treaty should also apply to the solar system. Many delegations had supported that proposal, and the gap had narrowed to such an extent that it should not be too difficult to reach a definitive agreement on the question.

With regard to lunar resources, the only outstanding problem was the legal status of any resources over the period until the entry into force of an international régime to govern their exploitation. His delegation fully appreciated that some would object to any limitation on their scientific research and would like to avoid any later controversy on the matter, while others did not want one day to find themselves faced with a fait accompli. The text submitted by the Austrian delegation (A/9020, annex II, appendix A, Sect. IV) was, in his delegation's opinion, a very well-balanced over-all proposal. With regard to the draft convention on registration of objects launched into outer space, the new proposal recently submitted by Canada was also a praiseworthy endeavour to reach a compromise; his delegation would give its views on the substance of that proposal in the light of the negotiations that were taking place.

The work on direct satellite broadcasting had brought to light some overriding concepts: free exchange of information and ideas and communication between cultures; State responsibility; State sovereignty; and international co-operation between broadcasting entities at both the intergovernmental and technical levels. Continuing technical progress would affect the solution of legal problems, in minimizing overspill for instance. It would be for ITU to plan frequency allocation. States should make careful preparations for the conference planned for 1977 and discussions should take place before the conference.

The excellent report by the Working Group on Direct Broadcast Satellites on its fifth session had made it possible to pinpoint very clearly the various legal principles involved, among which his delegation attached particular importance to the unrestricted dissemination of information; that principle would, of course, have to be considered in connexion with the other rules and principles of international law.

With regard to remote sensing of earth resources by satellite, that technique, which was already producing remarkably precise and effective results, should not be confined within too constricting a legal framework, which might hamper scientific progress; Belgium attached great importance to the opportunities such techniques offered and should offer to the developing countries.

In common with others, his delegation considered that the legal problems connected with remote sensing were subordinate to the question of organization. If an integrated global régime, which could be elaborated under the auspices of the United Nations or of a specialized agency, was selected, the problem of sovereignty would automatically diminish in importance. The legal instrument to be prepared would then take the form of a comprehensive international convention covering all the

arrangements for participation, decision-making, executing agencies, contributions, etc. If, on the other hand, continued reliance was placed on national or regional programmes, the question of sovereignty would arise, and some parties might fear that findings of value to them might not be used in the way they would like. In that case, the legal instrument to be elaborated should be a declaration of principles, which in his delegation's opinion should include the following: co-operation between States carrying out sensing activities and States affected by those activities; the need for the latter to be informed of any findings of concern to them; the right of such States to participate in decisions concerning the use of data obtained; and the need to draw up specific rules for areas outside any national jurisdiction.

Lastly, there were the questions of the distribution of responsibilities between the various bodies (sub-committees, working groups) of the Committee on the Peaceful Uses of Outer Space, the overlapping of functions and the priorities to be assigned to their respective tasks. It would, of course, fall primarily to the Committee itself to consider that question which was important for efficiency and progress in work connected with space activities.

Mr. AZIMI (Iran) said that the progress which the major Powers had made in space activities underlined the need to bring international legislation in that sphere into line not only with the progress already achieved but with future progress in space activities.

His delegation hoped that the Sub-Committee would be able to complete at its present session the draft treaty relating to the Moon and the draft convention on registration of objects launched into outer space, as the General Assembly had requested in its resolution 3182 (XXVIII), to consider the legal implications of the use of direct broadcast satellites and satellites for remote sensing of earth resources, and to devote some meetings to the important subject of the definition and delimitation of outer space and space activities.

With regard to the draft treaty relating to the Moon, there was still disagreement on some points. His delegation considered that the treaty should apply to the Moon and to other celestial bodies. With regard to the natural resources of the Moon and other celestial bodies, they should in his opinion be the common heritage of mankind and should be exploited only within the framework of an appropriate international régime.

Much progress had been made in the elaboration of the draft convention on registration of objects launched into outer space. Marking was necessary, in order to protect the interests of the great majority of countries, especially those which conducted no important space activities; it should be compulsory, in order to facilitate the application of the Convention on International Liability for Damage Caused by Space Objects.

He also emphasized the importance of direct broadcasting by satellite in various areas of information and education, especially for the developing countries. He hoped that, in accordance with the recommendation in paragraph 6 of General Assembly resolution 3182 (XXVIII), the Sub-Committee might consider the question of drawing up principles to govern the use of artificial earth satellites, taking into consideration the report of the Working Group on Direct Broadcast Satellites which had met

at Geneva from 11 to 22 March 1974. Nor should the General Assembly's recommendation in paragraph 7 of the same resolution, concerning remote sensing by satellite and its legal implications be forgotten. The Iranian delegation hoped that the work done by the Working Group on Remote Sensing of the Earth by Satellites, which met in New York for its third session from 15 February to 5 March 1974, would facilitate the Sub-Committee's task in that field.

Mr. EL ARABY (Egypt) said that, with respect to outer space, law was very much behind technology. The Legal Sub-Committee had already done useful work but it should not, for the sake of rapid progress, content itself with inadequate texts.

His delegation, like many others, regarded outer space as the common heritage of mankind. For the sake of the future, therefore, it should be governed by a sound and fair régime which would be to the advantage of all States, regardless of their stage of economic development and their status in space activities. His Government was of the opinion that the draft treaty relating to the Moon should also encompass other celestial bodies pending the conclusion of separate legal instruments for them. As for the draft convention on registration of objects launched into outer space, his delegation considered that it should include a provision making markings compulsory and making it obligatory for countries to furnish the necessary information to the Secretary-General. In that connexion, it was studying with interest all the proposals put forward to improve the existing text and, in particular, those submitted by the representative of Canada.

With respect to direct broadcast satellites, his delegation had already underlined the importance of certain basic principles: the prior consent of States, full respect for their sovereignty and the safeguarding of the interests of the developing countries. He hoped that those principles would be duly reflected in the legal texts on direct broadcasting and remote sensing by satellites.

Lastly, his delegation fully endorsed the views expressed by the French representative (210th meeting) on the question of the definition and/or delimitation of outer space.

ORGANIZATION OF WORK

The CHAIRMAN proposed, in order to allow delegations time to prepare their statements and to enable Working Groups I and II to make headway with their discussions, that the Sub-Committee should postpone its next meeting to the afternoon of Friday, 10 May.

Mr. MAIORSKI (Union of Soviet Socialist Republics) asked whether the time thus made available could not be used by Working Group III, which was to deal with direct broadcast satellites. Furthermore, he would like to know what work was planned for that Group.

Mr. COCCA (Argentina) said that Working Group III could not begin its work until the arrival of its Chairman, Mr. Vellodi (India).

Mr. KANDERMANN (Federal Republic of Germany) said that the technical experts from his country who were to participate in Working Group III had now arrived, in view of the fact that, according to the approved time-table of work, that Working Group was not to meet until the third week of the session.

Mrs. LAKSHMAN (India) said that the expert from her country would not arrive until 18 May.

Mr. OHTAKA (Japan) said that he, too, had understood that Working Group III would not meet until the third week; the Japanese expert would not be arriving until then.

Mr. MAIORSKI (Union of Soviet Socialist Republics) said he regretted that arrangements had been for Working Group III not to be convened until the third week. If Working Group III met in the third week only of a session lasting four weeks, its freedom of action would be very limited. That was the point which was causing his delegation some concern.

Mr. MILLER (Canada) said that the Canadian experts, too, would not be available until 20 May. He quite appreciated, however, the view of the USSR representative. In the meantime, it might, perhaps, be possible for Working Group III to hold an organizational meeting at which it would draw up a list of topics for consideration, prepare to study those topics and carry out a first review of its documentation, so that its work could start at once when the experts arrived.

Mr. DEMANEK (Austria) said it would be better to wait until the beginning of the following week to act on the USSR representative's request. At that stage, the position would be clearer, particularly with respect to Working Group II. The progress the latter made would have a bearing on the work of Working Group III.

The CHAIRMAN said that, in view of the comments just made by delegations, he proposed that the decision to convene Working Group III should be postponed until the following week. At that stage, the possibility of holding an organizational meeting, as mentioned by the representative of Canada, could be considered.

Mr. MAIORSKI (Union of Soviet Socialist Republics) accepted the Chairman's proposal, but requested that his comments should be reproduced in the summary record of the meeting.

The CHAIRMAN drew attention to the fact that responsibility for appointing a Chairman for Working Group III rested with the Indian delegation. The Chairman of that Group had not been appointed by name.

The meeting rose at 4.55 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWELFTH MEETING

held on Friday, 10 May 1974, at 3.15 p.m.

Chairman : Mr. WYZNER (Poland)

GENERAL DEBATE (continued)

Mr. KONSTANTINOV (Bulgaria), said that, since the twelfth session of the Legal Sub-Committee, space exploration had been marked by fresh successes; in addition, co-operation between States, in particular the two major space Powers, the USSR and the United States of America, had been extended. The détente evident on the international scene should be taken as a good omen by the Sub-Committee, whose work would in its turn help to promote that détente.

At the Sub-Committee's twelfth session, a closer understanding had been reached on the questions under consideration. As a result, compromise texts were now available, on the basis of which, with a little goodwill, it should be possible to come to an agreement. In that connexion, the proposals made by the USSR at the present session were to be highly commended.

As the General Assembly had requested in its resolution 3182 (XVIII), the Sub-Committee should give priority to the draft treaty relating to the Moon, the draft convention on registration of objects launched into outer space, and the question of direct broadcasting by satellites. The draft treaty relating to the Moon should be so drafted as to define clearly the conditions for co-operation between States and the methods of exploiting lunar resources. A few problems still had to be solved before the text of the treaty could be settled and they should be tackled in a spirit of compromise. They should also be viewed as a whole, with a view to the joint use of resources to the benefit of all nations and of the developing countries above all.

It was Bulgaria's intention, in submitting the text of a draft treaty relating to the Moon in the working paper A/AC.105/C.2/L.93, to offer a systematic presentation of the consensus which had emerged. Apart from the proposals already contained in the report of the Legal Sub-Committee on the work of its twelfth session,[2/] it included suggestions made by a number of delegations at that session. He hoped that his delegation's text would make it easier to compare the different versions proposed and to arrive all the more quickly at a joint text.

The preparation of the draft convention on registration of objects launched into outer space raised some delicate problems. The space Powers were trying to reach a consensus on the text proposed at the twelfth session. The question of marking, which was not altogether in keeping with the objectives of the proposed convention, should not, however, be over-emphasized. To regard it as a magic formula for settling the question of liability for damage caused by space objects would be to exaggerate its importance. Moreover, machinery for solving such problems had already

2/ A/AC.105/115 and Corr.1 and 3.

been set up by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and by the Convention on International Liability for Damage Caused by Space Objects.

His delegation also hoped that the question of direct broadcasting by satellite would be considered during the present session. It was a difficult but topical question which was of interest to every country and had a bearing on important activities. Direct television was one of the most promising additional benefits resulting from outer space experiments; it was absolutely essential for it to be developed in conformity with a number of principles and objectives, such as State sovereignty, co-operation in the reciprocal interest of States, the strengthening of peaceful relations, the expansion of trade and the development of culture and education. Television broadcasts transmitted by satellite should not be relayed to a foreign country except with its consent, and the responsibility for such broadcasts should fall upon the State in which they were made.

His delegation would state its views on the remote sensing of earth resources by satellite surveys when the Sub-Committee took up the question.

Mr. COCCA (Argentina) congratulated the United States of America and the Soviet Union on the remarkable results of their space research programme achieved since the twelfth session, and thanked those countries' delegations for the efforts they had made to complete the preparation of the draft treaty relating to the Moon and the draft convention on registration.

With regard to the draft treaty relating to the Moon, his delegation attached great importance to the principle that the Moon and its natural resources were the common heritage of mankind. Argentina had already defined and explained its position in the proposal contained in section B (11) of annex I to the report of the Sub-Committee on its twelfth session. All States had obviously become interested in the question. The outer space Treaty in itself represented a tremendous step forward in international law. It broke with all precedents, in that it had not been negotiated by the States that were exploring outer space but by the international community as a whole, and during its negotiation the space Powers had demonstrated that they were willing to abandon their individualistic approach and to respect the interests of the international community. In ratifying the outer space Treaty, States renounced all acts of national sovereignty and the exercise of national power over outer space and the celestial bodies.

The same principle of renunciation was embodied in the provisions of the draft treaty relating to the Moon so far agreed. All notions not merely of private ownership but also of public ownership would be excluded so far as outer space and the celestial bodies were concerned. Under paragraph 1 of article IV, the exploration and use of the Moon and other celestial bodies would be "the province of all mankind". In his delegation's opinion, those words meant that the benefits to be derived from the Moon and the celestial bodies would be enjoyed by mankind as a whole in conformity with the legal concept of "the common heritage of mankind". Since the 1967 outer space Treaty had made outer space and the celestial bodies res communis humanitatis, outer space and the celestial

bodies were in the possession of the international community. As a result, no instrument could deprive the international community of possession of the resources of the Moon.

With regard to the origin of the term "common heritage of mankind", he recalled that it had been coined in the Sub-Committee. The Argentine delegation had used the expression in 1967 and again in a draft international convention on the resources of the Moon which it had submitted in 1970.[10] The status of "common heritage of mankind" had been first conferred on the celestial bodies and their natural resources, and the treaty relating to the Moon could do no less than reaffirm the principle.

His delegation hoped that, like the outer space Treaty, the treaty relating to the Moon would be made applicable to other celestial bodies. There was no reason to depart from the formula adopted in 1967. The reference made to the solar system in the United States proposal (A/AC.105/C.2/L.91) and in that of Bulgaria (A/AC.105/C.2/L.93) was rather unrealistic, since space vehicles were already penetrating beyond the solar system. However, in the interest of compromise, his delegation would not oppose it. Lastly, he stressed that notification of activities on the Moon should be given in advance and in respect of all missions.

Turning to the draft convention on registration of objects launched into outer space, he expressed the hope that the difficulties which had arisen on the subject of mandatory marking would be overcome at the present session. In his Government's opinion, marking should be mandatory, for if it was not possible to identify the space object which caused damage, the work which had culminated in the 1971 Convention on International Liability for Damage Caused by Space Objects would have been in vain.

His delegation hoped that the Secretary-General would be made the depositary of the convention on registration, in conformity with General Assembly resolution 1721 B (XVI) on international co-operation in the peaceful uses of outer space.

The view of his country on direct broadcasting by satellite was reflected in a proposal contained in annex V to the report of the Working Group on Direct Broadcast Satellites (A/AC.105/127 and Corr.1). His delegation would be submitting a draft convention restating the main lines of that proposal during the current year.

Questions relating to the activities carried out through remote sensing satellite surveys of earth resources had long been of concern to Argentina, which, in 1970, had been the author of the first draft of an international convention on the subject submitted to the Legal Sub-Committee. Argentina had been following technological developments in that area closely and had carried out experiments in co-operation with the United Kingdom. It had also studied with interest the proposals of the other delegations and felt sure that progress would be made at the present session in drawing up the fundamental principles of law applicable to remote sensing.

Part of the session would have to be devoted to the definition and/or delimitation of outer space and outer space activities. His delegation's views on the subject had been explained in the Sub-Committee and in the

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10/ A/AC.105/C.2/L.71 and Corr.1

Committee on the Peaceful Uses of Outer Space, and were shared by the Inter-American Committee on Space Research. The line of demarcation to be fixed between atmospheric space and outer space would necessarily be conventional and consequently it was the Sub-Committee's task to study the question in depth and propose a solution.

Mr. GREENWOOD (United Kingdom) said he believed that it might be possible at the present session to complete the draft convention on registration of objects launched into outer space, but the draft treaty relating to the Moon would be much more difficult to achieve. His country would show flexibility in the negotiations on the two texts. It had already put forward one compromise proposal regarding the scope of the treaty relating to the Moon, but was willing to modify its proposal. As to the other problems raised by the two draft treaties, his delegation felt that it could probably support any solution that met with general acceptance.

His country saw no need for an international instrument governing the use of direct broadcast satellites. It understood the fears of some countries, mainly developing countries, in that connexion, and was ready to co-operate in the drafting of principles. It believed, however, that the most important principle was freedom of information and ideas. Working Group III might endeavour to formulate principles which were not controversial but it would be better not to hurry the discussion of other matters - the consent of the receiving State and its participation in programming, the control of programmes by the broadcasting State, etc. Some of those questions might well be resolved in the context of the work of the ITU conferences, for example. In any event, international consultations and co-operation were the best means of dealing with such problems as might continue to exist.

In the field of remote sensing, he considered likewise that there seemed to be no need for an international instrument. Moreover, the Sub-Committee's mandate was simply to respond to the request of the Working Group on Remote Sensing of the Earth by Satellites concerning the legal implications of remote sensing of earth resources by satellites (A/AC.105/125, para. 83), a field in which technological advances should not be hindered by the adoption of restrictive regulations. His Government was of the view that international law imposed no regulation on the surveying of earth resources from beyond the limits of national sovereignty or on the dissemination of the information obtained. However, because of the apprehensions of many countries, particularly developing countries, in that connexion, the United Kingdom would willingly co-operate in the study of the legal implications of remote sensing by satellites. It considered, nevertheless, that any legal framework should be built up not on precedents from other fields but on the facts themselves of the new technology. It was important, therefore, that the Sub-Committee should work in close co-operation with the Working Group on Remote Sensing of the Earth by Satellites, carefully studying the results of experiments in sensing earth resources by satellite. There again, his country felt that emphasis should be laid more on co-operation and consultation than on strict regulation.

Mr. REIS (United States of America), referring to the role of international co-operation in the exploration and use of outer space for peaceful purposes, drew attention to the significant co-operation between

the United States of America and European Space Research Organization (ESRO) and gave as an example the experimental launching into orbit of a space laboratory envisaged by the end of the decade. The laboratory would be built by several Western European countries and, from the beginning, its crew would include European personnel.

The ERTS-I programme was a further example of co-operation in the survey of environmental conditions and the earth's natural resources. The first satellite had been launched in 1972 and preparations were now being made to launch the second. 40 countries and two international organizations, FAO among them, had sponsored investigations on specific uses of the data obtained in that way.

Co-operation between the USSR and the United States of America was also continuing fruitfully under the Soyuz-Apollo programme; the first international crew was scheduled to fly in 1975.

In addition, an agreement had recently been signed between Canada, ESRO and the United States of America to test the usefulness of a satellite for international commercial air traffic control. The first such satellite was to be launched in 1977 or 1978, the object being to make a feasibility study and cost-efficiency analysis of the launching in the 1980s of a number of related satellites in synchronous orbit, in collaboration with ICAO.

He described in considerable detail the past work of the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies, dwelt on the contribution made by a number of outstanding individuals and referred to the major stages in the negotiation and conclusion of the outer space Treaty, the Agreement on the Rescue of Astronauts and the Convention on International Liability for Damage Caused by Space Objects. He noted in particular that the rule of taking decisions by consensus rather than by voting, as had been the practice since the Committee had been established in 1962, had proved its worth. While the negotiating process had taken more time, because matters could not be settled by a vote, it had also made possible the conclusion of treaties acceptable to all and had therefore been of greater benefit to the international community as a whole.

He then reported on the situation regarding treaties on outer space for which the United States of America acted as a depositary. The outer space Treaty had been signed by 90 States; 69 States had ratified it, acceded or notified their intention of continuing to be bound thereby. The Agreement on the Rescue of Astronauts had been signed by 79 States; 61 States had ratified it or otherwise accepted it. Lastly, the Convention on International Liability for Damage Caused by Space Objects had been signed by 71 States, 28 States having ratified or acceded to it.

His delegation looked forward with confidence to the work pertaining to outer space. Undoubtedly, the task would not be an easy one, but the Committee and its subsidiary bodies had already made substantial achievements, and he hoped that the enlarged membership would broaden the outlook and enhance the prospects for international co-operation. His delegation expected the present session of the Sub-Committee to be a positive one. The Sub-Committee could not settle all the questions before it, but it should be able to make considerable progress in its work.

Mr. [illegible] (Romania) said that the question of the scope of application of the treaty relating to the Moon might be resolved by including an article whereby the provisions of that instrument would apply to other celestial bodies pending the conclusion of special agreements governing their status.

The question of the natural resources of the Moon was, in the opinion of his delegation already settled by the provisions stipulating that the Moon could not be subject to national appropriation by any proclamation of sovereignty, by means of use or occupation, or by any other means. It was plain from those provisions, which did not appear to have met with any objections, that the natural resources of the Moon belonged to the entire international community; all that remained to be done was to formulate that generally acceptable principle. In that regard, his delegation experienced no difficulty in accepting the notion of "common heritage of mankind", since it was a co-sponsor of the list of questions to be considered at the United Nations Conference on the Law of the Sea that had been submitted by the developing countries to the Preparatory Committee for that Conference.

So far as the draft convention on registration of objects launched into outer space was concerned, his delegation favoured a mandatory system of marking, for that would be a logical complement to the Convention on International Liability for Damage Caused by Space Objects. However, it would not oppose a compromise solution along the lines of the Franco-Canadian proposal.

Ever since 1969, his country had supported the idea of preparing an international instrument in the form either of a declaration or of a convention spelling out the principles that should govern direct broadcasting by satellites - national independence and sovereignty, equality of rights and non-interference in the internal affairs of other States, and, in the case of broadcasts intended for other States, the prior consent of the receiving State.

With regard to the content of the programmes, his delegation believed that these should contribute to the development of co-operation between States. Broadcasts that were prejudicial to peace and understanding among peoples should be prohibited, as should broadcasts which constituted interference in the internal affairs of another State or which contained propaganda in favour of racial hatred, discrimination or war.

Romania, as a developing country, was interested in the opportunities offered by the use of satellites for remote sensing of earth resources. The legal aspects of remote sensing should be approached from the standpoint of international co-operation, and regulation of such activities should be based on certain principles, namely, respect for the sovereignty of States over their natural resources, including information concerning the resources; the obligation of space Powers not to use or disseminate the data obtained from remote sensing without the prior consent of the State concerned; the obligation to register space objects carrying remote-sensing platforms and the obligation of launching States to inform the international community of programmes and work undertaken with such devices; and the promotion of international co-operation in that field, with particular regard to the needs of the developing countries.

In conclusion, he emphasized the need for a definition of outer space. While ensuring strict respect for national sovereignty over the air space, such a definition should specify the limits of outer space in which exploration and utilization for peaceful purposes would be open to all States.

Mr. ALO (Nigeria) said that his delegation, which had only recently joined the Sub-Committee, hoped to play a very active and useful part in its work. Questions relating to outer space were, of course, difficult, especially for countries not yet at a very advanced level of scientific and technological development, but Nigeria had taken a keen interest in the spectacular successes achieved by the space Powers on behalf of all mankind, and realized that the international community should draw immense benefits from those achievements. For that reason, it was important to set up the appropriate framework for international co-operation, and he noted with satisfaction the results achieved by the Committee on the Peaceful Uses of Outer Space. Together, the outer space Treaty, the Agreement on the Rescue of Astronauts and the Convention on International Liability for Damage Caused by Space Objects constituted a set of fundamental international norms, on the basis of which it would be possible to build up a régime to promote peace, security, social justice, progress and harmonious relations between States.

The General Assembly had requested the Sub-Committee to give priority to two important matters at its current session. The first was the prospective treaty relating to the Moon, on which there were still divergent views. For its part, Nigeria considered that the treaty should apply not only to the Moon but also to the other celestial bodies of the solar system, and that the Moon and its resources should be the common heritage of all mankind. The exploitation of those resources should be governed by an international régime, and the benefits to be derived therefrom should be equitably shared, with due regard to the special needs of the developing countries.

Work on the draft convention on registration was well advanced and should before long reach the final stage; only the question of marking was still unsettled. Nigeria considered that for the Convention on International Liability to be really effective, marking should be mandatory. The Canadian delegation, however, had proposed in document A/AC.105/C.2/L.92 a version of article III bis which was worthy of consideration, and if, on that basis, the Sub-Committee was able to reach a compromise solution, he would support it, while hoping that it would in the future become possible to make marking compulsory.

His delegation recognized the potential value of direct broadcast satellites for the dissemination of information, the development of education and the integration of national and international communities but the possibilities of direct satellite broadcasting were so far-reaching that activities must be closely watched to see that they were conducted in a manner compatible with the essential interests of peace, security and State sovereignty. If misused, that broadcasting technique might be injurious to the interests of the countries concerned. The object should be, therefore, to devise a binding international legal framework which would provide an impetus for the development of direct satellite broadcasting, while keeping it under control.

Similar comments were applicable to remote sensing by satellites. Great technological progress had been made in that area and it had become urgent to establish an effective international system of regulation. Such activities might be of great value in promoting international co-operation, provided they were conducted in accordance with clearly defined norms and with due respect for State sovereignty. In that connexion, he said that the statement made by the representative of Brazil at the 211th meeting was particularly important. It was to be hoped that the Sub-Committee would have enough time to give the legal aspects of remote sensing the attention they merited.

Mr. VALLARTA (Mexico), noted that some delegations opposed the incorporation of the concept of "common heritage" in the draft treaty relating to the Moon, on the grounds that it was not a legal concept. A look into past history could throw some light on the matter. The express had first been used in connexion with the status to be attributed to the sea-bed and the ocean floor beyond the limits of national jurisdiction. No doubt the expression had raised problems in translation; but the French word "patrimoine" and the Spanish word "patrimonio" had a precise legal meaning, in both civil and public law; in Mexico, the body responsible for administering State property was called the "Secretaria del Patrimonio Nacional": in that context, the word "patrimonio" meant the State's proper there could hardly be any doubt that the concept of State property existed in all countries, whatever their régime. It should also be borne in mind that in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction many developing countries had opposed the idea that the sea-bed and the ocean floor were res communis lest something should come about similar to what had happened with the high seas : after the high seas had been recognized as res communis, their resources (res nullius) had been exploited by the only countries having the capacity to do so. The concept of "common heritage" had been introduced in that context, and its legal character was indisputable, even if it might be necessary to define it further, which it would be possible to do at the Conference on the Law of the Sea.

With regard to the draft convention on registration, he said that Mexico was firmly of the opinion that registration should precede the launching of space objects. This requirement no longer appeared in the text which the Sub-Committee was considering; so far as the Mexican delegation was concerned, that amounted to a very large concession, for it considered that the international community should be informed on activitie in progress. On the question of marking, he said that the Canadian propos was acceptable as a working basis.

He stated that he had been surprised by the arguments of some delegations which claimed, in the cause of freedom for space navigation, th right to conduct remote sensing activities over other countries' territories as they pleased. What Government would agree that foreign scientists holding tourist visas should enter its territory and prospect the country's natural resources? Every Government would undoubtedly insi that such scientists should hold permits, that the country itself should participate in their research and that the findings should be communicated to it; there was no reason why the situation should not be the same if th scientists carried out their research at high altitude. His delegation

considered, therefore, that the Sub-Committee should approach the question on the basis of the proposal referred to by the Brazilian representative at the 211th meeting.

Analogous considerations applied to direct satellite broadcasting; some speakers had contended that a balance had to be sought between the free dissemination of information on the one hand and State sovereignty on the other. Yet, the two principles could not be placed on the same footing. While the free dissemination of information was universally recognized as a valid concept, it might on occasion be neutralized by the principle, an absolutely fundamental principle in law, of State sovereignty; in some cases, a State had the right to assert its sovereignty and to put a stop to a television programme conflicting with its interests.

Mr. MAIORSKI (Union of Soviet Socialist Republics) thanked the representative of Mexico for his clarification of the views of Spanish-speaking countries regarding the term "heritage". Unfortunately, in Russian, the concepts of "heritage", "patrimony" and "property" were quite distinct, and it seemed that there were similar difficulties in English. A solution had therefore to be sought on the basis of the concept of res communis; for instance, it might be provided that the natural resources of the Moon should be capable of forming "the object of common utilization". Some delegations had maintained that the concept of heritage occurred in the 1967 outer space Treaty; he did not know whether that was the case in other languages, but there was nothing of the kind in the Russian text of the Treaty.

The meeting rose at 5.20 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND THIRTEENTH MEETING

held on Monday, 13 May 1974, at 10.50 a.m.

Chairman: Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4) (A/AC.105/127 and Corr.1)

The CHAIRMAN, reviewing the background of the agenda item under consideration, said that, at its sixth session in 1967, the Legal Sub-Committee had included in its agenda an item entitled "Study of questions relative to the utilization of outer space and celestial bodies, including the various implications of space communications". That item had not, however, been discussed at that session. In the same year, the General Assembly, in paragraph 13 of its resolution 2260 (XXII), had requested the Committee on the Peaceful Uses of Outer Space to study the technical feasibility of communication by direct broadcasts from satellites and the current and foreseeable developments in that field, as well as the implications of such developments.

In 1968, at the seventh session of the Legal Sub-Committee, two proposals had been submitted: a proposal by the delegation of Czechoslovakia concerning the question of the utility of the elaboration of the legal principles on which the creation and functioning of space communications should be based, and a proposal by the delegation of Sweden pertaining to the technical problems connected with direct broadcast satellites.[11] The representative of Czechoslovakia had stated that he would not press for an immediate decision of his proposal. Subsequently, the Sub-Committee had adopted the Swedish proposal, as amended by the USSR, by which the Sub-Committee recommended to the Committee on the Peaceful Uses of Outer Space that the latter request the Scientific and Technical Sub-Committee to consider the question of direct broadcast satellites, with a view to preparing a study of the technical problems involved, enlisting whenever appropriate the assistance of the competent specialized agencies of the United Nations.[12]

In 1968, the plenary Committee, noting the recommendation of its Legal Sub-Committee, had decided to establish a Working Group on Direct Broadcast Satellites to study and report to the plenary Committee on the question, including the social, cultural, legal and other implications.[13]

11/ Official Records of the General Assembly, Twenty-third Session, agenda item 24, document A/7285, annex III, appendix II, p.200.

12/ Ibid., annex III, para. 15.

13/ Ibid., document A/7285, paras. 26-32.

The reports of the Working Group on Direct Broadcast Satellites were also to be submitted to the Scientific and Technical Sub-Committee and the Legal Sub-Committee.[14]

From 1969 to 1974, the Working Group had held five sessions. During that period, the Legal Sub-Committee had been principally concerned with the elaboration of the Convention on International Liability for Damage Caused by Space Objects and with the consideration of the draft treaty relating to the Moon and the draft convention on registration of objects launched into outer space. Accordingly, there had been no substantive discussion of the question of direct broadcast satellites within the Sub-Committee, although delegations had on occasion expressed opinions on the matter in the course of a general exchange of views.

In 1972, at the eleventh session of the Sub-Committee, the title of the relevant item on the Sub-Committee's agenda had been changed to its present form, namely, "The various implications of space communications: report of the Working Group on Direct Broadcast Satellites". In the same year, the USSR had submitted to the General Assembly at its twenty-seventh session a draft convention on principles governing the use by States of artificial earth satellites for direct television broadcasting. In resolution 2916 (XXVII) of 9 November 1972, the General Assembly had considered necessary the elaboration of principles on the subject with a view to concluding an international agreement or agreements, and had requested the Committee on the Peaceful Uses of Outer Space to undertake the elaboration of such principles as soon as possible. The USSR proposal had subsequently been submitted to the Legal Sub-Committee at its twelfth session in 1973.[15]

On 18 December 1973, the General Assembly, in paragraph 6 of resolution 3182 (XXVIII) on international co-operation in the peaceful uses of outer space, had recommended that the Legal Sub-Committee should consider at its next session, i.e. its present session, as a matter of high priority, the question of elaborating principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements in accordance with General Assembly resolution 2916 (XXVII), taking due account of the interdisciplinary character of the subject and of the work of the Working Group on Direct Broadcast Satellites. In paragraph 3 of resolution 3182 (XXVIII), the General Assembly had also endorsed a decision of the Committee on the Peaceful Uses of Outer Space that the Working Group should be convened before the present session of the Legal Sub-Committee in order that the Working Group might "consider and discuss principles on the use by States of artificial earth satellites for direct television broadcasting in accordance with General Assembly resolution 2916 (XXVII), with a view to making specific recommendations for the work of the Legal Sub-Committee in this field".[16]

14/ Ibid., para. 30.

15/ A/AC.105/C.2/L.89

16/ A/AC.105/117, para. 78.

The Working Group had accordingly met, at its fifth session, in March 1974. The Working Group's report on that session was now before the Sub-Committee in document A/AC.105/127 and Corr.1.

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE FOR THE EXPLORATION OR USE OF OUTER SPACE (agenda item 3) (A/AC.105/C.2/L.94)

The CHAIRMAN drew attention to the proposal submitted by the delegations of Argentina, Brazil, Mexico and Sudan concerning the draft convention on registration of objects launched into outer space (A/AC.105/C.2/L.94), which had just been circulated.

Mr. COCCA (Argentina), introducing the proposal referred to by the Chairman, announced that the sponsors had been joined by the delegations of India and Nigeria. The proposal represented a genuine compromise and was the outcome of the considerable efforts made by the sponsors to end the present deadlock in the Sub-Committee. The text was based on the version previously submitted by the delegations of Canada and France,[17] but had been modified in an effort to achieve general agreement. In both paragraphs of the proposed article III bis, the word "or" before the words "registration number" in the previous text had been replaced by the word "and". That change had been made in the light of existing international and national legislation concerning the marking of aircraft. If there was a genuine desire to register space objects, such registration should, in the opinion of the developing countries, be effected in a perfectly clear manner which left no doubt concerning identity. The sponsors were particularly concerned about the possibility of damage and could not in any circumstances contemplate acceding to a convention on registration which could be neutralized by a failure to identify the party responsible for damage. The sponsors nevertheless fully appreciated the points made by the delegations of the USSR and the United States of America in the Sub-Committee and the plenary Committee concerning the technical difficulties which existed at the present time and the cost of marking. They had also taken into account the French delegation's view that, although marking was technically feasible, economic difficulties made it impracticable. The words "impracticable" and "feasible" had consequently been retained in paragraph 1. Furthermore, as a result of the inclusion of the word "if" in the concluding phrase of paragraph 1, the whole process of marking had been made conditional upon its technical practicability and economic feasibility. Paragraph 2 of the six-Power proposal was also based essentially on the text originally proposed by the Canadian and French delegations. Its purpose was to make mandatory a practice which was now optional.

In the opinion of the sponsors, the proposal represented a constructive step in the final stage of the formulation of the draft convention, which, it was to be hoped, would be adopted at the current session.

Mr. ZEMANEK (Austria) asked the sponsors to clarify the meaning of the words "shall so inform" in paragraph 2 of the proposal introduced by the representative of Argentina.

Mr. de SEIXAS CORREA (Brazil) explained in reply that article III bis complemented article III. In paragraph 2 of the six-Power proposal, the words "shall so inform" were intended to mean that any State which marked a space object with the international designator and registration number should inform the Secretary-General accordingly.

17/ See foot-note 1 above.

Mr. REIS (United States of America) suggested that the Sub-Committee should adjourn and continue its discussion of the six-Power proposal as a working group, a procedure which would permit a freer exchange of views.

Mr. AZIMI (Iran), said that his delegation supported the six-Power proposal, which could well form the basis for a compromise text generally acceptable to the Sub-Committee.

Mr. ZEMANEK (Austria) said that his delegation had no objection to the continuation of the present discussion in a working group.

Mr. MILLER (Canada) supported the United States representative's suggestion. He nevertheless wished to place on record his delegation's appreciation of the considerable efforts which had been made to produce the text now before the Sub-Committee and of the fact that it was based on proposals originally made by the delegations of France and Canada. After some clarification, the six-Power proposal might form the basis of an acceptable text.

The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Committee wished to continue its discussion as a working group.

It was so decided.

The meeting rose at 11.30 a.m.

SUMMARY RECORD OF THE TWO HUNDRED AND FOURTEENTH MEETING

held on Tuesday, 14 May 1974, at 3.15 p.m.

Chairman : Mr. WYZNER (Poland)

ORGANIZATION OF WORK

The CHAIRMAN announced the circulation of three documents relating to agenda item 2, containing proposed amendments to the draft treaty relating to the Moon: an amendment proposed by India to article V, paragraph 1 (A/AC.105/C.2/L.95), an amendment proposed by India to article I, paragraph 1 (ii) (A/AC.105/C.2/L.96) and an amendment proposed by India and Nigeria to article X (A/AC.105/C.2/L.97).

If no delegation wished to make a statement, he suggested that the afternoon and the following morning should be set aside for Working Group I. The Sub-Committee would therefore meet again on the afternoon of Wednesday, 15 May.

It was so decided.

The CHAIRMAN recalled the Canadian delegation's suggestion (211th meeting) to the effect that Working Group III should hold an organizational meeting towards the end of the present week. The Chairman of Working Group III had informed him that Friday would be a suitable day for such a meeting. If there was no objection, half of Friday, 17 May would therefore be set aside for Working Group III.

It was so decided.

The meeting rose at 3.20 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND FIFTEENTH MEETING

held on Wednesday, 15 May 1974, at 3.25 p.m.

Chairman : Mr. WYZNER (Poland)

GENERAL DEBATE (concluded*)

Mr. COCCA (Argentina) said he wished to emphasize, as he had already done in an earlier statement (212th meeting), that it was the Legal Sub-Committee and not, as some seemed to think, the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction that had first referred to the concept of the common patrimony of mankind, which was of such importance from the point of view of international relations. At the 75th meeting of the Sub-Committee, on 19 January 1967, in other words at the very first meeting held by the Sub-Committee following the signature of the outer space Treaty, the Argentine delegation had stressed that one of the mainstays of that Treaty was the concept of a patrimony differing from all preceding ones. The Spanish term "patrimonio comun" had been rendered perfectly into French as "patrimoine commun" and into English as "common property", which was much preferable to the term "common heritage" employed by another organ of the United Nations.

In fact, the idea of a patrimony that belonged to mankind was to be found in a document he had submitted on behalf of his country to the Fifth International Astronautical Congress, held at Innsbruck, Austria, in 1954, i.e. three years before the launching of the first artificial satellite. The fact that expressions such as "common heritage of mankind" and "res communis humanitatis" had acquired international usage since the beginnings of space law was doubtless due to their being found in the document in question and also in the publications of the International Institute of Space Law.

The expression had been borrowed from space law by specialists in sea-bed law. Thus, in 1967, i.e. immediately after the conclusion of the outer space Treaty, the World Peace through Law Center, whose headquarters was at Washington, D.C., had drafted a treaty governing the exploration and use of the ocean bed that reproduced word for word the basic provisions of the outer space Treaty.

He hoped that he had clarified the background of the concept in question, the meaning of which was now clear and precise for most delegations.

Mr. VACHATA (Czechoslovakia) observed that the only activities on the Moon and other celestial bodies that could be envisaged for the time being were purely scientific. It was thus pointless to engage in acrimonious debate concerning the legal definition of the status of the Moon's resources, when it was not yet known whether it would be possible or economically useful to exploit them. His delegation, being anxious to

*Resumed from the 212th meeting.

see the text of a treaty relating to the Moon adopted as soon as possible, therefore recommended the exclusion from the text of any reference to the status of the resources of the Moon, on the understanding that an international régime would be established as soon as those resources became exploitable. A decision of that kind should satisfy all delegations and make it possible to find a final compromise solution.

Mr. EL ARABY (Egypt) said that he had already had occasion to state his delegation's views regarding the basic considerations which should guide the Sub-Committee's work. After listening carefully to the comments of a number of delegations in connexion with the proposal in document A/AC.105/C.2/L.97, of which his country was a sponsor, he felt that, without departing in any way from the basic principles enunciated by the representative of India on behalf of the sponsors, it should be possible, in the light of the comments that had been made, to alleviate some of the apprehensions which had been expressed.

INVITATION TO THE MEETING CELEBRATING THE TWENTY-FIFTH ANNIVERSARY OF THE INTERNATIONAL LAW COMMISSION

The CHAIRMAN announced that the Chairman of the International Law Commission had invited the Chairman and members of the Legal Sub-Committee to attend the meeting celebrating the twenty-fifth anniversary of the International Law Commission, to be held on Monday, 27 May 1974, in the afternoon.

Mr. MAIORSKI (Union of Soviet Socialist Republics) said he wished to avail himself of the presence of Mr. Rybakov, the Secretary of the International Law Commission, to request him to convey to the Chairman of the Commission the thanks of delegations.

Mr. COCCA (Argentina) endorsed that suggestion, recalling that the constructive statements by the Chairman of the International Law Commission at the 1965 session of the Committee on the Peaceful Uses of Outer Space, held in New York, had helped to guide the work of the Committee in concluding the outer space Treaty and the Agreement on the Rescue of Astronauts.

The CHAIRMAN in turn requested Mr. Rybakov to convey the Sub-Committee's thanks to the Chairman of the International Law Commission and suggested that the Sub-Committee decide to accept with thanks the invitation of the Chairman of the International Law Commission.

It was so decided.

The meeting rose at 4 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTEENTH MEETING

held on Friday, 17 May 1974, at 10.45 a.m.

Chairman : Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4) (continued*) (A/AC.105/127 and Corr.1)

Mr. ABDEL-GHANI (Chief, Outer Space Affairs Division), reviewing the work of the Working Group on Direct Broadcast Satellites as it related to the work of the Legal Sub-Committee, recalled that the establishment of the Working Group had been approved by the General Assembly in paragraph 5 of its resolution 2453 B (XXIII) on international co-operation in the peaceful uses of outer space, to study and report on the technical feasibility of communication by direct broadcast from satellites and its economic, social, cultural and legal implications. It had held five sessions - in February 1969, July 1969, May 1970, June 1973 and March 1974 - at which it had carried out a thorough study of all the aspects of the question and had reached several significant conclusions.

At its first session, it had undertaken the difficult task of assessing the technical feasibility of direct broadcast satellites and forecasting relevant technical and economic parameters. It had reached the important conclusion that by the mid-1970s the direct broadcast of television signals into home receivers augmented with special antennae and into community receivers could become technologically feasible, and attainable at least in those countries which already had a relatively well-developed mass-media infrastructure.18/

At its fifth - and most recent - session, the Working Group had confirmed and brought up to date its original and main conclusion. It had noted that the technical feasibility of direct broadcasting from satellites had moved much closer to practical realization within the last few years and that it was possible to predict with some certainty that operational systems could be available within the forthcoming decade (A/AC.105/127, para. 21).

The current plans for the first experiment in the use of that new technology using the ATS-F satellite, which was to be launched later in 1974 in order to carry out experimental programmes in the United States of America, India and possibly Brazil, as well as the joint Canada/United States CTS experiment using a communications-technology satellite which was at an advanced stage of preparation, bore out the conclusions reached by the Working Group as far back as 1969. In that connexion, it was also

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* Resumed from the 213th meeting.

18/ Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 21 (A/7621), annex IV.

important to note the discussions being held in various parts of the world, particularly in South America, with a view to the establishment of regional systems for community broadcasting.

Referring to United Nations activities in that sphere, he noted that since 1970 the Outer Space Affairs Division had been organizing a series of panels, seminars and workshops on space applications, including, of course, communications by satellites. During the past two years, the United Nations, in co-operation with UNESCO and ITU, had organized three panels on space communications, held in India, Japan and Ethiopia.

The first - the Panel on Satellite Instructional Television Systems, which had been sponsored by the Government of India - had been held at New Delhi in December 1972, to discuss the software aspect of the Indian experiment to which he had already referred. The Panel had subsequently been moved to Ahmedabad, where the hardware equipment of that experiment had been exhibited and explained to the participants from several Asian and African countries. He had attended that meeting and had derived from it a wealth of knowledge on instructional television from space.

In Tokyo in 1974, the Japanese Government had sponsored a Panel on Satellite Broadcasting Systems for Education, a sector in which Japan had long and detailed experience. The third panel, held at Addis Ababa in October 1973, had been the joint United Nations/UNESCO African Regional Seminar on Satellite Broadcasting Systems for Education and Development.

A considerable number of technicians, broadcasters and educators from African, Asian and Latin American countries had participated in those panels. They had witnessed on the spot the experiments conducted in India and Japan and had attended training courses given by lecturers and experts from countries advanced in the sphere of space communications.

In addition, some countries, particularly Japan, India and the United Kingdom, had, through the United Nations, offered fellowships in space applications, for which the Scientific and Technical Sub-Committee had expressed its appreciation.

He had mentioned those United Nations activities in order to draw attention to the fact that, while the legal aspects of direct broadcasting from satellites were under discussion, the United Nations was proceeding to provide, within the limited resources available, education and training in the utilization of new technology for experts from the developing countries.

At its second, third and fourth sessions, the Working Group on Direct Broadcast Satellites had devoted much attention to the economic and social aspects of satellite broadcasting, and its conclusions were to be found in its reports on those sessions. In the main, it had been recognized that technological developments in satellite broadcasting held the promise of unprecedented progress in communications and the promotion of understanding between peoples and cultures. The Working Group had emphasized its belief that broadcasting from satellites would make an effective contribution towards meeting some of the needs and interests of the developing countries. In particular, the Working Group had mentioned the practical benefits in terms of national integration and development through the possibility of integrating isolated rural communities and

distant population centres into national life, and the potential of satellite broadcasting as a means of implementing programmes of economic and social development in such areas as education and training for school-age populations and adult groups, improvement in agricultural methods, health programmes, community development and culture. It had also been recognized, however, that the new technology could, if misused, hinder and disturb national understanding and co-operation, and seriously affect the interests of States.

The Working Group had therefore recognized that the effective deployment and use of satellite broadcasting services required large-scale international co-operation and had considered in great detail the political and legal questions raised by the new technology. The Working Group had agreed that there were a number of international legal instruments which were applicable to activities in that sphere, including the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and various legal instruments regulating activities in outer space, particularly the 1967 outer space Treaty.

In 1972, the General Assembly had adopted resolution 2916 (XXVII), in which it had expressed the view that it was "necessary to elaborate principles governing the use by States of artificial earth satellites for direct television broadcasting, with a view to concluding an international agreement or agreements". In so doing, it had referred to the "need to ensure the free flow of communications on a basis of strict respect for the sovereign rights of States". At its fourth session in June 1973, the Working Group had discussed the interpretation of that resolution with regard to the further elaboration of legal norms. In that connexion, the Working Group had had before it a proposal by the Soviet Union for a convention on principles governing the use by States of artificial earth satellites for direct television broadcasting, which had originally been submitted to the General Assembly in 1972,[19] as well as a proposal by Canada and Sweden for draft principles governing direct television broadcasting by satellites (A/AC.105/127, annex III). The Working Group had also had before it a UNESCO Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange, adopted at the seventeenth session of the General Conference of UNESCO in 1972. The range of views subsequently expressed by the various delegations in the Working Group had been summarized by it in paragraph 76 of the report on its fourth session.[20]

After preliminary discussion of the various proposals, the Working Group had recommended that another session should be convened before the 1974 session of the Legal Sub-Committee, during the course of which the Working Group should discuss principles of the use by States of artificial earth satellites for direct television broadcasting with a view to making

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19/ *Ibid.*, *Twenty-seventh Session, Annexes*, agenda items 28, 29 and 37 document A/8771.

20/ A/AC.105/117.

recommendations to the Legal Sub-Committee for its work in that sphere. Such a procedure, the Working Group had felt, would permit the Legal Sub-Committee to discharge more effectively such responsibilities as might be conferred upon it.

At the fifth session of the Working Group, in 1974, the Soviet Union had submitted a working paper containing principles governing the use by States of artificial earth satellites for direct television broadcasting (A/AC.105/127, annex II), supplementing the original proposal by that country for a draft convention on principles submitted in 1972 to the General Assembly and the Committee on the Peaceful Uses of Outer Space. The United States of America had submitted a working paper containing draft principles on direct broadcast satellites (ibid., annex IV). Argentina had submitted a proposal which attempted to synthesize the various elements that should be contained in a set of principles in that sphere (ibid., annex V). Those three documents, together with the Canadian/Swedish text submitted at the fourth session, had formed the basis of discussion at the fifth session, which had centred exclusively on principles.

On the basis of an informal comparative table which it had requested the Secretariat to prepare, the Working Group had defined the following areas in which principles should be drafted: purposes and objectives; applicability of international law; rights and benefits of States; international co-operation; State responsibility; prior consent and participation; spill-over; programme content; illegality of broadcasts; duty and right to consult; peaceful settlement of disputes; copyright, neighbouring rights and protection of television signals; notification to the United Nations system; and interference (A/AC.105/127, chap. IV.B).

It had discussed each of those subject areas separately and had recorded any consensus that had been reached. In cases where it had not been possible to reach a consensus, the different views expressed had been recorded. Those views were to be found in the report now before the Sub-Committee, particularly in the various parts of chapter IV.

Although the Working Group had not reached a consensus on all of the subject areas, it had made a very positive contribution in defining the subject areas in which principles should be identified and drafted, together with the content of what such principles should be, and setting out clearly the detailed views of States in areas where no consensus existed. In fulfilling its mandate on the elaboration of principles governing activities of States in the area of direct broadcast satellites, in accordance with General Assembly resolutions 2916 (XXVII) and 3182 (XXVIII), the Legal Sub-Committee might therefore wish to benefit from the very useful work performed by the Working Group.

In 1948, a United Nations Conference on Freedom of Information had been convened. The main achievement of that Conference had been the drafting of a convention on freedom of information, which, however, had remained a dead letter in the archives of the United Nations. Every year in the Third Committee of the General Assembly, efforts had been made to revive the draft convention. Some ad hoc bodies had been established to find ways and means of breathing life into it, but their efforts had proved fruitless.

The problem was that in the area of information, i.e. of mass communication, many complex factors were involved, among which freedom of information, one of the basic human rights, was paramount. But other factors relating to the responsibilities of the information media must also be taken into consideration, in order to ensure that they were transformed into a channel for international co-operation and better understanding among peoples and nations.

Now that technology had added one more effective means of communication, namely, television broadcasting by satellites, it might be said that, while the problem had become more complex, it was also possible that past experience showed the need to strike a balance between the basic human right of freedom of information, on the one hand, and the need to safeguard the rights and interests of States, on the other. Both should, of course, aim at the promotion of international co-operation.

As was apparent from the report of the Working Group, certain important technical steps had already been taken or were contemplated by ITU with regard to the allocation of frequencies and the problem of spill-over. Those were important means of avoiding confusion in broadcasts by satellites, confusion which could easily be imagined when one remembered the present confusion - not to say chaos - in the air with regard to short-wave broadcasts, especially at times of international crisis.

It was to be hoped that the important technical steps already taken by ITU would pave the way for other steps to be taken at the legal and political levels in order to implement the General Assembly resolutions which contemplated the conclusion of an international agreement or agreements on direct broadcasts from outer space.

The meeting rose at 11.45 a.m.

SUMMARY RECORD OF THE TWO HUNDRED AND SEVENTEENTH MEETING

held on Monday, 20 May 1974, at 10.50 a.m.

Chairman : Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4 (continued) (A/AC.105/127 and Corr.1)

Mr. MISHRA (India) said that rapid developments in technology had revolutionized the whole field of international communication. Satellite communications, particularly the transmission of television programmes from satellites, constituted a vital link between countries and peoples and paved the way towards the removal of artificial barriers to communications among nations. They also presented a special set of problems and pointed to the need for co-operation in both the operation and regulation of satellite systems. There was increasing interest, both within and outside the United Nations, in the use of broadcast satellites as a future communications medium of tremendous importance.

His delegation was deeply grateful to the delegation of the Soviet Union for having drawn the General Assembly's attention to the important question of the preparation of an international convention on principles governing the use by States of artificial earth satellites for direct television broadcasting and for having submitted a draft set of principles. It was also grateful for the valuable contribution which the delegations of Canada and Sweden, Argentina and the United States of America had made to the Working Group on Direct Broadcast Satellites. It appreciated the work done in the matter by the specialized agencies, and wished in particular to express its deep satisfaction at the adoption by UNESCO in 1972 of the Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange.

There were a number of international legal instruments, including the Charter of the United Nations, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the International Telecommunication Convention and its Radio Regulations, which would apply to direct broadcasts from satellites. However, owing to the relatively greater impact of television than that of other communications media, it was extremely important to adopt legal principles which could assist in the development of television broadcasting by satellites in keeping with the interests of all States, particularly those of the developing States. Any draft principles on the question should include the principle that satellite broadcasting was not to be used for harmful propaganda or for intellectual piracy. It should be noted, in that connexion, that the outer space Treaty contained a reference

to the provisions of General Asse bly resolution 110 (II) condemning propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression, and stated that that resolution was applicable to outer space. There should also be a princip protecting copyright against infringement or piracy, although such a principle should not establish any rigid provisions regarding payment of royalties or compensation. His Government attached considerable importan to the question of international co-operation in that area, as in other areas of space applications, and would regard any legal principle which, through its constraints and rigidity, would hamper increased international co-operation as most unfortunate.

As far as international co-operation was concerned, his Government deeply appreciated the generous offer made by the United States Government as a result of which India would be able to conduct in 1975/1976, using the ATS-F satellite, a major experiment which could make a significant contribution to its national development. In connexion with internationa co-operation, reference should also be made to the United Nations panel meetings held in India, Japan and Ethiopia.

His delegation was of the opinion that the prior consent of States should be obtained before direct television broadcasting was carried out. In regard to technically unavoidable spill-over, it did not consider that the questions of prior consent or co-operation were relevant. Prior consent would be necessary only if the broadcasts in the spill-over zone were intentional. Any problem which might arise in the matter should be solved by means of consultation or other peaceful means.

All the proposals before the Legal Sub-Committee on the question contained positive elements; it would be useful, therefore, if they were gathered into a single document.

Some delegations had been concerned by the fact that UNESCO had adopt the Declaration of Guiding Principles on the Use of Satellite Broadcasting before the United Nations had had an opportunity to examine the matter in detail. The Declaration was, however, a very important document and it would be wrong not to give it the consideration it deserved. It contain many useful elements, some of which did not appear in any of the proposal before the Sub-Committee. The Sub-Committee should take the Declaration fully into account when preparing the general principles on direct broad-cast satellites.

Mr. VACHATA (Czechoslovakia) said that he wished to thank the Working Group on Direct Broadcast Satellites for its very useful report on the work of its fifth session (A/AC.105/127 and Corr.1), which provid a sound basis for the Sub-Committee's work. His Government attached gre importance to the development of co-operation in activities in outer spac being convinced that such activities, if properly regulated, could become an effective instrument of international co-operation and a spearhead of progress in the dissemination of knowledge in the sphere of culture, science and technology. The legal principles governing direct broadcast by satellite which the Sub-Committee had been called upon to elaborate mu ensure that new technical achievements were not used for propaganda or purposes inimical to peace or for interference in the internal affairs of States.

With regard to the draft principles dealt with in the Working Group's report, his delegation was in complete agreement with the view that direct television broadcasting by satellite should serve the purposes of maintaining international peace and security through the development of mutual under-standing and the strengthening of friendly relations and co-operation among all States and peoples, by assisting in social and economic development, particularly in the developing countries, and facilitating and expanding the international exchange of information (ibid., para. 31). In accordance with General Assembly resolution 2916 (XXVII) and as stressed in the draft principles prepared by Canada and Sweden (ibid., annex III), that exchange of information must be governed by the principles of international law and especially by the principles of the sovereign rights of States, non-intervention, equality and mutual benefit.

His delegation shared the opinion of those delegations which had pointed out that the concept of the free flow of information was not a principle of international law and that it was essential for the sovereign rights of States to be strictly observed in the matter of the international exchange of information. All international instruments so far drawn up on the subject had been based on that principle. For example, the Universal Postal Convention, as revised at Tokyo in 1969, authorized member States temporarily to suspend postal services if exceptional circumstances obliged them to do so. It also prohibited the conveyance of articles to States in whose territory they were prohibited. Another example was the International Telecommunication Convention (Montreux, 1965),[21/] in article 32 of which members reserved the right to stop the transmission of telegrams or cut off private telecommunications if their contents appeared dangerous to the State or contrary to public order or to decency. Article 33 of that Convention permitted members to suspend international telecommunication services in whole or in part, the only obligation being to notify such action to the other member States. The same position was upheld in the new text of the International Telecommunication Convention drawn up at Torremolinos (Malaga), and due to come into force in 1975. If, therefore, as those examples showed, the principle of national sovereignty was upheld in the field of the international exchange of information, it was all the more essential that it be observed in direct television broadcasting by satellite, as indeed was required by the outer space Treaty of 1967, which must be regarded as the jus cogens for the document to be elaborated.

The advocates of the concept of the free flow of information were wont to refer to article 19 of the Universal Declaration of Human Rights, forgetting that both the International Covenant on Civil and Political Rights of 1966 and the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, signed by 15 European countries, substantially restricted so-called freedom of information. For that reason, representatives of several countries that were parties to the latter Convention had stated, when voting on General Assembly resolution 2916 (XXVII), that the resolution should be based not only on freedom of information but also on the principle of mutual observance of State sovereignty.

21/ United Nations Juridical Yearbook 1965 (United Nations publication, Sales No. 67.V.3), p.173.

With regard to the principle of the applicability of international law, his delegation fully agreed with those countries which considered that the regulation of direct television broadcasting by satellite should be based on the generally recognized rules of international law and especially on the Charter of the United Nations and the outer space Treaty. It also fully endorsed the proposal by Canada and Sweden that the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations should be applicable to such broadcasting. The Declaration set out seven basic principles of international law, those most relevant to the Sub-Committee's present task being non-intervention, the duty of States to co-operate with one another, equal rights, the sovereign equality of States and the fulfilment of obligations in good faith.

With regard to the principle of international co-operation, his delegation was in basic agreement with the proposals put forward by the Working Group. In drafting the principle, however, it was important to ensure close observance of the provision of the 1967 outer space Treaty stipulating that the exploration of outer space should be carried out for the benefit and in the interests of all countries, without discrimination. His delegation therefore proposed that the principle should clearly state, firstly, that direct television broadcasts by satellite intended for other States might be undertaken only by organizations which were under government control, secondly, that States responsible for broadcasts must themselves attempt to prevent or prohibit illegal broadcasts and should therefore be obliged to monitor broadcasts either by the State or other organizations to ensure that the principles were strictly observed, and thirdly, that States responsible for broadcasts should be obliged to interrupt without delay broadcasts which did not fulfil the above conditions and were therefore illegal or to bring such improper broadcasts to the attention of the State for which they were intended.

With regard to the principle of State responsibility, his delegation could not agree that there should be any exception to the principle that States should bear international responsibility for activities relating to direct television broadcast by satellite in accordance with article VI of the outer space Treaty, even where broadcasts were carried out by non-governmental organizations or international organizations situated in the territory of the State in question.

With regard to the principle of prior consent for direct satellite broadcasting, his delegation was of the opinion that such consent was one of the basic prerogatives of national sovereignty. That view was based not only on the principle of the sovereignty of States, but also on that of non-interference in the internal affairs of States; it was also one of the generally recognized rules of international law governing radio and television broadcasts. His delegation therefore proposed that the principle of prior consent should clearly state, firstly, that direct television broadcasts by satellite to foreign States should be permitted only on the basis of the prior consent of the State to which they were addressed, secondly, that States to which broadcasts were directed should be able to modify the content of broadcasts intended for their population, thirdly, that broadcasts of commercial and other advertising material should be permitted only on the basis of separate agreements between the emitting and the receiving States, fourthly, that broadcasts which constituted interference in the internal affairs of other States were prohibited, and fifthly, that States should have the right to take appropriate steps against illegal broadcasts in cases where the matter could not be settled by agreement between the interested parties.

Mr. LIND (Sweden) said that his delegation was particularly pleased that the question referred to in paragraph 6 of General Assembly resolution 3182 (XXVIII) was to be considered at some length by the Sub-Committee. The degree of urgency the General Assembly had attached to that question seemed warranted both from a technical and a political point of view. The Working Group on Direct Broadcast Satellites had noted, at its fifth session, that in the technical context it was possible to predict with some certainty that operational systems for direct broadcast satellites could be available in the forthcoming decade. Politically, it was quite evident that a majority of States regarded with apprehension the prospect of unco-ordinated unilateral satellite broadcasts from one country or group of countries to other countries. The Sub-Committee should do all in its power to allay those fears. It was the sincere hope of the Canadian and Swedish delegations that, in its report on its thirteenth session, the Sub-Committee would be able to show that it had been able to draft at least a few generally acceptable principles on direct broadcast satellites.

As to the form of the instrument in which such principles would be incorporated, the delegations of Canada and Sweden believed that it would be sufficient, at the current stage, for the Sub-Committee to concentrate on drafting a General Assembly declaration embodying a set of guiding principles. Developments would then show whether consideration should be given at a later stage to the preparation of an international agreement of a more binding character. The report of the Working Group on Direct Broadcast Satellites on its fifth session would provide a useful basis for detailed discussions in the Sub-Committee. The Canadian-Swedish proposed draft principles on direct broadcast satellites had been introduced in 1973 and information on the basic considerations underlying the suggested principles had been given in document A/AC.105/WG.3/L.4 (A/AC.105/127, annex III). In the working paper which had been submitted to the Working Group at its fifth session,[22] the two delegations had amplified the information given in document A/AC.105/WG.3/L.4 and paid special attention to the comments made in the United Nations and elsewhere on the proposed principles. The latter document did not contain new draft principles; it merely expanded upon the basic assumptions underlying the principles already proposed.

At its fifth session, the Working Group on Direct Broadcast Satellites had reached a high degree of consensus on a number of principles to govern direct broadcast satellites. The Sub-Committee would accomplish very useful work if it were to begin drafting such principles. The Canadian representative had suggested that the following subjects should be the first to be considered: the applicability of international law; rights

22/ A/AC.105/WG.3/L.8

and benefits of States; international co-operation; State responsibility; and the peaceful settlement of disputes. Having made progress on those five points, the Sub-Committee should proceed to prepare principles relating to the duty and right to consult, and the purposes and objectives of direct broadcasting from satellites. There were a number of other principles on which significant differences of opinion had been apparent in the Working Group. In the opinion of Canada and Sweden, prior consent was one of the most important of those principles. The time available to the Legal Sub-Committee at its current session was limited. Therefore, in a spirit of compromise, the Canadian and Swedish delegations were prepared to agree that those principles on which the Working Group had experienced most difficulty in reaching a consensus might better be left for consideration at a later date. In the interest of achieving concrete results on some of the other principles at the current session, he would make no attempt to amplify in detail the very carefully considered views jointly held by Canada and Sweden on the need to allow for an element of consent. He reiterated, however, that, in the view of Canada and Sweden, consent should apply to systems rather than to programming and should be linked to the possibility of participation by receiving States in the development and operation of such satellite broadcasting systems as were intended to broadcast in whole or in part into their territories. The two delegations regarded the principles of consent and participation as contained in articles V and VI of their draft principles as the most realistic means to allay the political apprehensions he had referred to earlier. They also regarded the proposed principles as a reasonable way in which to render, in broad political and international legal terms, as commonly employed in the United Nations, a number of binding requirements of positive international law which had been adopted in the context of ITU.

In the opinion of the Canadian and Swedish delegations, the Committee on the Peaceful Uses of Outer Space and the General Assembly at its twenty-ninth session would have to consider very carefully the question of how and in which forum or fora future work on the elaboration of guiding principles pertaining to direct broadcast satellites should best be pursued. The Working Group on Direct Broadcast Satellites had been unable to make any generally acceptable recommendation regarding its possible reconvening. Canada and Sweden were still of the opinion that, depending on the degree of progress made in the Sub-Committee, it might be useful to reconvene the Working Group. That question could be taken up when the Sub-Committee discussed the recommendations it wished to make in its report.

Mr. SOMMERLAD (United Nations Educational, Scientific and Cultural Organization) said that the constant advances in communication technology and the proliferation of the media of information were confronting individuals and decision-makers with increasingly complicated dilemmas of choice and utilization. Since the beginning of the satellite age, UNESCO had been concerned to promote internationally accepted policies and principles for the utilization of space communication. As early as 1962, its General Conference had authorized the Director-General to study the implications of the new techniques of communication by artificial satellites. Programme activities had developed and had led to the convening in 1969 of a meeting of governmental experts on international arrangements in the space communication field. By decision of the 1968 General Conference, the findings of the expert meeting were to provide a basis for a declaration embodying guiding principles on the use of space communication for the furtherance of the aims of UNESCO. The meeting had stressed that international co-operation had to govern the entire application of space communication if it were to serve the cause of peace and mutual understanding among peoples. A number of delegations had suggested principles which might be included in the proposed declaration.

After three years of consultations with expert groups, including the representatives of regional broadcasting and news organizations, a draft Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange had been submitted to the seventeenth session of the General Conference of UNESCO in 1972. The final text of that draft was the result of a unanimous recommendation by 12 experts from member States in all regions of the world, invited to serve in their personal capacity. It was discussed at length at the 1972 General Conference and, although some delegations had felt that the text should first be studied by the United Nations Committee on the Peaceful Uses of Outer Space, it had been adopted by a vote of 55 in favour and 7 against, with 22 abstentions. Because of the concern of UNESCO to ensure the consistency of decisions taken by member States in different organizations of the United Nations system, the Director-General had transmitted the Declaration to the United Nations. He would, if necessary, make a further report to the 1974 General Conference in the light of any comments made by the Committee on the Peaceful Uses of Outer Space.

UNESCO was acutely aware of the dilemma posed by direct broadcast satellites for member States and organizations and recognized its constitutional obligations to promote the free flow of ideas by word and image. It was also conscious of the view of a large number of its member States that there could be no free flow of information in the international sense without technical means and resources and that its constitutional duty to promote collaboration for peace and security required facilities for a two-way flow and an equal exchange of information between nations. Despite the sharing of technological discoveries and generous technical assistance, a majority of its member States considered it likely that, for a long time to come advanced nations would have the advantage in access to very expensive satellite broadcasting systems. It was for that reason that the UNESCO Declaration reflected the view that the principle of the free flow of ideas was not absolute but was qualified by other considerations such as respect for culture and the constant search for peace and mutual understanding, and it endorsed the principle of prior consent to direct satellite broadcasts over national frontiers.

The UNESCO Declaration was not a binding legal instrument and no attempt had been made to draft it in precise legal terms. Having been the first text to be prepared on the subject, it had been reflected in other drafts. The proposal submitted by Canada and Sweden was consistent with the UNESCO Declaration and improved upon it by making a clear distinction between the accidental spill-over of satellite signals into the territory of a foreign State and the deliberate broadcast of a programme over national frontiers.

with regard to the problem of copyright and the protection of satellite broadcasts from piracy, which had been under study by UNESCO and WIPO for some years, an international conference was now taking place at Brussels for the purpose of adopting a convention on the distribution of programme-carrying signals transmitted by satellite. The draft convention did not establish any private or exclusive rights for broadcasters, authors or performers, but in effect provided that contracting States should undertake to take adequate measures, administratively or by domestic legislation, to prevent the redistribution without appropriate authority of broadcast programmes received by satellite. It was intended to deal with the problem of television relays through the INTELSAT or INTERSPUTNIK systems that were picked up by the large earth stations linked to the system and in some cases had been broadcast over terrestial television networks without the concurrence of the originating broadcasting organization, which would have paid for rights on the basis of a specified distribution area for the programme concerned. Indeed, it had emerged from discussions at Brussels that there had already been 30 cases of pirated broadcasts during 1974. Agreement had been reached at those discussions at the end of the previous week, after amendments introducing controversial clauses had been withdrawn by the delegations concerned, and he wished to make it clear that it had been specifically decided not to refer to direct broadcast satellites, which were on the agenda of the Legal Sub-Committee at its current session.

Mr. REIS (United States of America) asked whether it would be possible for the Sub-Committee to receive a copy of the text of the new convention.

Mr. SOMERLAD (United Nations Educational, Scientific and Cultural Organization) said that he would make a copy of the draft text available immediately and a copy of the final text at the end of the week. There were, however, no substantive changes in the final draft.

Mr. CHARVET (France) reminded the Sub-Committee that, in 1970, his delegation had submitted a working paper on the principles that should be adopted in connexion with direct broadcast satellites.23/ France believed that the relevant international regulations should be most stringent and supported the General Assembly decision that the work on the subject should first take the form of drafting principles, attempts to draw up international agreements being postponed until later. The adoption of principles was merely a stage in progress towards the adoption of international legislation that would prevent direct broadcast satellites from becoming a source of international tension.

The comparative study of the proposals made by Argentina, Canada, Sweden, the USSR and the United States of America had enabled the Working Group on Direct Broadcast Satellites to produce a list of points on which a consensus might be easy to achieve. His delegation believed that those points should be taken up first and that a drafting group should be set up to prepare the first articles of a declaration of principles. The Sub-Committee might then go on to consider some of the controversial questions and perhaps settle one or two of them. Although it seemed difficult to reconcile freedom of information with the sovereignty of States, his delegation believed that the task would not be insuperable if delegations recognized the principle of international co-operation established in the outer space Treaty, if they did not confuse freedom and licence and if they took account of existing rules of international law.

The meeting rose at 12.20 p.m.

23/ See Official Records of the General Assembly, Twenty-fifth Session, Supplement No.20 (A/8020), para.49.

SUMMARY RECORD OF THE TWO HUNDRED AND EIGHTEENTH MEETING

held on Wednesday, 22 May 1974, at 10.45 a.m.

Chairman : Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4) (continued) (A/AC.105/127 and Corr.1)

Mr. PIRADOV (Union of Soviet Socialist Republics), referring to the constructive results achieved during the first two days' work on elaborating the principles of direct broadcasting by satellite, said that his delegation would like to make two points which were vital to future progress in the field. The first was that direct broadcasting by satellite was undoubtedly an activity in outer space and the principles governing it must therefore be fully in accordance with the 1967 outer space Treaty, article IX of which stated that in the exploration and use of outer space States should be guided by the principle of co-operation and mutual assistance and should conduct all their activities "with due regard to the corresponding interests of all other States Parties to the Treaty". That implied respect for the principle of State sovereignty and prior consent was consequently one of the key principles governing direct broadcasting by satellite. His delegation's second point related to the content of broadcasts. Under article III of the outer space Treaty, States were obliged to carry on activities in outer space "in the interest of maintaining international peace and security and promoting international co-operation and understanding". It followed that not all broadcasts using outer space could be considered permissible. Another vital principle to be drawn up therefore concerned the requirements to be met by the content of direct satellite broadcasts. Proposals on the subject were contained in articles III and IV of the draft principles submitted by his delegation (A/AC.105/127, annex II), which hoped that it would be possible to formulate the principle during the current session, since that would pave the way for further progress.

Mr. AZIMI (Iran) said that his delegation hoped that an understanding and co-operative approach on the part of delegations would make it possible for the Legal Sub-Committee's Working Group III to reach agreement on the points that had not been resolved at the fifth session of the Working Group on Direct Broadcast Satellites. In view of the major technical advances recently achieved in regard to direct broadcasting by satellites and in view of the immense benefits that such broadcasting could bring to all countries in the matter of information, education and communications, it was highly desirable that the Sub-Committee should make a concrete contribution to the elaboration of the relevant principles, basing itself on the work done by the Working Group on Direct Broadcast Satellites.

The principles to be drawn up should be in conformity with those of international law, with the Universal Declaration of Human Rights, with the Charter of the United Nations and with the outer space Treaty. While direct broadcasting by satellites certainly brought advantages to mankind, international co-operation in that sphere gave rise to serious technical and legal problems.

Having regard to the present state of technology and the experiments in direct broadcasting by satellites soon to be carried out in different parts of the world, his delegation hoped that effective collaboration between members of the Sub-Committee would lead to an agreement on generally accepted principles for recommendation to the Committee on the Peaceful Uses of Outer Space. Those guiding principles could, of course, subsequently be supplemented by bilateral or multilateral agreements between the parties concerned.

In his delegation's opinion, the guiding principles should give all States an equal right freely to undertake satellite broadcasting, while respecting the sovereign rights of other States. Such broadcasts should serve the cause of international peace and security and promote friendly relations among countries and international understanding and co-operation without any interference in the domestic affairs of States.

The very interesting documents submitted by the Soviet Union, by Canada and Sweden, by the United States of America and by Argentina (ibid., annexes II-V) would provide a very useful basis for the Sub-Committee's work. In that connexion, his delegation considered that the principles of State sovereignty, State responsibility, non-interference in the domestic affairs of States, prior consent and participation, and the peaceful settlement of disputes, all of which were most important, must be scrupulously respected. With regard to the principle of prior consent, it was of cardinal importance that, in the absence of prior consent, any spill-over into the territory of another State should be avoided. In conformity with the decisions taken at the 1971 World Administrative Radio Conference for Space Telecommunications, particular attention should be paid to that difficult problem, so as to reduce to the minimum broadcasts for which prior consent had not been obtained. Notwithstanding the importance of the free circulation of communication, States should have the right of control over broadcasts beamed at their territory and should be allowed to take whatever measures were necessary in that regard. In order to prevent direct broadcast satellites from becoming a source of tension, the transmitting State should stop all broadcasts that might constitute interference in the domestic affairs of another State.

Mr. GREENWOOD (United Kingdom), reaffirming his delegation's belief that it would be premature to draft any international instrument on direct broadcast satellites, said that his country would co-operate fully in the drafting of principles, in the recognition that that was the desire of the majority. He said that in taking the view that it was premature he was aware that experiments were about to be undertaken in direct broadcasts by satellite for reception on community antennae. His delegation believed that community reception was readily susceptible to control in the receiving country and that there was therefore no need for international regulation on that account alone. It further believed that reception by individual television sets in the home would not be possible, except at a cost which ruled it out as a practical proposition, until towards the end of the 1980s.

The United Kingdom took a pragmatic approach to both national and international legislation and preferred to legislate after the facts had become clear rather than to provide for eventualities that might never arise. Because of the various unknown factors, any regulations drawn up at the present stage on the subject of direct broadcast satellites would be likely either to spread their net too wide or to miss the mark, and in doing so they might hamper the growth of an advancing technology by imposing unnecessary restrictions. That would have the harmful effect of inhibiting the international dissemination of knowledge and ideas that could be conducive to the spread of peaceful and beneficial culture, the education of peoples and the development of international understanding.

He was aware that the countries which wished to lay down international regulations to govern television broadcasting by satellites were afraid that such a powerful and far-ranging technique, which presented problems quite different from those of terrestrial broadcasting, might be used by other countries to infringe their sovereignty and interfere in their domestic affairs. For that reason, they were in favour of requiring that the consent of receiving countries should be obtained to the programmes to be televised and even of making the broadcasting of certain matters illegal or of compelling a transmitting country to exercise programme censorship. His delegation thought that such measures would be contrary to a principle which, in the field of human rights, was no less fundamental than the principle of State sovereignty, namely, the principle of freedom of information, as set out in article 19 of the Universal Declaration of Human Rights and reiterated in similar form in other regional conventions and declarations such as the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and the American Declaration of the Rights and Duties of Man of 1948. It should be stressed, however, that freedom of information did not mean complete licence. It was perfectly possible to reconcile the principle of freedom of information with the principle of State sovereignty, as had indeed been done in the European Convention just mentioned by a series of limitations in the interest, for example, of national security or the prevention of disorder or crime.

His delegation did not favour even a principle of prior consent qualified by such limitations, because, irrespective of whether any reference was made to the ITU and its Radio Regulations in the principle relating to the applicable law, all States represented in the Sub-Committee were parties to them and their provisions were binding. Although those Regulations admittedly dealt only with technical matters, they nevertheless ruled out the deliberate radiation of direct television broadcasts by satellite from one country to another in the absence of prior agreement between the two countries. They thus enabled a receiving country to avoid any unwelcome broadcasts being deliberately transmitted to it.

Another problem concerning the question of consent was its interpretation. Would consent be general consent to television broadcasts,

to a particular broadcast, or to the contents of a single programme? There were other possible interpretations.

In conclusion, he considered it was generally agreed that a principle should be drafted embodying the concept of co-operation between States in respect of direct broadcasting by satellites. In the United Kingdom's view, a combination of the binding force of the Radio Regulations, strengthened as they no doubt would be by the 1977 World Administrative Radio Conference for Space Telecommunications and by the reduction of unintentional spill-over as a result of technical advances, and the adoption of other less controversial principles, such as respect for State sovereignty and co-operation between States, would make the formulation of a principle of prior consent both redundant and premature.

Mr. REINTANZ (German Democratic Republic) said his delegation believed that the starting point for the formulation of principles and rules of international law relating to direct broadcast satellites had to be recognition of and respect for State sovereignty, which was the corner-stone of international law. It followed that all States had an equal right to carry out direct broadcasting by satellite and to enjoy all the ensuing benefits, without any discrimination and regardless of their social, political and economic structure. If, however, that principle was to be embodied in an international convention as a legal rule, it would have to be elaborated in detail.

His delegation also believed that according to the principle of State sovereignty, broadcasting by satellite to a foreign State could be carried out only with the express consent of the latter. Prior consent was to be deduced from the principle of State sovereignty, including non-interference in the domestic affairs of other States and the equality of States without discrimination. It implied that the transmitting State and the receiving State should agree on the content of programmes, in order to avoid the transmission of material that might contravene the political, moral or religious sentiments of the people of the receiving State, or which might be detrimental to the maintenance of international peace, security and co-operation. Consequently, his delegation considered that prior consent must become one of the basic principles of the declaration to be formulated. The international community should not forget the lessons of the past and present - many States and peoples had been known to have broadcast fascist, racist and other harmful propaganda.

In that connexion, he reminded the Sub-Committee that the principle of the free flow of information beyond national frontiers was unknown to international law. That principle was of a purely political nature and could not therefore be placed in the same footing as the principle of State sovereignty. His delegation believed that States were legally entitled unilaterally to restrict transmissions from beyond their frontiers and from direct broadcast satellites, if such transmissions were directed against their political, economic, social and cultural structure. That belief stemmed from the principle of State sovereignty but it did not mean that his country was opposed to an exchange of communication. It was essential, however, that the flow of information should go in both directions and that there should be a mutual exchange based on the agreement of the States concerned covering the fields of science, culture, art, sports, etc. Only

by agreement would it be possible to combine strict respect for State sovereignty with the mutual exchange of communications transmitted by governmental agencies or non-governmental entities authorized and supervised by competent governmental organs. Exchanges of that sort would strengthen friendly relations and understanding between States and peoples.

In conclusion, he stressed that, in the formulation of a declaration, it was essential that all the principles to be included should be compatible with the dominant principle of international law, namely that of State sovereignty.

Mr. OHTAKA (Japan) said his delegation wished to endorse the view expressed by a number of delegations that it would be premature to draft a comprehensive binding legal document such as a treaty or a convention on the use of direct broadcast satellites. It also shared the view that the international community should maintain sufficient flexibility in formulating principles on direct broadcast satellites, particularly at the current experimental stage of the new technology. The principles being elaborated should therefore take the form of a General Assembly resolution setting out guide-lines on the use of direct broadcast satellites.

With regard to the scope of application of future principles, his delegation considered that direct television broadcasts by satellite intended purely for a domestic audience should, with the exception of certain cases related to spill-over, be excluded from the application of such principles. In the case of broadcasts intended for reception by foreign audiences, however, the only way to avoid unnecessary conflict would be to maintain a spirit of mutual understanding and co-operation between countries. International television broadcasts by satellites should therefore be conducted in accordance with the arrangements worked out between the broadcasting State and the State or States at the territories of which the broadcast was aimed. It was for that reason that his delegation had repeatedly expressed doubts as to the wisdom of introducing the principle of prior consent, which might enable a receiving State to hamper unilaterally the possibility of the international utilization of the new technology. For similar reasons, it could not subscribe to the concept of participation as a matter of right to be exercised by a receiving State. It was therefore grateful to the delegations of Canada and Sweden for their readiness to accept postponement of the elaboration of principles in those areas.

In the matter of spill-over, his delegation hoped that ITU would soon establish a commonly acceptable technical standard for solving the problem of whether a State conducting direct television broadcasts by satellite had taken all technical means available to reduce, to the maximum extent practicable, radiation over the territory of other States. Once such a technical standard had been established, a broadcasting State which complied with it fully should be exempted from any further obligations with regard to spill-over. In the meanwhile, however, there might be cases in which a broadcasting State, though having taken all practicable measures to minimize radiation over the territory of other States, would still have to resolve problems of spill-over. In such cases, the broadcasting State should be required to take the necessary measures to adjust those situations ex post facto. When international direct television broadcasts by satellite entailed spill-over into the territory of a third State and

The broadcasting State had not satisfied the ITU technical standard, the broadcasting State should work out arrangements with that third State, with a view to solving the problem. In cases of direct television broadcasts by satellite intended for reception by domestic audiences, however, a State planning such broadcasts without satisfying the ITU technical standard should be required only to give advance notification to States which might be affected by the broadcast and to agree to hold ex post facto consultations, should the broadcast in fact cause harmful spill-over.

Mr. VALLARTA (Mexico) said that, in his delegation's opinion, no attempt should be made to achieve a balance between the principles of State sovereignty and freedom of information because, whereas State sovereignty was a principle of international law and indeed constituted the very basis of that law, the principle of freedom of information across national frontiers was rather a political idea, to which his Government nevertheless enthusiastically subscribed. The article in the Universal Declaration of Human Rights dealing with freedom of information across national frontiers set out an excellent political concept but not a binding principle of international law; even if the juridical nature of that principle were accepted, it could not withstand a confrontation with the principle of State sovereignty, since that was the very cornerstone of international law.

In reply to those delegations that had cited the Universal Declaration of Human Rights in support of the principle of freedom of information, he stressed the importance of not taking a text out of context and read out articles 19 and 29, paragraph 2, of the Declaration. He pointed out that if a democratically governed State came to the conclusion that it did not wish to receive any given broadcasts, because they were contrary to its principles and public order or because they were transmitted by totalitarian or militarist States or perhaps even by multinational companies - and it could be said that the latter had carried out subversive activities - then it would be contrary to international law for such a State to be precluded from protecting itself from such broadcasts. Reference might be made in that connexion to the statement by the representative of UNESCO (217th meeting), in which it had been pointed out that the principle of the free flow of ideas, as contained in the Declaration adopted by the UNESCO General Conference in 1972, was not absolute but was qualified by other considerations such as respect for culture and the constant search for peace and mutual understanding. That Declaration also endorsed the principle of prior consent.

For those reasons, his delegation did not see the need to reconcile State sovereignty with freedom of information beyond national frontiers, since the latter was legitimately exercised to the extent that it respected the sovereignty of third States. It was, of course, for the receiving State to decide when the activity of third parties violated its sovereignty over its national territory, including the air-space above it, and also to explain the reasons for such a decision not only to its own nationals but also to world public opinion. Where bilateral or regional treaties existed, the principle that treaties were binding only on the parties would be applicable.

From the standpoint of international law, there was greater strength in the position of those States that affirmed that the principle of international freedom of information was a political concept to which the receiving State was entitled to make exceptions when the public interest so dictated. Although State sovereignty and freedom of information did not necessarily conflict, the former would prevail in the event of a conflict arising.

His delegation was ready for an immediate start on the preparation of an agreement on the subject, particularly since the present world situation urgently called for more international legislation.

With regard to the International Covenant on Civil and Political Rights, to which various delegations had referred in support of the legal validity of the principle of freedom of information, it should be recalled that the principle of res inter alios acta was also applicable to that Covenant. It should similarly be recalled that article 19 of that Covenant, while recognizing the principle of freedom of information, undoubtedly made it subordinate to the national public interest, a matter to be decided by each State in the exercise of its sovereignty.

With regard to State responsibility, it was essential that all States should be obliged to enact legislation to prevent private individuals or companies from taking actions from which States themselves had undertaken to refrain. Individuals should not be allowed to violate the provisions contained in the various international instruments covering direct broadcast satellites, and consequently his delegation intended to submit a text to the Working Group, proposing that all States should introduce into their own national legislation such provisions as had been agreed upon internationally.

Mr. KONSTANTINOV (Bulgaria) said that direct broadcasting by satellite should be used to promote peace, friendly relations and mutual co-operation between nations, raise cultural and educational standards, and further social and economic progress, especially in the developing countries. Direct broadcasting by satellite provided great opportunities for international co-operation, but, on the other hand, there was a grave danger that it might be used to influence the affairs of other countries. It was therefore essential that it be regulated at both the national and international level. The technical and political problems involved would have to be solved by means of international co-operation based on the generally accepted principles of international law. Each country would thus exercise its right to carry out direct broadcasts by satellite but at the same time would be bound by obligations stemming from international law. The role of the State was growing and its responsibility in avoiding conflict was obvious; nevertheless, that did not mean any infringement of the rights of non-governmental organizations and private persons, since those rights were in any case linked to certain duties. Limitation of the rights of individuals in the greater interest of the State was an accepted principle of international law. That point was illustrated by article 29 of the Universal Declaration of Human Rights, which stated that "these rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations". The same concept was set out in more detail in the International Covenant on Civil and Political Rights. His delegation therefore considered that the principle of State

responsibility was one of the cornerstones of direct broadcasting by satellite. The State should be responsible both for its own broadcasts to other countries and for protecting the sovereign rights of its citizens and ensuring national security. His delegation was convinced that the principle of prior consent was one of the basic principles that should govern direct broadcasting by satellite, and would help to promote sound and equitable international co-operation in that field.

Mr. COCCA (Argentina) said that his delegation's position was set out in the report of the Working Group on Direct Broadcast Satellites (A/AC.105/127, annex V) and he would therefore merely comment on certain points on which the Argentine position differed from that of other delegations.

Argentina drew a distinction between rights of States and benefits. All States, irrespective of their degree of development, had an equal right to use direct broadcasting by satellite for the purpose of their development programmes and for international co-operation. Those activities were based on national sovereignty and on the fundamental rights of States, of the family and of the individual. As for benefits, they should accrue to mankind as a whole in accordance with the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, contained in General Assembly resolution 1962 (XVIII), and the outer space Treaty of 1967. Both from the national and the international standpoint, States existed to serve man, not vice versa: that idea was not new but needed to be re-stated, because some delegations had departed from it in discussing the principles for direct broadcasting by satellites.

On the other hand, there was both national and international broadcasting by satellite and broadcasting relating to a country's development was governed by its own legal provisions, without prejudice to existing international regulations.

Argentina attached particular importance to access. Radio frequencies were a limited natural resource and the common heritage of mankind. Access to them should be guaranteed to all States in accordance with their needs and should be facilitated for those countries which had not yet completed their development.

International co-operation was a prerequisite for the development and use of direct broadcasting, and regional systems were of particular importance. Co-operation should cover all direct broadcasting from any source whatever.

States had not only rights, but also obligations. They must refrain from any broadcasts contrary to the principles and standards which had been or were to be established or which could be prejudicial to the rights of States, the family or the individual. Broadcasts must also respect the spirit of all peoples, their culture, history and national development.

International responsibility was subdivided into the responsibility of States under the 1967 Treaty and the responsibility of broadcasting authorities and organizations.

His delegation supported the free flow of information and social communication. That principle was not incompatible with the right of States to protect their social, cultural and economic values; it was embodied in the rules adopted by UPU and ITU. It was also essential to ensure the veracity of all information broadcast, and the right of reply formed a complement to freedom of information.

The Argentine proposal discussed the difficult question of prior consent and prior acceptance on the premise that no State should be obliged to receive material against its wish. The questions of programme content and participation were considered together, because participation went some way to solving the problem of content.

The Argentine proposal dealt not only with copyright and allied rights but also with the protection of television signals and his delegation had been gratified by the announcement made by the representative of UNESCO (217th meeting) that the Brussels Conference had been successful and that the convention on the distribution of programme-carrying signals transmitted by satellite would be signed very shortly. The principles of that convention should be incorporated in the texts to be prepared by the Sub-Committee.

Education and the intensification of cultural exchanges occupied a prominent place in the Argentine proposal. At the same time, his delegation agreed with others that the commercial aspects of direct broadcasting should also be covered, but by specific separate agreements.

The Argentine proposal referred to "inadmissible" rather than "illegal" broadcasts, because a State, in the exercise of its sovereignty, might regard a broadcast as inadmissible, even though no national law or international convention described it as illegal. Where necessary, a State should be authorized to take appropriate counter-measures, which would, however, be in accordance with international law and would not involve the use of force.

In his delegation's opinion, there could be no clandestine direct broadcasting, which was why a system providing for the maximum publicity and the widest dissemination should be established. The proposal also provided for a régime of consultation and for the peaceful settlement of disputes. Lastly, there was a section dealing with the disruption of shipping, air traffic and radioastronomy. He would now like to add a reference to outer-space communications, which should also be protected.

Those were, in broad outline, the matters which should be included in the text to be prepared. On a more general plane, it should be remembered that the Sub-Committee's task was to agree on declaratory principles, not, as some delegations in Working Group III and its drafting group appeared to consider, on detailed legal provisions. It would be wrong to restrict the scope of such principles from the outset. The aim was to meet the interests of the international community, which were shared by all.

Mr. HARASZTI (Hungary) said that direct television broadcasting, to which his Government attached very great importance, was an activity that required regulation. It therefore fully supported General Assembly resolution 3182 (XXVIII), which recommended that high priority should be

given to the elaboration of principles governing the use of satellites for direct broadcasting. In that respect, the Working Group on Direct Broadcast Satellites had done very useful work and its report contained certain elements on which international agreement could be based. His delegation agreed with the French delegation that efforts should not be concentrated on drafting those provisions on which agreement had already been reached in the Working Group. The limited progress which had been made so far was, however, somewhat disappointing.

Since direct television broadcasting was a great achievement affording a wide range of possibilities, all such activities should be controlled by States, which should bear international responsibility in accordance with article VI of the outer space Treaty. All activities should be conducted in accordance with the generally accepted principles of international law. There seemed to be general agreement on that point in the Sub-Committee but there were divergent views on the general principles which were relevant to those activities. In the opinion of his delegation, all activities should be conducted with the fullest respect for State sovereignty - a fundamental principle embodied in Article 2 of the Charter of the United Nations. It therefore followed that no State should take any action which had harmful effects on another State.

Many references had been made to the free flow of information. His delegation sincerely doubted whether such a principle existed in international law. The flow of information could take place only within limits recognized by sovereign States. His delegation therefore considered that the principles now being worked out by the Sub-Committee should provide for special agreements between States as a condition for direct television broadcasts by States intended for an international audience.

Mr. TUERK (Austria) said that, in the opinion of his delegation, the report of the Working Group on Direct Broadcast Satellites constituted an extremely useful basis for the work of the Sub-Committee, in that it contained a detailed outline of the different views held by various delegations and at the same time indicated the areas in which a consensus had already been reached within the Working Group.

He wished to reiterate his delegation's position on one of the basic problems with regard to the Sub-Committee's work on direct satellite broadcasting: the concept of freedom of information and the principle of State sovereignty did not constitute irreconcilable opposites. In the opinion of his delegation, it would, on the contrary, be possible to harmonize those principles and to find an appropriate solution. Indeed, a solution must be found if the Sub-Committee's work on that question was to be more than a purely academic exercise. Direct satellite broadcasting could contribute significantly to international co-operation and the advancement of mankind as a whole.

With regard to the problem of prior consent, he wished to draw the Sub-Committee's attention to paragraph 42 (e) of the report of the Working Group. In that connexion, a working paper presenting a compromise solution had been submitted by his delegation to the Working Group at its fifth session. It contained an alternative formulation of Article V of the Canadian-Swedish draft principles and, in addition to provisions on the lines of paragraph 42 (e) of the report of the Working

Group, provided that the consenting State should have the right to participate in activities which involved coverage of territories under its jurisdiction and control, and that such participation should be governed by appropriate international arrangements between the States concerned.

On the question of spill-over, Austria had co-sponsored a document on the definition of technically unavoidable spill-over. In that connexion, he wished to draw attention to paragraph 46 of the report of the Working Group.

With regard to the question of the international instruments which should be mentioned in the draft principles on direct satellite broadcasting, he wished to refer to the proposal submitted by the delegations of Argentina, Austria, Belgium, the Federal Republic of Germany, Indonesia and Italy (A/AC.105/WG.3 (V) CRP.5 and Corr.1), which contained a list of relevant international instruments. In the opinion of his delegation, it would be desirable that a reference to those instruments, or at least those of a world-wide character, should be made in the draft principles governing direct television broadcasting by satellite. In that connexion, his delegation attached particular importance to the Universal Declaration of Human Rights and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. It would therefore warmly welcome a reference to those declarations in one of the substantive articles of the principles now being elaborated.

Although there were still great divergencies of view on certain points relating to direct broadcasting by satellite, his delegation considered that the recent discussions in the drafting group of Working Group III had shown that there was a sincere desire on the part of all delegations to arrive at generally acceptable solutions. Although it in no way wished to minimize the difficulties which still existed, it hoped that the Sub-Committee's deliberations on the subject of direct broadcast satellites would reach a successful conclusion in the not too distant future.

Mr. D'ANDREA (Italy) pointed out that his delegation's position on the question of direct broadcast satellites had already been stated on numerous occasions in the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies.

It would appear from certain statements made at the present meeting that the Sub-Committee's discussion of the question had not yet been completed. His delegation would be amenable to a decision to continue the discussion on certain points if such a course was considered necessary.

Many references had been made in the Sub-Committee and its working groups to certain general texts such as the outer space Treaty, the International Telecommunication Convention, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights. In those discussions, primary importance had been attached in some cases to one text, and in some cases to another. Interpretations varied widely, a fact which did not help the Sub-Committee in its work.

For example, article III of the outer space Treaty, which provided that States parties should carry on activities in accordance with international law in the interest of maintaining international peace and security and promoting international co-operation and understanding, was interpreted by some delegations in a conservative sense to mean that relations between States should always remain unchanged in charater. Other delegations, on the other hand, interpreted it to mean that co-operation and understanding were promoted by such means as the free flow of information. In any event, the article contained a fundamental general principle whose meaning must be examined in detail now that the Sub-Committee was engaged in the process of defining the implications of that principle.

Article IX of the Treaty could be the key-stone of the new system of regulating direct broadcast satellites, since, in accordance with that article, agreement had already been reached on the principle of consent and hence on the principle of control of content. Some delegations maintained that that principle referred to internal and international broadcasts, while others claimed that it was impossible to distinguish between the two. In the opinion of his delegation, article IX merely confirmed the first paragraph of article I. It reiterated the freedom of activity envisaged in article I but specified that, if, in the application of article I, certain activities planned by a State party would cause potentially harmful interference in the activities of other States parties, the State concerned should undertake appropriate international consultations. His delegation could not interpret the article to mean that there should be consultation on the content of broadcasts. Such an interpretation did not correspond to the interpretation which had been given to the same article in the negotiations on a draft treaty relating to the Moon; it was inadmissible that the same article should be interpreted in two different ways in discussions on the drafting of two different treaties.

The implementation of article IX of the outer space Treaty was technically feasible, since ITU had recently been in the process of ensuring that, in the future, States did not use outer space for television broadcasts in a manner which interfered with another State's right to use space for the same purpose. ITU was also working on the development of a code system to ensure that each State transmitted broadcasts in a code which could be understood only by receivers within its frontiers. Consequently, it was essential, before speaking of spill-over, to determine exactly what it constituted. In speaking of responsibility, the element of will seemed to be the determining factor.

The principle of consent was of fundamental importance, since it was related to that of control. It was, however, impossible to exercise control over broadcasts, since it was difficult to distinguish between international and internal broadcasts. It had never been suggested that articles in the press should be censored by the State, since they might be read in other countries. It was difficult to abandon completely a principle which had been valid in his country for a considerable period of time. The adoption of such a principle would amount to a return to Renaissance times, when the principle cuius princeps, eius religio prevailed.

His delegation had accepted the outer space Treaty and considered itself bound by the letter and spirit of its articles. It was prepared to consider any opinion deriving from that Treaty which did not beg unresolved questions or constitute interpretations that did not correspond to what could be clearly read in the text.

Mr. NAMUROIS (Belgium) said he presumed it was generally agreed that it was not for the Sub-Committee to judge what would be an equitable distribution of orbital positions and frequencies for direct broadcast satellites. That task was the responsibility of ITU. Frequencies would be allocated in such a way that they could be of use only to a single national service. The technical experts concerned did not envisage, even in the distant future, the establishment of an international system of direct broadcast satellites. It was to be hoped, therefore, that the fears about the future expressed by certain countries would be groundless.

It was essential that the principle of the free exchange of ideas should not be infringed in the slightest degree. The principle of State sovereignty and the danger of interference in internal affairs had been adduced in opposition to that principle, but new technology would ensure that spill-over became technically impossible. The two latter principles would only be relevant, therefore, in the case of broadcasts received by neighbouring countries. The problems would, consequently, become local in nature and must be solved on a local basis. That did not necessarily mean that the Sub-Committee's work during the past two years had been pointless, since its responsibility was to establish certain guiding principles. Many guiding principles, such as the need to respect equality of participation of States, had been established in earlier related texts. Co-operation among States, however, would not be sufficient. In order to achieve a sound system of direct broadcast satellites, States must promote co-operation among all the non-governmental bodies concerned.

There were two international texts which sufficiently established State responsibility: the outer space Treaty and the International Telecommunication Convention, which stipulated that all telecommunication activities by State parties should be subject to a system of authorization.

With regard to the question of prior consent, on which general agreement had not been reached, the principle would be of less importance if forecasts of technical development proved to be accurate. To embody the principle of prior consent in an international text would constitute a genuine danger, for States would be given the right of veto over national programmes spilling over on to their territory nolens volens. It must be realized that each region of the world had its own way of tackling the problem. It was impossible to draw up a universally applicable text on programme content and unlawful broadcasts, for such a course would have the effect of giving States an inadmissible power of veto vis-à-vis other States. Just as certain provisions of international conventions on the use of broadcasts in the interests of peace, such as that adopted by the League of Nations in 1936, had become obsolete, so the question of prior consent might become largely obsolete once ITU had allocated to States orbital positions and frequencies, and clearly-defined wavelengths. In addition, the proposed convention on the distribution of programme-carrying signals transmitted by satellite must not be allowed to interfere with the Sub-Committee's work.

His delegation agreed with the observations made by the delegations of Japan and the United Kingdom in particular. It had every confidence in technical progress, which, it believed, would make it possible to overcome many of the difficulties at present confronting the Sub-Committee. In any event, his delegation was opposed to any convention of world-wide scope, which could have little meaning, and favoured local agreements which would be adapted to local circumstances.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND NINETEENTH MEETING
held on Friday, 24 May 1974, at 10.30 a.m.

Chairman : Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4) (continued) (A/AC.105/127 and Corr.1).

Mr. DOYLE (United States of America) said that he would like to clarify his country's position on several issues. The first question of importance was whether the introduction of direct television broadcasting by satellite was imminent in the near future. In fact, there were at present substantial economic and technological impediments to its introduction, and because the attendant questions of legal and cultural effects were extremely complex, it would be unnecessary and unwise to hasten the creation of a legal régime until all the implications had been thoroughly considered. There was no real pressure for immediate action. For example, it was probable that the problem of spill-over would be completely solved in the course of time by technological means, such as advanced antenna design, beam shaping, frequency modulation techniques, signal polarization, and discrete receiving characteristic designs. Furthermore, the community broadcasting mode, to be experimentally demonstrated during the next two or three years, allowed more than adequate opportunity for government control at the receiving end and it was government control which was the subject of the second major question. There was no doubt that essential international co-ordination and regulation had been provided for and would be implemented by ITU but reference had also been made in the discussion to governmental control of the intellectual environment. Some Governments apparently wished, by invoking a principle of prior consent, to control the dissemination of ideas at the source and to compel other Governments to censor or deny the right of people to express their ideas. The objective, it seemed, was not just to prevent the dissemination of ideas encouraging racial hatred or the overthrow of Governments, but to impose a blanket control of all ideas at the source, implemented through a rule of prior consent allegedly based on the principle of national sovereignty. The world was now approaching the last quarter of the present century, the century of the realization that men must live together in peace and harmony in order to survive on the spaceship Earth. The dominant principle of the twentieth century was not absolute adherence to national sovereignty but rather the principle of international co-operation and mutual understanding among peoples. Technology was making the world smaller and his delegation wished to see it used for the benefit of mankind as a whole.

In drawing up principles for direct broadcasting by satellite, it was essential to avoid prejudicing the potential benefits of the new technology. It was unlikely that the system would become operational

until the 1980s. The United States Government and private industry in the United States did not at the present time have any plans to build, fly or use satellites for direct broadcasting to homes, either domestically or internationally but many countries were studying the potentials of the applications of direct broadcasting by satellite to domestic broadcasting, and it might well turn out that restrictions adopted in haste now would impair such peaceful applications of space technology. Principles relating to direct broadcasting by satellite should facilitate the development of direct broadcast satellites; they should encourage the full exploration of their potentials, particularly for developing countries; they should be positive rather than restrictive and should be acceptable to all and based on the principles of the United Nations Charter, the outer space Treaty and the Universal Declaration of Human Rights; and they should affirm the value of the international free flow of information and ideas.

His Government had already made available a list of proposed principles (A/AC.105/127, annex IV) emphasizing the constructive and co-operative aspects of satellite broadcasting, and he hoped that it might still prove useful.

His delegation could not agree with earlier assertions that the principle of the free flow of information was not part of international law. The United States did not consider a "mere political" principle concerning the free exchange of ideas and information. His delegation understood that other delegations might be sensitive to possible unilateral interpretations of the term "free flow", and it was prepared to talk about "free exchange"; but "free exchange" was completely different from the notion of "mutually agreed exchanges of information", which clearly suggested censorship at the source.

There were a number of points to be made on the question of "consent". The Constitution of UPU had been invoked as evidence of international acceptance of the principle of consent. But article 29 of that Constitution applied only to the importation of dutiable material goods and was therefore irrelevant to direct broadcasting by satellite. Some delegations had recommended a principle which would state that "direct television broadcasting by satellite to any foreign State should be undertaken only with the consent of that State". But, if that principle were to be extended to other fields, it would mean that States would be "responsible" (i.e. legally and financially liable) where consent had not been obtained, for short-wave radio broadcasts received in other countries, for material in newspapers sold overseas and for letters written to friends and relatives living abroad.

State sovereignty was, of course, an important principle, but it was neither absolute nor the sole principle to be considered. Acceptance of the "fundamental" character of State sovereignty had been used to justify the claim that the State was entitled to define and establish the "intellectual environment" of human beings. That was not the viewpoint of the United States of America, nor did it constitute a negotiable proposition.

Mr. de SEIXAS CORREA (Brazil), noting that his delegation's views on matters relating to direct broadcast satellites had been expressed on numerous occasions in the Sub-Committee, said that he wished to make some comments concerning the specific principles under discussion in Working Group III.

First, his delegation thought it was wrong to over-emphasize the question of the applicability of existing international law. After all, the law that would be primarily applicable to direct broadcast satellites would be the one which the Legal Sub-Committee was in the process of formulating. Reference to existing instruments should, therefore, have only a secondary value in the context of the future principles. His delegation was very flexible on that point and would subscribe to any formulation which commanded general support in the Sub-Committee. In that connexion, it regretted that Working Group III had been unable to agree on the formulation proposed by the delegations of Canada and Sweden (ibid., annex III). It was also regrettable that so many brackets had been used in the text of the principles drafted by the Working Group and that doubt had even been cast on the word "direct". His delegation firmly believed that the Sub-Committee should keep to its terms of reference and should limit itself to considering norms which were strictly applicable to direct television broadcasting. To try to cover a broader area at the present stage would be totally unwarranted.

On the question of the rights and benefits of States, his delegation was confident that the Drafting Group would find a formulation acceptable to all delegations. It was essential to avoid formulations which might generate misunderstandings. Consequently, the best course would be to adopt a general formulation, based on the best tradition of the outer space Treaty, so as to avoid any danger of creating the impression that some States or groups of States were more equal than others.

The third point under discussion in the drafting group - international co-operation - was also of great importance in direct broadcasting by satellite. In his delegation's view, future activities in that connexion having international effects should be firmly based on agreed schemes of international co-operation. Any principle elaborated in that area should, therefore, clearly state that desirable goal, and should also envisage operational procedures capable of putting the principle into practice. In that connexion, paragraph 6 of the proposal submitted by the delegation of Argentina (ibid., annex V), as well as principles IV and VIII of the Canadian-Swedish text, could form the basis for the Sub-Committee's discussions.

In its consideration of those three points, the Sub-Committee should avoid discussing more controversial questions such as spill over, State responsibility and consent. His delegation attached great importance to a satisfactory settlement of those three questions, but considered that the Sub-Committee should discuss them separately with a view to drafting specific rules to cover them. If it examined them only in the course of a discussion of more general points, it would become entangled in controversy and progress would be halted.

Questions relating to direct broadcast satellites were among the most urgent and sensitive areas of concern for the Sub-Committee. His delegation would co-operate in the establishment of an effective and binding legal framework designed to regulate activities in that field for the benefit of the international community as a whole. It saw no

contradiction whatsoever between the principle of State sovereignty and the concept of the free flow of communications. Both principles were equally relevant within their specific spheres of application. His delegation was convinced that activities concerned with direct broadcasting by satellites should contribute to the free flow of information and ideas on the basis of strict respect for the sovereign rights of States.

Mr. de MONTIGNY MARCHAND (Canada) noted that, at the beginning of its discussion of the item under consideration, the Sub-Committee had agreed to concentrate on those points on which a consensus had been reached in the Working Group, and then to take up those points on which no consensus had been reached. His delegation had therefore listened to the statements made at the 218th meeting with surprise and disappointment. It might well be asked whether some delegations had even read the report of the Working Group on Direct Broadcast Satellites (A/AC.105/127 and Corr.1). Though the questions of prior consent, participation and spill-over had not been among the points which the Sub-Committee had agreed to consider at an early stage, most statements made at the 218th meeting had nevertheless dealt with those questions.

Some delegations maintained that it was premature to formulate principles and that it was ill-advised to legislate before the fact. The first assertion ignored General Assembly resolution 2733 (XXV) entitled "International co-operation in the peaceful uses of outer space", which constituted the raison d'etre for the Sub-Committee's present activities. The second assertion left his delegation completely bewildered. It might well be asked whether the international community was always destined to learn the hard way. To say that it was inadvisable to legislate before the fact was tantamount to saying it was better to wait until one had toothache before going to the dentist. Some delegations maintained that the principle of prior consent would be irrelevant once the 1977 ITU Conference had regulated frequencies. That was equivalent to saying that, now the brakes of motor vehicles were highly developed, guard-rails had become superfluous. Other delegations were again evoking the supposedly paralysing spectre of the principle of prior consent and the no less horrible spectre of control of content.

To treat the Canadian-Swedish proposals - by insinuation, omission or ignorance - as though they raised the same problems as the USSR proposals was completely inadmissible. With great reluctance, he found himself obliged once again to explain the essential characteristics of the principle of prior consent as the Swedish and Canadian delegations had envisaged it two years earlier. Their proposals represented nothing more than a translation into broader language of methods of behaviour which had already been accepted by the international community in other spheres. He was referring to what was embodied in the International Telecommunication Convention and the Radio Regulations - which were accepted by the overwhelming majority of countries - concerning behaviour among countries which used their outer space budget for broadcasting purposes. The question therefore arose why the principle of consent was not yet better understood. The subject was admittedly very compl x and, in the Working Group on Direct Broadcast Satellites, there had been insufficient time to examine in detail what interpretations could and could not be given to that principle.

The United States representative had endeavoured to reassure the Sub-Committee that the Government and industry in his country at present had no plans with regard to the development of direct broadcast satellites. However, that was no reason for deferring consideration of the matter. For many years, the international community had been holding discussions on questions such as the use of nuclear weapons and the protection of the environment - areas in which no harmful activities were being planned by the Government of any country. The United States delegation had maintained that the introduction and adoption of the principle of prior consent was equivalent to censorship and control at source, and had expressed horror at such a prospect. But many States had established machinery for the authorization of broadcasting activities, and no one would consider that such machinery constituted censorship or control at source. The purpose of the Canadian-Swedish proposals was to reproduce at the international level a situation which existed in most countries. In those countries, there already existed regulatory organizations which almost every day refused broadcasting permits for valid reasons. The United States representative had concluded his statement by saying that he wanted to ensure that any ambiguity with regard to his delegation's position had been removed. Because of the United States delegation's implicit failure to express any view on the Canadian-Swedish proposal directly, the ambiguity of its position was now greater than ever.

If the Sub-Committee had found it difficult to reach a consensus on a desirable formulation concerning prior consent, it was because it had not devoted exclusive attention to that question. It was the Sub-Committee's practice to postpone until later in its sessions those matters on which it had proved difficult to evolve a common understanding. He therefore suggested that, because the Sub-Committee had not found in the report of the Working Group sufficient elements of consensus to enable it to work out a legally correct formula, it should in its report express the view that more work should be done on those subjects on which a consensus had not been reached - namely, the questions of prior consent, spill-over and participation. A report on those specific questions by the Working Group might be of some benefit to the Sub-Committee.

Mr. DUGERSUREN (Mongolia) said that his delegation wished to make a few comments on international co-operation in the field of direct television broadcasting by satellite. The new technology must be used to promote the cause of peace and mutual understanding and to raise cultural and educational levels, particularly in the developing countries. On the other hand, there was a danger that it might be used to damage the cause of peace and infringe the sovereign rights of States. The use of space technology was bound to entail highly complex legal and political problems, but he wished to make clear his Government's position on the principle of international co-operation. At its fifth session, the Working Group on Direct Broadcast Satellites had expressed the view that "international co-operation is a touchstone for the development and use of direct television broadcasting by satellite. Every effort should be made to enhance such co-operation with the aim of deriving the maximum benefit from this new technology for all countries, in particular for the developing countries". (A/AC.105/127, para. 38 (a)) His delegation felt that co-operation must be achieved on the basis of bilateral and multilateral agreements, taking into account the rights and mutual interests of the

countries concerned. Such agreements presupposed prior consent on all legal and technical matters connected with the broadcasts. The principle of prior consent was thus essential to any international co-operation, as had been recognized by most delegations in the Working Group (ibid., para. 42). His delegation could not agree with the somewhat exaggerated view that absence of prior consent would automatically lead to interference in the internal affairs of broadcasting States.

Turning to the concept of the "free flow of information", he said that everything depended on the content of broadcasts. With the help of the Soviet Union, Mongolia was already receiving television broadcasts from the "Molniya I" satellite system. Viewers could follow debates in the United Nations General Assembly and other bodies; they could watch performances from the great theatres and opera houses of Moscow, Prague, Vienna or Milan; and they had been able to follow the Olympic Games in Mexico, Sapporo and Munich. All that was excellent, and helped to promote mutual understanding. On the other hand, if the concept of free flow of information were applied to broadcasts of pornographic material, sex films or "streaking", the result would be extremely offensive. That clearly showed that it was essential to apply the principle of prior consent. His delegation considered that the "free flow of information" could not become a principle of direct broadcasting without appropriate criteria for its acceptance and application.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that it simply was not true that there was no urgent need to draw up regulations for direct television broadcasting by satellite. On the contrary, it was essential that legal provisions should keep pace with scientific and technological developments. He recalled that the Sub-Committee's task, in accordance with General Assembly resolution 2916 (XXVII) was to prepare principles to ensure that "direct television broadcasting should help to draw the peoples of the world closer together, to widen the exchange of information and cultural values and to enhance the educational level of people in various countries". If such principles were not drawn up immediately, it would be much more difficult to achieve agreement at a later stage. Surely it was time to move on from talk about the principles and begin the elaboration of a comprehensive and detailed system of legal norms on the subject.

Mr. CAPOTORTI (Italy) said that his delegation was fully aware of the mandate given to the Sub-Committee by the General Assembly with regard to the problem of direct broadcast satellites, and intended to co-operate effectively in ensuring that that mandate was carried out. To that end, the Sub-Committee must try to identify those points on which the various opinions expressed could be reconciled. With regard to those principles on which no agreement had been reached - namely, State sovereignty, the free flow of information and international co-operation - it was important to work out formulations which avoided any form of infringement of those principles. In his delegation's view, there was no contradiction between State sovereignty and freedom of information. It was well known, for example, that the International Covenants on Human Rights had been concluded between sovereign States which had not thereby abdicated their sovereignty but had recognized that there were precise rights which must be granted to the individual. If such a balance was possible in the Covenants on Human Rights, it would certainly also be possible in an instrument relating to direct broadcast satellites.

His delegation agreed with the Canadian delegation that it would be advisable to study the various texts proposed in greater depth. Even in cases where such texts appeared to be mutually contradictory, a more fruitful discussion could be held if each delegation gave full consideration to the views of others. The primary objective was to try to work out clear formulations which were sufficiently detailed.

His delegation agreed with the view expressed by the delegation of Mexico (218th meeting) that the protection of national sovereignty involved, not censorship, but an undertaking by each State to adopt appropriate measures which would avoid abuses of such principles as that of the free flow of information. That was a fruitful approach, because it rejected any censorship of broadcasts and guaranteed that each State, in a spirit of co-operation, would be primarily responsible for ensuring that the legitimate rights of others were not infringed. It was therefore to be hoped that the Working Group could now resume its activity with a greater understanding of the specific points raised in the Sub-Committee.

Mr. VALLARTA (Mexico), clarifying the statement he made at the 218th meeting, said the Mexican position that international legislation should be adopted on the question of direct television broadcasts by satellite could not be changed. Science and technology, moving at a rapid pace, tended to be in advance of the law, and therefore it was not premature to prepare a treaty on the subject. Principles such as that of non-intervention in the domestic affairs of States, or the duty to refrain from the threat or use of force, might be applicable. There was no doubt in his mind that television broadcasting from satellites or from earth could constitute interference in the domestic affairs of other States and thus be in violation of international law.

He reaffirmed his delegation's belief that the treaty to be drawn up should include a provision compelling States to adopt legislation that would ensure that individuals could not legally violate international agreements.

In response to those delegations that had referred to the principle of freedom of information, he said that despite the validity of that principle, it should not be used as a pretext for failing to fulfil international responsibilities. The Universal Declaration of Human Rights was recommendatory in nature, but nevertheless did have some legal value. In his delegation's view, the principle set out in article 19 of the Declaration was balanced by the provisions of article 29 and was not absolute. He was confident that, in the UNESCO Constitution, too, the principle of freedom of information was also subject to the rights of third States. His delegation's position could be briefly summarized in the words of the text on the Latin-American plaque at United Nations Headquarters: "El respeto al derecho ajeno es la paz".

Mr. CHARVET (France) endorsed the views of the representative of Canada and said it was essential to begin drafting a text.

Mr. DOYLE (United States of America) said that in his earlier statement he had not intended to convey the impression that his Government was in any way opposed to a serious attempt, at the present time, to elaborate principles for an international legal régime governing international broadcasting. His delegation understood that the Sub-

Committee was not at the moment intending to discuss the principle of consent but he would be able to give a detailed explanation of his Government's position regarding that principle when the Sub-Committee came to discuss it. He expressed the hope that, through its Working Group III, the Sub-Committee would be able to remove the ambiguity and fulfil its mandate on the five topics.

Mr. LIND (Sweden) agreed with the representative of Canada that too much time had been spent on general discussions of issues to which the Sub-Committee had agreed not to give detailed consideration during the current session. Like the United States of America, his delegation felt that further studies were required on direct broadcast satellites and he proposed that they should be carried out at the appropriate time and place, in order to facilitate further drafting. Whatever the actual position was with regard to firm plans for direct broadcasting by satellites, the need for international regulations was so clear that the international community should not delay its efforts to agree upon a complete text.

He also agreed with the United States representative that in the 1970s the principle of international co-operation and mutual understanding between peoples was a most important concept and the proposals submitted by Canada and Sweden were indeed based on that principle. It seemed probable that regulations on direct broadcast satellites could reasonably be drafted on the basis of those proposals. The free flow and exchange of information was most desirable, even though it seemed unlikely that more than a few States or groups of States would have the necessary technology to be able to use satellites for direct television broadcasting in the immediate future. Nevertheless, those States that would have the technology should act in a manner that was acceptable to all. In conclusion, he supported what had been said by the representatives of Canada and France and stressed that the Canadian and Swedish text in no way involved any censorship.

Mr. VACHATA (Czechoslovakia) reminded the Sub-Committee of its terms of reference and its duty to draw up an international legal instrument that would help to draw the peoples of the world closer together and would ensure that direct broadcast satellites were not abused for the purposes of hostile propaganda. Propaganda was always harmful to the cause of peaceful coexistence; as had been noted by Whitlow and Larsen in their book entitled Propaganda towards disarmament in the war of worlds, it was directly contrary to recognized principles of international law and represented a threat to peace. He thought that the Sub-Committee had an important obligation to elaborate a document which would ensure that direct broadcast satellites did not become a source of conflict and tension and were not used in the same way as the Voice of America and Radio Free Europe, for which State responsibility was declined. His delegation believed it was imperative that no programmes should be transmitted to other States except with the prior consent of the receiving State.

MATTERS RELATING TO THE ACTIVITIES CARRIED OUT THROUGH REMOTE SENSING SATELLITE SURVEYS OF EARTH RESOURCES (agenda item 5)

The CHAIRMAN introduced agenda item 5 and gave the Sub-committee a resumé of its background.

Miss CHEN (Secretary of the Sub-Committee) said that the text of the Chairman's statement, with the references that it contained, would be circulated to the Sub-Committee during the afternoon.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTIETH MEETING

held on Monday, 27 May 1974, at 11.15 a.m.

Chairman : Mr. WYZNER (Poland)

MATTERS RELATING TO THE ACTIVITIES CARRIED OUT THROUGH REMOTE SENSING SATELLITE SURVEYS OF EARTH RESOURCES (agenda item 5) (continued) (A/AC.105/118, A/AC.105/122, A/AC.105/125).

Mr. ABDEL-GHANI (Chief, Outer Space Affairs Division), outlining the activities of the Working Group on Remote Sensing of the Earth by Satellites as they related to the work of the Legal Sub-Committee, wished to explain why the Working Group had touched upon the legal aspects of remote sensing. The Working Group had been established by the Scientific and Technical Sub-Committee, to which it reported. In that respect, it differed from the Working Group on Direct Broadcast Satellites, which had been established by the Committee on the Peaceful Uses of Outer Space, and its task was to promote the optimum utilization of space applications, including the monitoring of the earth's environment for the benefit of individual States and the international community.

However, at its first session in May 1972, the Working Group had received from a number of Member States information on their national activities in the field of remote sensing by satellites, and also their views on what organizational arrangements should be made in that respect. At its second session in February 1973, the Working Group had requested the Secretary-General to assess all the information submitted by Member States, as well as any pertinent material available to the Secretariat. It had indicated that the purpose of that undertaking should be to assess the potential of remote sensing, together with the technical and economic factors relevant to the operation and use of remote sensing systems, and to outline alternative systems which might meet international, regional or global requirements. The Secretariat had responded to the Working Group's request by preparing an informal document entitled "Background paper by the Secretary-General assessing United Nations documents and other pertinent data related to the subject of remote sensing of the Earth by satellites".

The Secretariat's task had not been easy, in view of the many complex issues involved in remote sensing, which was still at the experimental stage. The last chapter of the background paper dealt with organizational requirements. In that chapter, the Secretariat had tried to give a preliminary outline of some organizational models which could be applied to remote sensing, taking into account the fact that any operational remote sensing system would, in all probability, comprise a combination of spacecraft, aircraft and other platforms, as well as a considerable array of ground-based data-gathering equipment. In preparing the paper, the Secretariat had found, as the papers submitted by Member States had indicated, that there was an obvious link between organizational alternatives and the legal implications of remote sensing.

The Secretariat paper therefore contained a chapter on legal implications. It had dealt with the following points: the definition of remote sensing, as derived from the reports of a number of international organizations or international meetings; aspects of national sovereignty, which included the question of national territory and the question of national resources; the present requirements or obligations for the participation of States in remote sensing experiments and in the distribution of remote sensing data; and other possible applications, including the allocation of radio frequencies, the utilization of orbits and the registration of remote sensing satellites. The background paper, which dealt mainly with technical aspects, economic benefits and cost-benefit factors, and, in a preliminary manner, with the legal aspects and organizational alternatives, had been reviewed by the Working Group and, after the inclusion of additional information, it had been issued as a document of the Committee on the Peaceful Uses of Outer Space (A/AC.105/118).

Thus, the Working Group had not involved itself in the consideration of the legal implications of remote sensing, except in so far as they were related to the organizational aspects which the Working Group had to examine. It had noted at the outset that the question of the legal implications of remote sensing was on the agenda of the Legal Sub-Committee and had decided to elicit the Sub-Committee's views on the question.

There were two areas in which the Working Group and its parent body, the Scientific and Technical Sub-Committee, looked to the Legal Sub-Committee for guidance.

First, the organizational arrangements relating to remote sensing of the earth by satellite were under active consideration by the Scientific and Technical Sub-Committee and the Working Group. Depending on their scope - regional, international or global - all such organizational arrangements had legal consequences within or outside the United Nations system. What the technical bodies wanted to know, therefore, was the extent to which it was necessary or desirable to formulate new legal principles in that area and what the content and form of those principles should be. The views of the Legal Sub-Committee would be taken into account in the consideration of any organizational arrangements to be established.

Secondly, the delegations of Argentina, Brazil, Canada, France and the USSR had submitted proposals which were before the Working Group but had not been considered in detail. The technical bodies were, of course, following with great interest the consideration of those proposals in the Legal Sub-Committee, and the outcome of such consideration would be taken into account by the Scientific and Technical Sub-Committee when it considered the question of the organizational alternatives.

In both those areas, the Secretary-General had already compiled some information which might facilitate the Legal Sub-Committee's work. On 25 July 1973, he had solicited the views and comments of Member States in accordance with the recommendation of the Scientific and Technical Sub-Committee, and the results of the survey were contained in documents A/AC.105/C.1/WG.4/L.6 and Corr.1 and Add.1-8. A synopsis of the replies received from Member States was contained in document A/AC.105/C.1/WG.4/L.11 and Corr.1. The question addressed to Member States was basically

whether existing international principles, rules or arrangements regarding activities of States in remote sensing were sufficient or whether, bearing in mind the potential benefits and possible concerns relating to remote sensing, it was desirable to elaborate a new international régime and, if so, what recommendations they would make with regard to the nature of the international principles or arrangements that should be adopted, by whom such principles or arrangements should be adopted, and what degree of priority should be given to that task.

The majority of States which had replied to that question considered that the elaboration of principles relating to remote sensing was important or essential. The following had been among the reasons given for the need to elaborate principles in that area: the lack of an international régime to govern the activity, or the inadequacy of existing international law to cover that new area and the limited application of the outer space Treaty to objects launched from earth into space. Several States had expressed the view that the United Nations should take an active role in the elaboration of such principles and had suggested a variety of ways in which that might be done. Some States, however, had felt that the need for, or desirability of, new principles would depend on the arrangements reached in the organizational sector for operating systems, and had expressed the view that organizational arrangements should be devised to meet the wishes of States in that area and that such arrangements were generally more efficient than legal regulation.

Several States had made suggestions concerning the nature of the principles which should be elaborated and most of them had agreed that such principles should take into account the rights and obligations of both sensing States and sensed States, and of user groups and the international community in general. The following points had also been suggested for consideration: the common interest of mankind in resources and environmental information; possible economic exploitation; technical limitations of otherwise desirable solutions; the need to make information widely available without violating the territorial rights of States; the promotion of co-operation between sensing and sensed States; encouragement of the active participation of sensed States in programmes covering their territory; the need to communicate to the United Nations information relating to foreign States; the recognition of the right of sensed States to information on the data collected from its territory; the need for specific rules covering areas beyond the limits of national jurisdiction; the adequate protection of sensed States; and the relationship between international organizations active in that area.

Having considered those and other views expressed by States, the Working Group had concluded that the general view of States, as it emerged from replies to the Secretary-General's questionnaire, was that there was a need for further consideration of the legal aspects of remote sensing. It had found, however, that various approaches had been suggested with regard to further work in that area. The Working Group had also set out in its report the principal factors which should, in its view, be borne in mind in any future work in the area, including the elaboration of international agreements, guide-lines, principles or any binding legal instruments.

Since the Working Group had considered the legal aspects of remote sensing only in a general manner, it had suggested that the legal aspects should be examined in depth, in the light of its reports on the subject. It had, therefore, considered it important that the Legal Sub-Committee should undertake that task, and the General Assembly in paragraph 7 of its resolution 3182 (XXVIII) had recommended that the Legal Sub-Committee at its next session should respond to the request for its views by the Working Group on Remote Sensing of the Earth by Satellites. Consequently, the Scientific and Technical Sub-Committee would certainly give serious attention to the Legal Sub-Committee's observations on the subject.

Mr. de SEIXAS CORREA (Brazil) said his Government considered that activities relating to remote sensing should, because of their extremely sensitive international effects, be regulated as soon as possible by the establishment of an adequate and binding legal framework. As a contribution to the necessary negotiations leading to that desirable goal, his delegation had taken the initiative of submitting, for consideration by the Committee on the Peaceful Uses of Outer Space and its appropriate subsidiary bodies, the text of what it had called "Draft basic articles for a treaty on remote sensing of natural resources by satellites" (A/AC.105/122).

When his delegation had introduced that text at the third session of the Working Group on Remote Sensing of the Earth by Satellites, it had expressed the hope that the Legal Sub-Committee would, at its present session, be able to undertake a purposeful discussion of the question. Unfortunately, because of the extremely limited time available for the consideration of remote sensing, the Sub-Committee would be unable to engage in a detailed discussion of specific texts. His delegation nevertheless considered that the Sub-Committee's time would be usefully spent if it could promote a general discussion of the main legal issues involved in remote sensing. Such a discussion would have the merit of helping to identify the main areas on which attention should be focused when the time came for the elaboration of texts.

During the general exchange of views at the present session, the Brazilian delegation had already outlined its general position on the question of remote sensing. For the benefit of the various delegations which had not attended the most recent session of the Working Group on Remote Sensing of the Earth by Satellites, his delegation intended now to make a brief, article-by-article analysis of the content of the Brazilian text.

In preparing the text, his delegation had started from the assumption that the remote sensing of the earth by satellites was an entirely new area of space activities. Although remote sensing satellites were placed in orbit in outer space, the purpose of such operations was to gather information about the earth's resources, and the effects of the operations were felt on Earth. Two initial considerations arose from those premises. The first was that remote sensing should not be governed only by accepted principles of international law and existing legal instruments relating to outer space, but it should also be the subject of a specific, precise and autonomous text encompassing its peculiar characteristics. The second consideration was that national and international programmes for remote

sensing should serve peaceful purposes and promote over-all international co-operation and development, while special account should be taken of the needs and interests of the developing countries. Those points were covered in articles 1 and 2 of the draft.

Article 3 dealt with the element of consent, which, in the opinion of his delegation, was of paramount importance in relations among States for remote sensing purposes. International remote sensing activities implied, in essence, the effective transfer of information on such matters as natural resources between two or more points of the earth's surface. The actual transfer of such information necessarily involved elements relating to the political, military or economic security of the States concerned. In those circumstances, the permanent sovereignty that States exercised over the natural resources of their territory, including maritime areas under national jurisdiction, clearly embodied the right to control not only access to information relating to such resources, including data gained through the process of remote sensing, but also the dissemination of the information thus obtained. Of course, every State, in the exercise of its permanent sovereignty over the natural resources in its own territory, had the right to utilize remote sensing in order to gain a better knowledge of their location and magnitude, and of the feasibility of their exploitation, or for any other purpose. States lacking remote sensing capabilities might, as a matter of policy, authorize the remote sensing of their territory by satellites belonging to a third State. Without such authorization or consent, however, no State should be allowed to take advantage of the technological advantage which it had over another State in order to gain access to information otherwise unavailable to it. Such a course would not be consistent with international law, as at present conceived by the international community, or with the spirit of friendly co-operation among States, which constituted the basis of United Nations activities. Article 3 of the Brazilian draft accordingly established the need to obtain consent from the sensed country for any remote sensing activity.

Article 4 was the logical consequence of the preceding provision. If a State had reason to believe that its territory was being sensed without an expression of its consent it should be entitled to take measures, in accordance with international law, to protect its territory and the maritime areas under its jurisdiction. Any dispute arising from remote sensing activities should be settled, as laid down in draft article 12, in accordance with the methods envisaged in Article 33 of the Charter of the United Nations.

Having authorized the remote sensing of its territory, a State should, in accordance with draft article 5, have the right to participate in the process on request. The manner and conditions of such participation should be the subject of specific agreements between the parties concerned. In any event, as provided for in draft article 6, the sensed State, irrespective of whether or not it actually participated in the process, should be entitled to full and unrestricted access to all data relating to its natural resources. Such right of access stemmed from the principle of State sovereignty over natural resources and over information thereon, and should be construed as including access not only to raw data, but also to all relevant interpretations and conclusions. That was the purport of draft article 6 of the Brazilian text.

Draft articles 7 and 8 dealt with the question of data dissemination. The draft sought only to establish the basic principles which should be observed. The sensed State, in agreement with the State controlling the remote sensing satellite, should have the right to establish the nature and scope of the dissemination to be given to the data obtained concerning its natural resources. It should, however, be clearly noted that States should neither divulge nor transfer information obtained through remote sensing of other States' territory, or should they seek or receive such information, without the express authorization of the State under whose jurisdiction sensed natural resources were located.

With regard to the promotion of international co-operation in the field of remote sensing, many important opportunities existed. The practical applications were almost unlimited and were essentially linked to the evolution of technology. For that reason, a great deal of flexibility should be preserved for States when ways and means to promote and enhance co-operation for remote sensing purposes were considered. It should be enough to state in treaty terms, such as those proposed in draft article 9, that States parties possessing the technological capabilities for remote sensing should endeavour to assist other States parties lacking that technology in the implementation of national remote sensing programmes.

Furthermore, in accordance with the accepted principles of international law, the remote sensing of areas outside national jurisdiction should not be constrained in any way. All States should have the right, as stated in draft article 10, to participate fully in such activities and should be given free access to all resulting information.

Draft article 11 dealt with international responsibility for remote sensing activities. The basic principle to be established was that States parties must be held internationally responsible for national activities of remote sensing of natural resources, irrespective of whether such activities were carried out by governmental or non-governmental entities, and that it was for the States concerned to guarantee that such activities complied with international law. Acceptance of that principle should not present any difficulty, since its content had already been accepted in article VI of the 1967 outer space Treaty.

Draft articles 13 and 14 dealt with the relationship between the draft treaty and bilateral or regional agreements. In the preparation of the draft, account had been taken, first, of the discussions already held on the subject, particularly within the Working Group; secondly, of the proposals put forward in 1973 by France and the Soviet Union concerning the principles of remote sensing activities; and, thirdly, of the draft international agreement on activities carried out through remote sensing satellite surveys of earth resources presented by Argentina in 1970. While agreeing with most of the contents of those proposals, however, his delegation felt that remote sensing was in need of a broader, more systematized and more direct legal approach. He therefore hoped that it would not be difficult for at least those delegations whose views on that question were similar to get together and work out a joint text that might be effective in commanding the support of the Legal Sub-Committee as a whole. He would welcome any comments on the proposal and was prepared to discuss the contents at any time.

His delegation also hoped that before the present session was over, the Legal Sub-Committee would be able to achieve a consensus and make suitable recommendations to the parent Committee with regard to future urgent work in the field of remote sensing. The fact that the agenda was likely to be less crowded in 1975 meant there was no reason why remote sensing should not be accorded the first priority it rightly deserved. Furthermore, in order to keep an equitable balance between consideration of the organizational and legal aspects of remote sensing, the Committee would have to assess the results of the work done in the Sub-Committee before it could reach a decision concerning the action proposed at the organizational level by the Scientific and Technical Sub-Committee.

His delegation remained firmly convinced that an attempt should be made to safeguard the essential principles at stake in remote sensing activities with something more concrete than were organizational arrangements, and steps should be taken to harmonize all the interests involved on a basis that would contribute to the further development of remote sensing and at the same time protect the legitimate rights of all States.

Mr. LIND (Sweden) said that his delegation welcomed the opportunity for the Sub-Committee to have a first substantive discussion of the legal aspects of remote sensing of the earth by satellite. At the same time it was important to remember that many of the legal and political problems involved could be settled more easily within a proper technical and organizational framework, such as had been outlined by his delegation in the Scientific and Technical Sub-Committee. A proper organization of international relations in the remote sensing field could go a long way towards solving legal and political problems. An international solution might, for example, comprise the following four elements: first, an internationally owned and operated space segment (possible owned and operated by the United Nations) with rules of participation, financing and management to be agreed upon; secondly, data reception and distribution facilities at the regional, or, for large States, national level, possibly with user terminals in individual States forming part of the region; thirdly, agreed limits on the use of on-board storage devices or other data transmission systems; and, fourthly, international legislation to cover any remaining legal loop-holes. Clearly, any State participating in the international organization owning the space segment would be assumed to have agreed implicitly to the carrying out of the sensing phase of the operation. Consequently the question of consent would not arise, or at least not for every single mission. Furthermore, with agreed restrictions on, or even the non-existence of, tape-recording devices, data could be obtained only by means of the national or regional receiving stations and would thus primarily relate to the territories of States wanting to be sensed. There was a need for regional accommodation with regard to data reception, distribution and utilization which should give rise to problems on a lesser scale than if the present model were continued later operationally. It was possible that some States might not agree to co-operation, but, whereas it would be difficult to avoid sensing the territories of such States, it would probably be possible to restrict the use of data relating to them, were they not to agree to their release and use. The fact that countries would

opt for different degrees of restrictiveness meant that, beyond the rules for organizational co-operation, it was hardly likely that one single set of legal rules could be established for global purposes relating to the sensing of States and the distribution and use of data.

There were also technical aspects which required a certain caution when legal standards were applied. For example, it was uncertain to what extent data received with the present resolution in themselves presented a great hazard. Of course, resolution could be improved to provide radically new information, but that in itself would lead to new problems of interpretation in view of the increased volume of data. Moreover, data with the existing resolution had already been obtained over most of the land masses of the earth and were freely available - a fact which was of some importance, at least as far as non-renewable sources were concerned. Finally, it should be remembered that the full usefulness of the technology could in many cases be realized only if the data were not subjected to national fragmentation. His delegation was therefore doubtful about the value of establishing a set of detailed legal rules concerning the inadmissibility of remote sensing unless some stringent restrictions were applied. That did not mean it considered that present outer space law in itself provided a complete coverage of remote sensing activities. He drew the attention of the Sub-Committee to the legal analysis contained in Sweden's reply to the Secretary-General's second questionnaire on remote sensing contained in document A/AC.105/C.1/WG.4/L.6/Add.1, paras 12 (c), (d) and (e) of the section relating to Sweden. Although his delegation was convinced that existing space law was not designed to cover remote sensing activities, it doubted whether the situation could be remedied by legal instruments alone, or whether it was desirable to try to achieve a proper international framework primarily by legal means. Beyond the general stipulations already contained in the outer space Treaty, there might be only limited scope for new legal rules in the field of remote sensing if they were to be universally accepted. It would thus seem more fruitful to pursue the course of international organizational co-operation and, on the basis of what could be achieved by such means, to determine what legal problems, if any, still remained to be settled. Clearly, such a solution presupposed that satisfactory institutional arrangements could be agreed upon. If they could not be agreed upon, then there would probably be an increased need to legislate, nationally and internationally, against possible unilateral abuse. His delegation hoped that such a course would not be necessary, and that international organizational collaboration would be used to promote the best use of remote sensing technology.

Mr. COCCA (Argentina) said that, since his delegation had submitted to the Legal Sub-Committee at its ninth session a draft international agreement on activities carried out through remote sensing satellite surveys of earth resources, the subject had been discussed in the course of various academic debates in national and international meetings and Argentina had been able to crystallize its own national doctrine and to contribute to the development of the international doctrine which existed in law in regard to activities of that kind.

The task of creating a common awareness through the thinking of jurists was a necessary step in the elaboration of international norms,

which should indeed be established before or at least at the same time as technological achievements, but never after them. At past sessions, one delegation had taken the view that the law should not anticipate technological developments, but the Argentine delegation held a diametrically opposite view and believed that law as a discipline should under no circumstances be subordinate to another discipline. He then referred the Sub-Committee to the proceedings of the Committee for Scientific and Legal Co-operation between the International Academy of Astronautics and the International Institute of Space Law, where it had been agreed that there were some activities which the law desired, others which it tolerated and yet others which it prohibited, and that technology could only be in the first of those three categories. Personally, he could in no way accept that law should be subordinated to technology, for that would be to deny its right to an independent existence. Moreover, an issue such as the one now before the Sub-Committee had in the past had the gravest consequences for the international order, and the fact was that international law must anticipate practical achievements.

Fortunately, the outer space Treaty was an excellent example of what should happen in such cases and it had inaugurated an era of universal awareness of the value of the law in relation to practical technological possibilities.

Since 1970, there had been considerable progress in the elaboration of an international doctrine governing remote sensing of earth resources, and his delegation was ready to make any changes that might be necessary to bring its first draft of 1970 up to date.

In its view, both national and international programmes for remote sensing should be based on the outer space Treaty and should be designed for the benefit of mankind as a whole, taking especially into consideration the needs and aspirations of the developing countries. Remote sensing programmes should ensure that the exploitation of natural resources did not result in damage to or destruction of the environment. Rather, they should concentrate on achieving a proper balance, by increasing renewable resources in regions where that was possible.

All such remote sensing activities should be based on the principle of the equality of States, the principle of good faith in the fulfilment of international obligations, and other principles of international law concerning friendly relations and co-operation among States.

No remote sensing of the resources of other States, including resources located in maritime areas within their national jurisdiction, should take place without their prior consent, and all States should have the right to take such measures as were authorized by international law to protect their resources from unauthorized remote sensing. States that had given their consent were entitled to participate in the remote sensing activities in a manner to be decided upon in specific agreements between the parties involved. Moreover, States whose territories and maritime areas had been the subject of remote sensing should have full and unrestricted access to all data obtained and results achieved.

All States should refrain from soliciting, accepting or in any manner receiving from a third State, international organization or private entity, information regarding the natural sources of another State obtained through

remote sensing, unless the prior consent of the latter had first been sought and obtained. Equally, no States should use any such information to the detriment of any other State. Notwithstanding the foregoing, States possessing the technological capability for remote sensing should assist those that lacked such capabilities to develop their national programmes for the exploration of their natural resources. States should bear full international responsibility in such matters, irrespective of whether remote sensing activity were undertaken by governmental or non-governmental entities and they should guarantee that such activities were carried out in conformity with the principles to be established.

Disputes arising in connexion with remote sensing activities should be settled by the methods established in international law for the peaceful settlement of disputes. States could enter into other agreements to supplement, confirm or develop the provisions to be agreed upon, and the latter would in no way affect rights and duties of States under bilateral or regional agreements.

The fact that there were so many points of agreement in the documents submitted on remote sensing was an indication that the time was ripe to draw up international regulations on the subject without delay. Of the various proposals that had been submitted, his delegation found that of Brazil most satisfactory. But the concern of his delegation to elaborate basic legal principles in accordance with General Assembly resolution 3182 (XXVIII) did not mean that his delegation withdrew the proposals it had made in 1970 concerning organization and procedure, which would be a natural consequence of the adoption of the basic principles.

In conclusion, he urged the Sub-Committee to proceed promptly with the urgent question of remote sensing activities, whether by satellites, rockets or other means, from space, since such activities were an accomplished fact rather than a future hope. The establishment of a legal framework for remote sensing was one of the most urgent items on the Sub-Committee's agenda, particularly since the provisions of the outer space Treaty were completely inadequate to cover the problems that might arise.

Mr. CHARVET (France) said that France had always thought that the development of space activities could bring great benefit to the international community but had also taken the view that, in order to avoid tension, such activities should be subject to international regulation. Remote sensing activities were an example of one form of space activity that was bound to be of concern to all States, which would fear that their natural resources might be investigated from afar by another State.

France had joined in the efforts to draft principles that would reconcile the freedom of outer space activities with the sovereignty of States, and had found itself very much in sympathy with the draft submitted by the USSR at the second session of the Working Group on Remote Sensing of the Earth by Satellites.[24] At the third session of the Working Group, France had itself submitted a document (A/AC.105/L.69) that was intended to complement the Soviet Union's ideas, and subsequently the Soviet Union had

[24] A/AC.105/111, paras. 48 and 49.

expressed its support for the French proposal. He wished to inform the Sub-Committee that the delegations of the two countries had now decided, in the interest of avoiding duplication and simplifying the Sub-Committee's work, to merge their two proposals in a single text which was to be issued by the Secretariat in the near future. He stressed that the joint draft introduced no new element.

In conclusion, he reaffirmed that, at the present state of development, France was in favour of elaborating a declaration of principles rather than an international convention as such, although he was confident that international regulations binding on all States would eventually become a matter of fact. Because, like Argentina, his delegation believed that law should keep ahead of technology, the crucial work that should be performed by the Sub-Committee immediately was the drafting and adoption of basic principles.

The meeting rose at 12.45 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-FIRST MEETING
held on Tuesday, 28 May 1974, at 11.55 a.m.

Chairman : Mr. WYZNER (Poland)

MATTERS RELATING TO THE ACTIVITIES CARRIED OUT THROUGH REMOTE SENSING SATELLITE SURVEYS OF EARTH RESOURCES (agenda item 5) (continued) (A/AC.105/118, A/AC.105/122, A/AC.105/125)

Mr. von WAGNER (Federal Republic of Germany) said that, in his country, neither the Government nor industry believed that remote sensing could usefully be applied to the territory of the Federal Republic of Germany, at least for the time being, but research on remote sensing was still going ahead, and there might come a time when his country would be in a position to offer to co-operate with other countries, especially developing countries, in the development and application of the new technology.

His delegation was grateful for the valuable documents concerning the legal implications of remote sensing which had been submitted to the Committee on the Peaceful Uses of Outer Space, but thought that the time had not yet come for the detailed drafting of principles or even guidelines. The legal implications depended essentially on the organizational and technical aspects, which would in turn be determined by user requirements - for example, whether the satellites were to be used for weather forecasting, pollution monitoring or the sensing of natural resources in the high seas or on land.

There was as yet no adequate legal definition of remote sensing. A definition was indeed contained in the ITU 1971 Regulations, and some work had been done in the United Nations Panel on the Establishment and Implementation of Programmes in Remote Sensing, at its meeting in Brazil in 1971; but the formulations hitherto proposed were not adequate for legal purposes. It was even questionable whether the outer space Treaty could be applied to remote sensing at all. The end result of remote sensing was observation of the Earth, and some legal experts held the view that article I of the outer space Treaty applied only to space-oriented activities and not necessarily to earth-oriented activities originating in space. That question should be discussed at one of the forthcoming sessions of the Legal Sub-Committee. In defining remote sensing and deciding on the international organizational arrangements for such activities, special care should be taken not to preclude future technological developments. The obligations and rights of States would vary, depending on whether remote sensing was used, for example, for weather forecasting, environmental monitoring, or the discovery of resources.

In the discussions on direct broadcasting by satellite, it had been found that spill-over was too complicated and controversial a problem to be dealt with at the present stage, and it seemed likely that "sense-over" might present even greater problems.

Another series of questions arose from the necessity of establishing a clear-cut legal differentiation between the space segment - i.e., data collection and recording - and the ground segment - i.e., data reception, processing and dissemination. The organization of both segments would depend on whether user requirements involved the choice of a sun-synchronous orbit, a low inclination orbit or a geostationary satellite, or even a combination of the systems.

Although each segment required different legal treatment, there was nevertheless a close interdependence between them. It would be an important and not an easy, task for the Sub-Committee to reflect that interdependence in legal terms.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that he wished to make a few comments on the working paper submitted by France and the USSR entitled "Draft principles governing the activities of States in the field of remote sensing of earth resources by means of space technology" (A/AC.105/C.2/L.99). The sponsors were convinced that legal regulation was essential as a basis for international co-operation. An adequate solution of political and legal questions was essential for the successful settlement of practical problems connected with space technology and the discovery of natural resources. Remote sensing activities should be carried out on a basis of equality and in strict accordance with international law and respect for the principle of the sovereignty of States and they should be undertaken for the benefit of all countries, irrespective of their degree of development.

The Franco-Soviet draft had taken over six months to prepare. The sponsors had tried to take account of the views of other countries, but they were unable to agree with the few countries which felt that there was no need for any legal regulation at all. On the other hand, they had given attention to the views of countries which were opposed to the introduction of strict limitations. The main objective of the principles was to regulate the use of information connected with natural resources. States had an inalienable right to dispose of their natural resources and of information concerning those resources.

The sponsors hoped the draft principles would provide a basis for discussion in the Sub-Committee, or possibly in the parent body. The need for the establishment of legal norms was indeed urgent and they would welcome a frank exchange of views on both the contents and the form of the future instrument.

His delegation had noted the draft basic articles for a treaty on remote sensing of mutual resources by satellites (A/AC.105/122) prepared by Brazil and, though it did not agree with all the provisions contained in the Brazilian draft, it welcomed such a creative approach to the problem.

Mr. AZIMI (Iran) said that his delegation was convinced that the establishment of legal principles governing the remote sensing of earth resources by satellite should not only keep pace with, but wherever possible precede, the development of technology, in order to avoid any dispute or tension between nations. The legal principles already formulated by the Soviet Union in 1973 at the second session of the Working Group on Remote Sensing of the Earth by Satellites, together with the documents submitted by Brazil (A/AC.105/122), Canada (A/AC.105/C.1/WG.4/L.5), France (A/AC.105/L.69) and by France and the Soviet Union jointly (A/AC.105/C.2/L.99) were extremely valuable and could serve as a basis for the work of the Sub-Committee in accordance with General Assembly resolution 3182 (XXVIII).

For lack of time, it would be difficult to formulate a draft convention or treaty at the current session. It might therefore be desirable at the present stage to hold a general exchange of views leading to a declaration of principles governing the remote sensing of natural resources by satellite.

In his delegation's view, the Sub-Committee should take the following general considerations into account in formulating principles relating to remote sensing. The sovereignty of States, including sovereignty over national resources and wealth, must constitute the cornerstone of the Sub-Committee's work. All States should be entitled to undertake, freely and without discrimination, the remote sensing of natural resources for peaceful purposes, in accordance with international law, the Character of the United Nations and the outer space Treaty. The remote sensing of the natural resources belonging to any State should not be undertaken without the prior consent of that State. States should have the right to participate in activities relating to the remote sensing of their natural resources, and should have access to all information thereon obtained by remote sensing by other countries. The information obtained by remote sensing concerning the natural resources of any State should not be published or communicated to third parties without the consent of the State concerned. States possessing the necessary technology for remote sensing should assist other States in carrying out surveys of their natural resources. States should communicate the specifications of their remote sensing activities to the Secretary-General of the United Nations. Lastly, any disputes relating to remote sensing activities should be settled in accordance with Article 33 of the United Nations Charter.

Mr. OHTAKA (Japan) noted that the Legal Sub-Committee was holding a substantive discussion of the legal aspects of remote sensing by satellites virtually for the first time, although that question had been on the Sub-Committee's agenda for a number of sessions. His delegation wished to express gratitude to the delegations of Argentina, Brazil, Canada, France and the Soviet Union for preparing working papers on possible future principles to govern the legal aspects of remote sensing. It had given careful attention to those working papers, which would be of great help to the Sub-Committee in identifying the major areas in which in-depth study might have to be conducted. At the present stage, however, it merely wished to outline its basic position on the possible future elaboration of legal principles to govern remote sensing activities.

It was well known that the optimum use of the new technology of remote sensing would bring enormous benefits to the entire international community. It was also well known that that new technology, in spite of its very promising future, was still at the experimental stage. His delegation therefore considered that the international community should, at least for the time being, maintain a highly flexible attitude towards the various aspects of remote sensing, with a view to identifying, in the

light of the experience obtained, the most effective means of putting the new technology into fully operational use.

His delegation appreciated the concern expressed by some countries about the possible abuse of that technology to the detriment of their interests. Some measures of international adjustment might therefore have to be considered in future in order to alleviate such concern but it would be most unfortunate if that concern gave rise to the premature establishment of a rigid legal framework that might seriously jeopardize the bright future of remote sensing. The Sub-Committee should therefore maintain a cautious approach in its consideration of the legal aspects of remote sensing, in order to safeguard the immeasurable contribution which that new technology might be able to make to the welfare of the developed and developing countries of the world.

Mr. MELESCANU (Romania) said that, since remote sensing was an activity in which a number of States were engaged, the need to formulate principles governing that activity was self-evident. In his delegation's view, the question of remote sensing should be tackled from the legal standpoint through the establishment of principles, and from the technical standpoint through the organization of international co-operation to ensure that all countries, in particular the developing countries, might benefit from the advantages deriving from that new technology. One direct consequence of that approach was that the legal regulation of the activity must not impede efforts to develop international co-operation in remote sensing but should, on the contrary, encourage such co-operation on the basis of legal principles elaborated by all States concerned.

The following major principles should constitute the basis for any regulations governing remote sensing: the applicability of international law to remote sensing and the need to respect the principle of the sovereignty of States, including sovereignty over natural resources and information thereon. In view of the importance of data collected by means of remote sensing, in particular for countries in which that technology was not available, all such data should be placed at the disposal of the sensed States. The logical consequence of that principle, and of the principle of State sovereignty, was that sensing States should undertake not to publish data concerning sensed States without the express consent of the latter.

In order to ensure that those principles were respected, remote sensing platforms should be registered and launching States should also communicate to the Secretary-General data on the programmes undertaken with the assistance of remote sensing platforms.

Although international co-operation in that sector was primarily the responsibility of the Scientific and Technical Sub-Committee, the legal instrument which the Legal Sub-Committee was in the process of formulating should contain a provision aimed at increasing international co-operation, with a view to facilitating the access of all countries, particularly the developing countries, to remote sensing techniques. It was to be hoped that, on the basis of a general provision of that type, the future organization of remote sensing would lead to the establishment of a more structured institutional system comprising a space segment and regional centres for the reception and interpretation of the data collected.

The texts submitted by the delegations of Argentina, Brazil, Canada, France and the Soviet Union showed that there was a considerable measure of agreement on the fundamental principles which should govern remote sensing activities. The principles which his delegation had outlined appeared to be reflected in a general way in the draft principles submitted jointly by the delegations of France and the USSR in their working paper, which were largely acceptable to his delegation. He hoped that it would be possible to reach agreement on all the general principles referred to in that working paper at the current session, and wished to assure the Sub-Committee of his delegation's desire to make a constructive contribution to the formulation of an appropriate text.

Mr. VACHATA (Czechoslovakia) said that, as the Working Group had correctly pointed out, remote sensing by satellites could bring great benefits to all mankind in various fields of activity and it could help to accelerate economic development, especially in the developing countries. On the other hand, there was a possibility that it might also be used for other purposes which had nothing in common with peaceful co-operation between States. His delegation therefore welcomed United Nations efforts to establish an international system containing mandatory principles for effective international co-operation between States in the use of space technology for remote sensing of earth resources. That was one of the objectives of General Assembly resolution 3182 (XXVIII), which had given the Legal Sub-Committee a clear mandate.

The Czechoslovak delegation wished to comment briefly on some of the legal aspects of the problem, to which the Working Group had drawn attention. First, what kind of international legal principles should be elaborated to govern remote sensing? The space segment should undoubtedly be governed by the 1967 outer space Treaty, according to which space was treated as res omnium communis, and as such should be free for exploration and use by all States. On the other hand, activities undertaken on Earth affected the sovereign rights and interests of States, and should be conducted in accordance with the generally accepted principles of international law governing relations between States.

His delegation was of the opinion that one of the essential principles to be formulated was that the State on whose territory the natural resources being sensed were located had an exclusive and sovereign right to any information obtained by remote sensing. In other words, only that State could use the information on a commercial basis or in other ways and, without the consent of that State, the information obtained could not be divulged to other States or to international organizations. Another question which arose was whether and to what extent a State had a right to use information obtained as a result of remote sensing if the data referred to territories not under its jurisdiction, for example the territory of another country or the high seas. Clearly, the high seas were res omnium communis and consequently all States were entitled to information concerning them. The question of the territory of other States was more complicated. Some natural resources, such as natural gas, were located in regions covering the territories of two or more States and the use of those resources by one State might affect the resources situation in neighbouring States. Water resources, too, might be located in the territory of a country other than that which wished to exploit them.

Likewise, sources of air and water pollution, including pollution of the high seas, were not always located in the territory of the State which was interested in eliminating the pollution. Any future international régime must therefore take account of such cases and provide for States to be informed of facts occurring outside their territory. Satellites could also be used to give warning of natural disasters and it would be in keeping with the spirit of the outer space Treaty if launching States were obliged without delay to inform a State which was threatened by a natural catastrophe.

In any case, his delegation was convinced that States obtaining information on natural resources by means of remote sensing should be obliged to inform States on whose territory the resources were located of the scale of the investigation. With regard to the question of reimbursement, that should present no difficulty for the developed countries. In the case of the developing countries, the question of reimbursement should be settled within the framework of the United Nation technical assistance programmes.

His delegation felt that it was perhaps premature to adopt a position on certain problems, such as the organizational forms to be taken by international co-operation, since the solution of those problems would depend on the formulation of the principles governing remote sensing of earth resources.

Turning to the working paper submitted jointly by France and the USSR, he said his delegation had not had time to study the principles in detail, but at first sight it appeared that the draft was fully in accordance with his delegation's ideas regarding the basic principles for international co-operation in remote sensing.

Mr. DELROT (Belgium) said that the organizational aspects of remote sensing were of paramount importance. Remote sensing activities could be organized on the basis of the space segment or the earth segment, or at the world, regional or national levels, or various combinations of those levels. In any event, remote sensing had become a reality and coul be used for general world-wide purposes such as the protection of the environment from natural disasters, or for more specific purposes relating to natural resources. His delegation had tried to formulate certain principles in response to the questionnaire circulated by the Secretary-General and it wished to express its appreciation of the texts submitted by the delegations of Argentina, Brazil, Canada and France, from which it would appear that there was a large measure of agreement in the Sub-Committee.

In his delegation's view, the following principles must be taken in account: remote sensing should contribute to the economic development o the developing countries; the principle of the sovereignty of States over their natural resources was of primary importance; and scientific progress and research should not be impeded. His delegation also agreed with those delegations which had stressed the importance of the dissemination and use of data. It seemed that all those considerations could be embodied in a general principle of co-operation and participation. It was important to promote co-operation between sensing and sensed States, to enable all countries particularly the developing countries, to participate in remote

sensing, and to ensure that the United Nations was informed of all remote sensing activities transcending national frontiers. The draft convention on registration of objects launched into outer space for the exploration or use of outer space, which would probably be adopted in the near future, would be of great use in promoting the attainment of some of the objectives which he had mentioned. His delegation also recognized the right of access of sensed States to information on data concerning their territory. It recognized the competence of States to decide on the use of data relating to them. It also endorsed the formulation of specific rules governing areas beyond national jurisdiction.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-SECOND MEETING

held on Tuesday, 28 May 1974, at 3.15 p.m.

Chairman : Mr. WYZNER (Poland)

DRAFT TREATY RELATING TO THE MOON (agenda item 2)

Report of Working Group I

Mr. HARASZTI (Hungary), Chairman of Working Group I, reporting on the Group's work, said that it had had before it a draft consisting of a preamble and 21 articles which had been approved by the Legal Sub-Committee at its eleventh session (A/9020, annex II, appendix A) and which it had decided to take as a basis for its work at its twelfth session; the text of six provisions formulated by the Working Group and taken note of by the Sub-Committee at its twelfth session;[25] the text relating to article X originally worked out in informal consultations and contained in the report of the Sub-Committee on its twelfth session;[26] a working paper relating to article X;[27] and the report of the Chairman of the informal Working Group established by the Committee on the Peaceful Uses of Outer Space at its sixteenth session in 1973.

The members of Working Group I had agreed to concentrate their efforts on the three unresolved issues: the scope of the treaty (article I of the draft), the information to be furnished on missions to the Moon (article IV) and the question of the natural resources of the Moon (article X). Only the first and the third issues had been discussed at the meetings of Working Group I.

In the course of the discussions in the Sub-Committee and the Working Group, the following working papers on the draft treaty relating to the Moon had been submitted: a working paper by the United States of America concerning the rearrangement of the draft articles (A/AC.105/C.2/L.91 and Corr.1); a working paper by Bulgaria (A/AC.105/C.2/L.93), containing the text of a draft treaty based on the working paper submitted by the Bulgarian delegation at the twelfth session of the Sub-Committee and on the provisions approved by the Working Group during that session together with certain changes and amendments; a working paper submitted by India (A/AC.105/C.2/L.95, and co-sponsored by Egypt, concerning freedom of scientific investigation on the Moon; a working paper submitted by India (A/AC.105/C.2/L.96) concerning the scope of the treaty; a working paper submitted jointly by India and Nigeria (A/AC.105/C.2/L.97, and co-sponsored by Egypt, relating to the natural resources of the Moon; and a working

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25/ A/AC.105/115, para. 17.

26/ A/AC.105/115 and Corr.1, annex I.C.

27/ A/AC.105/L.74.

paper by Mongolia (A/AC.105/C.2/L.98/Rev.1) realting to the same question.

After a general exchange of views on the three unresolved problems, the Working Group had entered into a discussion of article I relating to the scope of the treaty and then, on the proposal of some delegations, had decided to give priority to the discussion of article X relating to the question of the natural resources of the Moon, since many delegations considered that it was necessary to solve that problem before the others. In the course of the debate, however, no agreement had been reached on the legal status of the natural resources of the Moon. That being the case, some delegations had proposed that any reference to the legal status of the natural resources of the Moon should be excluded from the treaty, on the understanding that their legal status would be defined by a separate international instrument. Other delegations, however, were of the opinion that the draft treaty relating to the Moon should itself contain provisions concerning the legal status of the Moon's natural resources. Since no agreement had been reached on that point, the Working Group had adjourned its meetings without completing the elaboration of the draft treaty relating to the Moon.

Mr. KOLOSSOV (Union of Soviet Socialist Republics) considered that the report submitted by the Chairman of Working Group I faithfully reflected the Group's work. The Sub-Committee might perhaps recommend to the Committee on the Peaceful Uses of Outer Space that the question of the draft treaty relating to the Moon should be included in the agenda of the next session as a matter of high priority.

Mr. D'ANDREA (Italy), supported by Mr. von WAGNER (Federal Republic of Germany), suggested that the full texts of the reports of the Working Groups should be annexed to the Sub-Committee's report.

The proposal was adopted.

Mr. KONSTANTINOV (Bulgaria) thanked members of the Sub-Committee for the favourable reception they had given to his delegation's working paper on the draft treaty relating to the Moon (A/AC.105/C.2/L.93). He regretted that there was still no consensus on the draft treaty. There appeared to be a reluctance to settle certain questions at the present stage. It might be asked, in particular, whether article X, concerning an international régime, the text of which was reproduced in document PUOS/C.2/WG.1(XIII)/CRP.1, was really necessary. The substance of that article could be divided into two parts, one relating to the question of the ownership of the Moon and other celestial bodies, on which there was no divergence of views, and the other to the question of the international régime as such, which it would be better not to attempt to deal with in detail in the text of the proposed treaty.

Thus there were still difficulties to be overcome in completing the draft treaty relating to the Moon, but he was confident the Sub-Committee would overcome them.

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE FOR THE EXPLORATION OR USE OF OUTER SPACE (agenda item 3) (continued*)

Report of Working Group II

Mr. TUERK (Austria), Chairman of Working Group II, reporting on the Group's work, said that it had had before it a draft convention on

*Resumed from the 213th meeting.

registration of objects launched into outer space (A/9020, annex II, appendix B), consisting of: a preamble and 10 articles; the title approved by Working Group II at the twelfth session of the Legal Sub-Committee in 1973 [28] and taken note of by the Sub-Committee at that session; a review clause (article VIII bis) approved by an informal Working Group set up by the Committee on the Peaceful Uses of Outer Space at its sixteenth session in 1973; and a provision (article III bis) on the marking of space objects which had been worked out at that time in informal consultations and submitted to the Governments of Member States for consideration, but on which no agreement had been reached.

The discussions in Working Group II had focused mainly on the marking provision contained in article III bis. After a number of delegations had submitted various proposals on that question, a compromise text for the article on marking had been finally agreed upon in the course of informal consultations; the draft article stated that whenever a space object launched into earth orbit or beyond was marked with the appropriate designator or registration number (or both), the State of registry should notify the Secretary-General of that fact when submitting information regarding the space object, in accordance with the relevant provision of the convention. In such a case, the Secretary-General should record that notification in the register. As that provision provided for voluntary marking and a substantial number of delegations had been in favour of mandatory marking, a further compromise had been reached during the informal consultations, and the review clause of the draft convention now stated that any review of the Convention should take into account relevant technological developments relating to the identification of space objects.

After Governments had been consulted, where necessary, on the compromise formulae worked out with regard to marking and the review clause, and after further informal consultations, Working Group II had been able to approve on 27 May 1974 the entire text of the draft convention on registration of objects launched into outer space. In the course of the informal consultations, the desire had been expressed that the Secretary-General of the United Nations should be entrusted with the functions of depositary of the convention; it was understood that the precedent established by the General Assembly on 14 December 1973 in relation to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (General Assembly resolution 3166 (XXVIII), annex), would be followed. The final clauses had thus been amended accordingly and the revised final clauses had been endorsed by the Working Group.

He drew the Sub-Committee's attention to the text of the draft convention on registration adopted by Working Group II (PUOS/C.2 (XIII)/WG.II/1); the foot-note relating to the fifth preambular paragraph, containing a reference to the draft treaty relating to the Moon, had been included because it had been the feeling of quite a number of delegations in Working Group II that it should be left to the Committee on the Peaceful Uses of Outer Space to decide whether or not to delete that paragraph.

It had been decided to replace the expression "space objects launched into earth orbit or beyond", originally contained in article IV, paragraphs

[28] See A/AC.105/115, para. 24.

1 and 2, by the expression "space object carried on its registry", which was more logical and avoided unintentional ambiguity. Finally, it had been decided to delete the reference to the time limit for signature contained in article VIII, paragraph 1, in order to bring the final clauses more closely into line with those of the outer space Treaty.

Mr. KOLOSSOV (Union of Soviet Socialist Republics), supported by Mr. COCCA (Argentina), after expressing approval of the report read out by the Chairman of Working Group II, suggested two drafting amendments. In the first place, he saw no need to state that the compromise formulae had been elaborated "after Governments had been consulted, where necessary"; in all United Nations bodies, delegations were in the habit of consulting their Governments and it seemed unnecessary to mention the fact in the report.

With reference to the foot-note relating to the fifth preambular paragraph of the draft convention on registration, it would be better to say that it was the feeling of "all the members of the Working Group" that a decision on the matter should be left to the present Committee, since in fact there had been no objections and all the members of the Working Group had been in agreement on that point.

Mr. REIS (United States of America) suggested that, in the interests of clarity, the word "inclusive" should be inserted after the words "articles VIII to XII" in the English text of article VII of the draft convention on registration.

The proposal was adopted.

Mr. ELARABY (Egypt) said that his delegation would have preferred a system of mandatory marking but would not block the general consensus in the Sub-Committee and therefore accepted the text of the draft convention.

In view of the fact that Arabic had been both an official and a working language of the United Nations since 18 December 1973, he proposed that the word "Arabic" should be inserted before the word "Chinese" in article XII of the draft convention.

It was so decided.

Mr. MORRISON (Australia) said that his delegation was now able to withdraw the general reservation it had made on the draft convention and could accept the present text of the draft.

Mr. TUERK (Austria), Chairman of Working Group II, said that the Group's report would be amended to take account of the suggestions made by the representative of the Soviet Union and supported by the representative of Argentina.

The CHAIRMAN thanked Working Group II and its Chairman for having succeeded in completing the draft convention on registration. He also thanked the delegations of Canada and France for their participation in that task.

There were two editorial errors to be corrected in the text of the draft convention; in the first place the words "launched into earth orbit or beyond" should be deleted from the English text of paragraphs 1 and 2 of article IV; and secondly, the word "du" should be replaced by the word "au" after the words "en conformité" in paragraph 2 of article VII of the French text.

In the absence of any objections, he suggested that the Sub-Committee should approve the text of the draft convention on registration of objects launched into outer space, as contained in document PUOS/C.2 (XIII)/WG.II/1.

The draft convention was approved.[29/]

Mr. MILLER (Canada), outlining the history of the draft convention which had just been approved, said that the registration of objects launched into outer space had been recommended by the Committee on the Peaceful Uses of Outer Space as early as 1959. In 1961, the General Assembly, in its resolution 1721 B (XVI), had called upon States launching objects into outer space to furnish the Secretary-General with information on those launchings. In 1968, France had put forward the concept of a national system of space registries and had subsequently submitted a proposal on that subject. Canada had then envisaged a proposal on registration as an adjunct to the Convention on International Liability for Damage Caused by Space Objects, the drafting of which had then almost been completed. In 1972, Canada had submitted a draft convention on a mandatory international system for registration of space launchings. In the same year, Canada and France had collaborated on harmonizing their proposals. Then, in 1973, the United States of America had also submitted a draft, which France and Canada has taken into account in revising their own proposal.

On the question of marking, Canada favoured the adoption of a mandatory system which would make it possible to identify objects causing damage. However, the technical and political difficulties involved in a mandatory system had been emphasized, and the question had given rise to serious differences of opinion in the Sub-Committee. Fortunately, the partisans of mandatory marking had adopted a conciliatory approach, thanks to which agreement had finally been reached; he particularly wished to thank Egypt, Mexico, Iran, Brazil and India for having agreed to modify their initial position in order to achieve that result. He also thanked the Austrian delegation for the efforts it had made to find an area of agreement; The work of the Chairman of Working Group II in that connexion had been exceptional.

It was now essential that the text approved should receive wide support and that delegations should recommend it to their Governments. Among the especially interesting aspects of the approved draft were the switch from a voluntary to a mandatory marking system and the provision for a request to countries possessing space monitoring and tracking facilities for assistance in the identification of objects causing damage. There were no grounds for scepticism with regard to the application of the draft convention; on the contrary, the text should be given a chance and amended later if it proved inadequate in any respect.

Finally, he considered that completion of the text of the draft convention did credit to the Sub-Committee. Once it had been adopted by the General Assembly, yet another step would have been taken on the road to the orderly regulation of man's activities in the field still left for him to explore.

29/ The text approved was subsequently circulated under the symbol A/AC.105/C.2/13.

Mr. CHARVET (France) thanked the Chairmen of the Sub-Committee and Working Group II for the result achieved, and expressed appreciation of the readiness to compromise shown by other delegations. A marked divergence of views had existed at the time France had submitted its first draft, a divergence which fortunately had since been eliminated. The same co-operative approach should be shown in future in solving the other difficult questions which remained before the Sub-Committee.

Mr. COCCA (Argentina) thanked delegations which had accepted the draft amendments submitted by Argentina in 1973, namely, the texts of 2 April 1973,[30/] which were at present to be found in articles VIII, XI and XII of the approved draft convention, and the proposal of 11 April 1973,[31/] the substance of which was to be found in articles III and V of the approved draft. He particularly thanked the delegations of Canada and France for having taken his country's proposals into account.

Mr. TUERK (Austria), Chairman of Working Group II, expressed his gratitude to the members of Working Group II, and especially to the space Powers, for the co-operative attitude they had shown in completing the draft convention on registration. It was to be hoped that the Sub-Committee would achieve similar results on other items of the agenda.

The CHAIRMAN proposed that discussion of agenda items 2 and 3 should be closed.

It was so decided.

MATTERS RELATING TO THE ACTIVITIES CARRIED OUT THROUGH REMOTE SENSING SATELLITE SURVEYS OF EARTH RESOURCES (agenda item 5) (continued)

Mr. STOWE (United States of America) said that the essential responsibility of the Legal Sub-Committee was to examine the legal aspects of the remote sensing of earth resources and of any related arrangements which the international community might wish to develop on a regional or global basis. No such arrangements had so far been concluded, except on a bilateral and experimental basis. There was an extensive series of bilateral co-operation agreements under which data from United States experimental programmes (ERTS) were analysed by scientists in many countries and made available to the rest of the world in the general interest. No one was barred from that system on political or other grounds. The United States of America felt very strongly about the value of those arrangements. However, the United States and the rest of the international community might well wish to study various additional structures to ensure that the greatest benefit was derived from the valuable source of information represented by remote sensing.

The present state of the law relating to remote sensing seemed to give rise to much greater controversy. In the opinion of his Government, remote sensing of the Earth and its environment was within the scope of the outer space Treaty. The policy of the United States, which consisted in

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30/ A/AC.105/115, annex II, sect. B.1.

31/ Ibid., sect. B.2.

facilitating access to the data derived from its experiments, was consistent with one of the principal objectives of that Treaty, namely that outer space activities should be conducted in the interests of all countries. In addition, that policy was consistent with the objectives of article XI of the Treaty, which called on countries to inform the Secretary-General of the nature, conduct, location and results of such activities.

It had been suggested that, as a matter of law, remote sensing constituted an activity not within the scope of the outer space Treaty, because that activity was focused on the Earth and its effects were felt on the Earth. In the opinion of his delegation, that view had no foundation. The remote sensing of the Earth was not a new phenomenon, since, even before the negotiation of the Treaty, from the time when the first communications and weather satellites had been launched, many countries had participated in and benefited from earth-oriented remote sensing systems; thus, meteorological observations by satellite were widely used all over the world, and were particularly useful in agriculture, for example. Consequently, in the opinion of his delegation, if the orientation towards the Earth of space activities constituted a criterion for the applicability of the Treaty - which was a very questionable approach - meteorological observations by satellites must be considered within that category.

Other well-known remote sensing activities had been conducted since the early 1960s under the Mercury, Gemini and Apollo programmes, well before the entry into force of the outer space Treaty; the photographs obtained had been widely circulated and used by scientists in many parts of the world. Similarly, at the present time, although the quantity of data obtained was much greater and technical standards were much higher, the United States was essentially trying to benefit, and to ensure that mankind as a whole benefited, from the advantages of remote sensing of the Earth from space.

It had also been suggested that, because meteorological satellites did not sense natural resources, they did not constitute a precedent for the acceptance of current remote sensing programmes. Although a point of law was not really involved, it should be noted that the United States ERTS programme did much more than observe natural resources, and that cartography and pollution were no less important aspects of ERTS activities.

Finally, the Mercury, Gemini and Apollo programmes had also included remote sensing of natural resources, a fact which had been well known at the time when the outer space Treaty had entered into force. It might be said that for 10 years the international community had effectively accepted and acquiesced in remote sensing activities, and that many countries had encouraged them.

It might therefore be concluded that remote sensing, like other peaceful uses of outer space, was within the scope of the outer space Treaty. The observation of the Earth in no way interfered with or impeded any activity on the Earth, and it was completely compatible with the provisions of article 2, paragraph 4, of the Charter of the United Nations and with those of the outer space Treaty banning military activities.

One particularly significant objection had been expressed concerning remote sensing: some States feared that the communication of data concerning their natural resources to third States might jeopardize their economic interests or security. It had therefore been suggested that the international community should establish a system under which the communication of data concerning a particular State would be subject to the prior consent of that State. In the opinion of his delegation, such a system would have many disadvantages; it would in no way protect the interests of States which did not have their own remote sensing system, and it would impede the development of international co-operation. If States which conducted remote sensing activities by satellite were not authorized to share freely the data obtained, they would in the end be the only States to derive genuine benefit from the considerable advantages of remote sensing. In many cases, full benefit could be derived from data only if they were studied on a regional or even global basis. Cases in point were meteorological data and, in the future, data relating to ecological systems, pollution, geological structures, certain types of natural disasters, and so on. Since many problems encountered at the present time, such as the Sahelian drought and the floods in South-East Asia, transcended national frontiers, a restrictive data policy could harm precisely the most seriously affected countries. In addition, it was not known whether it would be technically feasible to separate the images received from a satellite on the basis of national frontiers; from a scientific standpoint, such separation would not generally be desirable and the operation would probably be much too expensive for individual countries and the international community as a whole.

Moreover, a restrictive data policy, coupled with the difficulty of separation in accordance with national frontiers, might well mean that a particular country would not be able to obtain data about its own territory, if those data appeared on an image which encompassed part of another country, unless the latter country agreed to the release of the image. Such a situation would be particularly disadvantageous for smaller countries. A restrictive data policy was therefore inconsistent even with the basic view that each State should at least have access to data about its own territory.

Another factor, which at first sight seemed to be a domestic rather than international issue, was of considerable significance for the present discussion: if the United States Government decided to establish an operational remote sensing system, it would not wish, and would have no right, to deny the results obtained to United States citizens who had financed the programme. Because of that liberal political system, if restrictive provisions were adopted on an international basis, it would seem that in practice some States would obtain the data available to United States citizens, while others would not. The present system, under which data were available on a basis of equality to all who requested them, seemed much more balanced and equitable.

In conclusion, he wished to comment on one of the essential concerns of States relating to the further development of remote sensing, namely their desire to control the use of the natural resources situated in their respective territories. The United States Government appreciated and shared that concern and, in its opinion, the interests of States would be

much better protected by an open system in which every State would at least be assured that it knew as much about its own territory as anyone else.

Although the Sub-Committee was not called upon to study the problem of the sovereignty of States over natural resources, he felt compelled to comment on a statement made on that question during the Sub-Committee's discussion; it had been said that, in international law, a State was entitled to exercise permanent control over the dissemination and use of any information concerning the natural resources of that State, no matter where that information was gathered, disseminated or studied. In the opinion of his delegation, that had never been the law in the past and could not become the law now. A considerable quantity of data about the geography, resources and environment of almost all countries had long ago been assembled and published throughout the world. Thus the United States Government would be unable - even if it so wished - to exercise any form of control over data gathered in Europe concerning resources in its territory. Moreover, regardless of how much information an external entity possessed about the resources of a particular country, there was no conceivable way in which that entity could exploit them without the consent and indeed assistance of the Government concerned.

The United States had consistently attempted to develop co-operation in the sphere of outer space and to share the benefits derived from the exploration and use of space; it would pursue those objectives in the future and it was prepared to participate actively in discussions of remote sensing. In that connexion, it would be useful to work out guidelines or principles intended to facilitate the international dissemination and use of data obtained by means of remote sensing.

The meeting rose at 5.20 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-THIRD MEETING

held on Wednesday, 29 May 1974, at 10.45 a.m.

Chairman : Mr. WYZNER (Poland)

THE VARIOUS IMPLICATIONS OF SPACE COMMUNICATIONS: REPORT OF THE WORKING GROUP ON DIRECT BROADCAST SATELLITES (agenda item 4) (concluded*)

Report of Working Group III

Mr. MISHRA (India), Chairman of Working Group III, read out the following text:

"Report of the Chairman of Working Group III

"The Legal Sub-Committee, on 6 May 1974, established Working Group III for the agenda item entitled 'The various implications of space communications: report of the Working Group on Direct Broadcast Satellites'. The Working Group held its organizational meeting on 17 May 1974 and decided that it should discuss the following principles, in the order indicated, on which there was a high degree of consensus during the fifth session of the Working Group on Direct Broadcast Satellites. These are:

"1. Applicability of international law;
"2. Rights and benefits of States;
"3. International co-operation;
"4. State responsibility;
"5. Peaceful settlement of disputes.

"The Working Group met on 20 May 1974 and decided to establish a drafting group of the whole. The Drafting Group held seven meetings, including a night meeting. Following consideration of the proposals submitted by Canada and Sweden, the Union of Soviet Socialist Republics, the United States of America and Argentina, and also of the informal papers before it, the Drafting Group was able to draft the text of the five principles. Wherever no consensus could be reached or there was no substantive discussion, the words or sentences appear in square brackets.

"At its meeting on 28 May 1974, Working Group III considered the texts of the above principles worked out in its Drafting Group and endorsed those texts with minor changes. Thereafter, Working Group III decided to request the Legal Sub-Committee to reproduce the present report, together with the texts of the principles thus established and circulated under the symbol PUOS/C.2(XIII)/WG.III/1, as an annex to the report of the Sub-Committee".

The CHAIRMAN noted that document PUOS/C.2(XIII)/WG.III/1, which was referred to in the report of the Chairman of Working Group III, did

*Resumed from the 219th meeting.

not have a general title.

After a brief discussion, in which Mr. KOLOSSOV (Union of Soviet Socialist Republics) and Mr. GREENWOOD (United Kingdom) took part, the CHAIRMAN suggested that document PUOS/C.2(XIII)/WG.III/1 should be entitled "Text of principles drafted by Working Group III".

It was so decided.[32]

The CHAIRMAN (France) noted that the report of the Chairman of Working Group III contained no reference to the work that remained to be done. He suggested that an appropriate sentence might be added at the end of the report.

Mr. LIND (Sweden), speaking on behalf of his own delegation and the delegation of Canada, supported the French representative's suggestion. An appropriate addition might be made to the report of the Chairman of Working Group III or to the Sub-Committee's own report.

Mr. MISHRA (India), Chairman of Working Group III, said he appreciated the point made by the delegation of France, but had in fact deliberately refrained from including in his report any reference to the work that remained to be done, because he thought that such a reference should rather be included in the report of the Sub-Committee itself.

Mr. COCCA (Argentina) supported the French representative's suggestion. He thought that the Sub-Committee should approve the report of the Chairman of Working Group III and that it should include in its own report an appropriate sentence about future work.

Mr. CAPOTORTI (Italy) agreed that the point made by the French representative should be covered in the report of the Sub-Committee, and suggested that the Rapporteur should draft an appropriate sentence.

The CHAIRMAN, referring to the French representative's suggestion concerning future work, noted that, when the Sub-Committee had considered the report of Working Group I, it had decided to include the following sentence in its report: "The Sub-Committee intends to keep the item on its agenda". He suggested that the same wording might be used in the present case.

Mr. CHARVET (France) supported the Chairman's suggestion.

Mr. LIND (Sweden) agreed with the Chairman's suggestion but pointed out that the text produced by the Working Group should not be regarded as definitive, since a number of concepts had not yet been dealt with. The Sub-Committee might wish to add a sentence on the following lines: "The Sub-Committee will at a later stage have to consider the elaboration of principles relating to other aspects of direct broadcasting by means of satellites".

Mr. MISHRA (India) and Mr. CHARVET (France) suggested an alternative wording indicating that the Sub-Committee would consider other principles relating to direct broadcasting by means of satellites at its fourteenth session.

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[32] The revised text was circulated under the symbol PUOS/C.2(XIII)/WG.III/1/Rev.1

Mr. CAPOTORTI (Italy) said that it was important to avoid the implication that a list of principles already existed, since that was not the case.

After Mr. LIND (Sweden), Mr. COCCA (Argentina), Mr. KOLOSSOV (Union of Soviet Socialist Republics) and Mr. BUCHAN (Canada) had suggested that formulations for inclusion in the report, the CHAIRMAN suggested that those delegations which had commented on the point made by the delegation of France should meet in order to work out an acceptable text.

It was so decided.

MATTERS RELATING TO THE ACTIVITIES CARRIED OUT THROUGH REMOTE SENSING SATELLITE SURVEYS OF EARTH RESOURCES (agenda item 5) (concluded)

Mr. GREENWOOD (United Kingdom) said that the Legal Sub-Committee had been instructed by the General Assembly (resolution 3182 (XXVIII)) to respond to the request of the Working Group on Remote Sensing of the Earth by Satellites for its views on the legal implications of the earth resources survey by remote sensing satellites. His delegation took the view that the starting point for thestudy of the legal implications must be the existing legal position. It agreed with the statement in the background paper by the Secretary-General assessing United Nations documents and other pertinent data related to the subject of remote sensing of the Earth by satellites to the effect that "in the documentation submitted to the Working Group there does not appear to be any principle or rule of international law as it now stands that makes it unlawful for a country freely to observe everything and anything it regards worth observing in another country, so long as it carries out its observations from beyond the limits of national sovereignty".[33] However, remote sensing did not even now operate in a legal vacuum, since the Charter of the United Nations, the International Telecommunications Convention and the ITU Regulations and the outer space Treaty were all applicable. The third paragraph of article I of the outer space Treaty stated that "there shall be freedom of scientific investigation in outer space,... and States shall facilitate and encourage international co-operation in such investigation". The use of the words "freedom of scientific investigation in outer space", rather than "of outer space", seemed to imply that there was freedom of scientific investigation of the Earth if carried out in outer space.

Article III of the Treaty required activities in outer space to be carried out in the interest of maintaining international peace and security and promoting international co-operation and understanding; but there did not appear to be anything inherently contrary to those obligations in a survey of earth resources. In accordance with article IX, such a survey must be conducted with due regard to the corresponding interests of all other States parties to the Treaty. In his delegation's view, the words "corresponding interests" referred back to the beginning of the article, and should be understood as meaning the interests of all States in co-operation and mutual assistance in the exploration and use of outer space.

It was important to establish the fundamental legality of earth resources observations of another State from outer space, because the question of legality had a bearing on how the information thus obtained

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[33] A/AC.105/118, para. 176

might be used, which was of course the crux of the matter. In domestic law, the method of acquisition of property was highly relevant in regard to the legality of its subsequent use, both in the case of physical and intellectual property, but his delegation was not aware of any principle either of domestic or of international law which made it inherently unlawful to exploit property, physical or intellectual, which had been lawfully acquired. In the case of intellectual property, such as data resulting from an earth survey, which had been interpreted and collated, the question of copyright might arise. But that was a matter pertaining to operations on Earth and was perhaps a subject best studied in detail in a forum other than the Sub-Committee.

Though his country was satisfied as to the basic legality of remote sensing from satellites and of the use of information thus obtained, it did not deduce therefrom that it might not nevertheless prove to be necessary to establish some modicum of international control over the technology; such control should, however, be founded on the paramount importance of international understanding and co-operation rather than on any notion that such surveys constituted an infringement of the sovereignty of a State. In his delegation's view, remote sensing was not an infringement of sovereignty, any more than it was an infringement of sovereignty to look at a foreign State through a telescope or take photographs of it with a telephoto lens from a ship on the high seas. Therefore, any guidelines or other legal framework which might be drawn up - and his delegation was certainly not convinced at present that a legally binding convention or any other instrument was necessary - should be based on international co-operation, equality, and mutual co-operation and understanding.

His delegation did not think it was particularly useful, either, to look for precedents from another field in order to construct a legal framework. Mention had been made of the right of States to prevent aircraft from engaging in photography and even from flying over certain areas. But those rights were based on an entirely different legal régime, since every State was sovereign over the airspace above its territory and territorial waters.

His delegation would therefore urge, first, that the legal problems arising from remote sensing by satellite be approached on their own merits and without any preconceived ideas arising from other fields of activity.

Secondly, it would suggest that the benefits which the technology could confer - particularly on developing States but also on all mankind - were so valuable that the matter should be approached in a spirit of benevolence rather than hostility. The overriding interest must be the furtherance of knowledge by scientific investigations, as enjoined in article I of the outer space Treaty. International controls should be kept to the minimum and should be closely related to the technical characteristics and limitations of remote sensing and to the manner in which the conduct of such activity was organized both in the space segment and at all stages of the ground segment, reception, data processing and dissemination.

At present, his delegation had an open mind as to whether any legal control - and, if so, what control - was necessary. It would like first

to study further the views of other States as expressed in working papers and orally. The first stage was to identify and formulate the main legal issues. In the course of identifying the legal issues, the Sub-Committee might be well advised to seek further information from the Working Group on the technical and organizational aspects, and it might even be useful for the Working Group to carry out further studies on technical, organizational and legal aspects at one and the same time.

Mr. CAPOTORTI (Italy) said that the General Assembly had recommended in its resolution 3182 (XXVIII) that the Legal Sub-Committee should respond to the request for its views, by the Working Group on Remote Sensing of the Earth by Satellites, on the legal implications of the earth resources survey by remote sensing satellites, but the question was extremely complicated and it was probable that a great deal of work still lay ahead.

Clearly the new technology could not be developed outside the law or without any legal regulation. There were already some rules of law which could be regarded as applicable, such as those stated in the provisions of the outer space Treaty and certain bilateral agreements. Article I of the Treaty, stating that outer space should be free for exploration and use by all States, implied that States were free to launch remote sensing satellites; article IX said that States Parties to the Treaty should be guided by the principle of co-operation and mutual assistance, while article XI obliged States conducting activities in outer space to agree to inform the Secretary-General of the United Nations of the nature, conduct, location and results of such activities. The Treaty therefore clearly applied to the activity of remote sensing.

With regard to bilateral agreements, they were an excellent means of implementing co-operation and encouraging all States to participate in remote sensing, and it was to be hoped that more of them would be concluded.

Nevertheless, his delegation felt that it was necessary to formulate basic principles, taking the outer space Treaty as the central framework. The formulation of principles was necessary, first because the subject was extremely wide and had implications beyond the scope of the Treaty, and secondly because of the divergence in interpretation which existed, especially with regard to safeguarding the interests of each State.

The principles to be developed would thus have to be in accordance with both the letter and the spirit of the outer space Treaty. At the same time, legal provisions should promote rather than hinder the development of technology and consequently there was a need for flexible principles rather than restrictive prohibitive and nationalistic rules.

The first question which should be dealt with was the organization of forms of co-operation, in accordance with the Treaty and with full respect for State sovereignty.

The report of the Scientific and Technical Sub-Committee on the work of its eleventh session discussed the way in which space centres might be set up for the collection and dissemination of information.[34] One of the future tasks of the Sub-Committee would be to seek concrete organizational models, although it would not of course be possible to solve all the problems involved through *ad hoc* solutions or organizational formulae. Sooner or later the problem of national sovereignty was bound to arise.

[34] A/AC.105/131, para.14 (b), (c) and (d).

On that question, three different points of view had been expressed by various members of the Sub-Committee: the need for the prior consent of the State whose resources were to be sensed; the need for consent if the data obtained by remote sensing were to be published; and complete freedom of access to all information, since sovereignty was protected during the exploitation phase.

Without prejudice to its final position on such a difficult problem, his delegation felt that to require prior consent for all remote sensing activities would be far too complicated, especially as in many parts of the world frontiers were so close that it would be difficult to sense one State without sensing another. There should therefore be no right of veto.

His delegation had no definite opinion on the other two alternatives, but felt that the main emphasis should be laid on the practical aspects. The principle of freedom of access to all information was already being applied. It should therefore be possible to study how it worked in practice. Was there really any need to formulate that principle or to spell out certain of its implications? Was there any general solution to the financial problems? There was no doubt that the benefits from remote sensing should be paid for, but special criteria should be applied to the needs of the developing countries. To what extent and in what cases did freedom of access to information in fact present a danger to sovereignty or threaten the essential rights of States? It might be useful to study the idea of the prior, rather than exclusive, right of a State to information obtained on its territory by means of remote sensing. In that context, the working paper submitted to the Working Group on Remote Sensing of the Earth by Satellites by Canada on its experience in the dissemination and utilization of remote sensing data[35] was of great interest. Probably the principles to be elaborated should take account of the difference between the sensing phase, the data reception and processing phase and the data dissemination and interpretation phase. It was surely important to make a thorough study of the practices adopted before attempting to formulate definite principles.

It would be an over-simplification to reduce everything to a conflict between freedom and sovereignty. His delegation therefore hoped that it would be possible to study the matter in greater detail in the following year, with a view to formulating the legal principles most in keeping with the common interest.

Mr. LUTHER (German Democratic Republic), referring to the proposal submitted by Argentina, Brazil, Canada, France and the Union of Soviet Socialist Republics for the preparation of draft principles which should govern the activities of States concerning remote sensing of the earth by satellites,[36] said that his delegation believed that the new techniques and technology in space activities should be used for the benefit of all countries and that all remote sensing should be carried out exclusively

[35] A/AC.105/C.1/WG.4/L.5.

[36] See A/AC.105/125, para.80.

for peaceful purposes. Remote sensing was a new phenomenon in international law, but there was no reason why it should develop in a legal vacuum. In accordance with international law, including the Charter of the United Nations and the outer space Treaty, all States exercised sovereignty over their territory and natural resources. It followed that all States affected by remote sensing activities were entitled to participate on equal and mutually acceptable terms, and that a sensing State was not entitled to transmit the results of its remote sensing to a third party without the prior consent of the sensed State.

In his delegation's view, the problem of "sense-over" should be resolved through mutual consultation. The sensing State and the sensed State should come to an agreement on the mode and extent of the application of remote sensing, in accordance with the principle of State sovereignty and the provisions of the outer space Treaty.

In conclusion, he stressed his delegation's belief that the problem of remote sensing was one of the most urgent items before the Sub-Committee and should be tackled at the fourteenth session, at which time the joint Franco-Soviet draft principles governing the activities of States in the field of the remote sensing of earth resources by means of space technology (A.AC.105/C.2/L.99) would form a suitable basis for further discussion.

Mr. TUERK (Austria), outlining his delegation's position on the question of remote sensing of the earth by satellites, said that Austria possessed a considerable amount of information concerning the potential use of remote sensing. That information was available at the newly established Austrian space agency, which would in the future co-ordinate all scientific and user interests relating to remote sensing, and with a specialized company "Spacetec", which since 1971 had been planning and had carried out earth resources and environmental surveys using space techniques. In July and August 1973, for example, an agricultural and hydrological survey of a number of areas near Vienna had been made by Spacetec with the aid of multispectral scanning equipment aboard an aircraft. It had been intended to compare the data acquired with ERTS data, but unfortunately no satellite data had been available for that period.

For the time being, Austria had no plans to establish its own earth station and processing centre for ERTS-type satellites, but it might in future wish to co-operate in that area on a regional basis. Without a detailed study of all the technical, financial, operational and legal questions involved, it would seem difficult to ascertain the best organizational system for disseminating satellite data to users. As far as Europe was concerned, however, three or four regional data acquisition and distribution centres might be expected to become available.

In that connexion, it should be pointed out that a long-term and coherent programme for remote sensing did not yet exist in Austria; the first step in that direction would have to be the initiation of an extensive training programme.

As far as the legal aspects of remote sensing were concerned, his delegation considered that there was at present no specific international régime to govern remote sensing of the earth by satellite. Certain

rules which might at present be applicable to some aspects of remote sensing could, in its view, be derived from the outer space Treaty and the general principles of international law. But those rules seemed to be insufficient to provide a clear-cut legal basis for the whole range of activities connected with remote sensing. His delegation therefore considered that the elaboration of more specific legal rules relating to remote sensing was important and desirable. Such principles should, inter alia, take into account the rights and obligations of the sensing States, the sensed States, user groups and the interests of the international community in general. Due regard should also be paid to the maximum international availability and effective use of data derived from remote sensing. As had already been stated by other delegations, a proper balance would have to be struck between freedom of space activities and the legitimate interests of sensed States.

His delegation wished to express gratitude to those delegations which had submitted proposals to the Sub-Committee concerning draft principles or draft international agreements on remote sensing. The Austrian Government would examine those principles carefully in the light of the discussion on remote sensing in the Sub-Committee. His delegation would therefore refrain from making any specific comment on those proposals at the present stage. It nevertheless wished to express the preliminary view that the elaboration of principles would probably have to be a first step towards the eventual drafting of an international instrument of a more binding character.

His delegation had consistently held the view that the United Nations should be the focal point for international co-operation in space activities and the development of norms of international law relating to those activities. It therefore welcomed the fact that the Sub-Committee had now found time to discuss the legal problems arising in connexion with remote sensing of the Earth by satellite. Since the Sub-Committee's agenda would be lighter at the following session, his delegation hoped that it would then be possible to consider matters relating to remote sensing in a detailed manner and with the high degree of priority which they deserved.

Mrs. LAKSHMANAN (India) said that her delegation considered that remote sensing of the earth by satellites was one of the most important questions on the Sub-Committee's agenda and deserved careful attention, particularly since experts appeared to believe that satellite technology could lead to great improvements in the monitoring and utilization of a wide range of natural resources at the national, regional and global levels. Although such technology might be national in origin, its results would be relevant for numerous other countries, and it seemed clear that the latter should be given the opportunity to influence the use of the new technology and to have access to all information derived from it if it concerned them. Equally, countries using new techniques should be expected to share the benefits, so as to dispel real or imaginary fears that valuable information was being gathered about other countries, possibly without their knowledge. The importance of remote sensing activities, the concern that had been voiced and the growing need on the part of the international community to develop its capabilities clearly highlighted the need to lay down internationally binding rules on those activities.

It was obvious that remote sensing had far-reaching economic implications and her delegation wished to stress that it was essential to provide for the international regulation of such activities based on the appropriate legal instruments, respect for the sovereignty of States and their inalienable rights to their own resources.

There were a number of common principles in the proposals that had been submitted by Argentina, Brazil, Canada, France, and the USSR, but there were also some fundamentally controversial issues. Her delegation considered that States which engaged in remote sensing activities should respect the principle of State sovereignty, particularly as it referred to natural wealth and resources. For instance, a State should not engage in remote sensing of the earth resources of another State without the latter's express and prior consent. Moreover, the sensed State should also have the right of access to information obtained, as well as the right to participate in any activities involving their territories. No data acquired by a sensing State should be made public or transmitted to third States or organizations without the express consent of the sensed State and in any event such data should not be used in a manner detrimental to the latter.

India also believed that among the principles to be drafted should be an obligation on the part of sensing States to inform the Secretary-General of the data, duration, nature and objectives of any given programme, together with details of whether data were to be collected, whether proper consent had been obtained and whether any arrangements had been made with the State concerned about the use of the data.

Moreover, sensed States should also have the right to take measures to protect their resources from remote sensing activities for which prior consent had not been obtained. Sensing States, for their part, should be liable for misuse of the application of space vehicles in resource detection activities and for disseminating information to the detriment of sensed States.

Although the Sub-Committee did not have sufficient time to discuss the draft text fully, it was essential that the item should be given high priority at its fourteenth session.

Mr. VALLARTA (Mexico), stressing the importance of the item, said that it was absolutely necessary for the Sub-Committee at its fourteenth session to start drafting an international treaty on the question of remote sensing. The proposal submitted by Brazil for a treaty on remote sensing of natural resources by satellites,[37] which his delegation warmly supported, would be an excellent basis on which to draft such a treaty. His delegation also favoured the Argentine proposals.[38]

His delegation wished to make it clear that general principles of international law applied to all activities by States wherever they took place. Analogy, however, could not be used as a source of law and a

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[37] A/AC.105/122.

[38] A.AC.105/C.2/L.73.

judge of the International Court of Justice, although entitled to draw upon general principles, could not take principles that were applicable to one case and use them in connexion with another. The suggestion that remote sensing, by analogy with the use of a telescope, could not violate national sovereignty was therefore improper.

The outer space Treaty was the obvious international legal instrument on which principles governing remote sensing should be based, and he quoted article I thereof. He stressed, however, that the statement that outer space was "free for exploration and use by all States" could not be interpreted as sanctioning investigation of the Earth from outer space.

Mr. ELARABY (Egypt) said that remote sensing had such immense potential for States, particularly developing countries, that it was essential that the principles to be adopted for the regulation of remote sensing activities should take account of the interests of all States and should stress the fact that the consent of sensed States should be obtained before any activities involving national resources or sovereignty were commenced.

The organizational arrangements to be devised should meet the legitimate concerns of the majority of States, which could not in the near future acquire the necessary technology to conduct remote sensing activities and ways and means of protecting the interests of sensed States should be a priority topic in the Sub-Committee's discussions. Nevertheless, there was no reason why such protection should impose restrictions on activities relating to scientific investigation; it was quite possible to strike a balance between those two fundamental principles.

Many valuable proposals had been submitted and were being studied by his delegation, but unfortunately there did not appear to be sufficient time to continue the discussions at the present session. He fully agreed with the Mexican delegation that more time should be allocated to the item at the fourteenth session.

Since Egypt was aware of the enormous benefits that could accrue from remote sensing activities, his Government had invited States members of ECA and ECWA to participate in a regional seminar/workshop on remote sensing of earth resources and of the environment. The meeting was to be held at Cairo during the first half of September 1974 under the joint sponsorship of the United Nations and FAO, to which his Government was duly grateful.

Mr. BUCHAN (Canada) said that his country participated in the Earth Resources Technology Satellite (ERTS) project, pursuant to a bilateral agreement concluded in 1971 between the Governments of the United States of America and Canada. The agreement provided for reception and processing of ERTS data within Canada. The country had derived great benefit from the programme at comparatively small cost and it was therefore extremely interested in the international legal issues raised by the application of the new technology.

His delegation had studied with care the specific proposals for guiding principles relating to remote sensing which had been made in 1970 by Argentina, later by the Soviet Union, France and Brazil, and more recently as a joint venture by France and the Soviet Union. In addition, paragraph 80 of the report of the Working Group on Remote Sensing of the Earth by Satellites contained a reference to a document submitted by Canada which included possible options for giving effect to the interests and rights of States and participants in remote sensing.[39] That document was a working paper submitted by his country in response to a request made by the Task Force on Dissemination and Utilization of Environmental and Resources Data at its organizational meeting on 25 June 1973.

The options outlined in the paper only purported to be a guide to the analysis of the difficult legal issues involved. They had been submitted to assist discussion on the subject in the various United Nations bodies, without prejudice to any future Canadian decision in relation to the development of rules or organizational structures to govern the acquisition of data acquired by remote sensing satellites.

The paper suggested that the activity should be considered in three phases: the sensing phase, the receipt of raw data and processing phase, and the dissemination and interpretation of processed data phase. Any analysis of the various phases should take into account the rights and interests of sensing States, of sensed States, of user groups, and of the international community as a whole.

He agreed with the representative of Italy that it was an extremely complex and difficult area of international law and jurisprudence, since the longer the question had been studied in Canada, the more complex it had appeared.

His delegation wished to make it clear that the Canadian working paper did not contain a draft set of principles or provisions for a draft treaty or convention pertaining to remote sensing. Although believing that the legal options outlined in the document provided a useful guide to analysis of the legal aspects of remote sensing, his delegation did not feel that it was in any way a definitive statement of the complex issues involved.

The Canadian Government continued to keep an open mind as to the nature of any guiding principles that might eventually be drafted to govern international activity in the new technology. His delegation had followed the discussion on agenda item 5 with great interest, and once it had had time to analyse and assess the various proposals made in the Legal Sub-Committee, the Technical and Scientific Sub-Committee and its Working Group and Task Force on Remote Sensing of the Earth by Satellites, it would be better able to participate actively in that important work.

Mr. de SEIXAS CORREA (Brazil) replying to the various comments that had been made on his delegation's proposal, said that he wished to dispel the impression that the latter involved a return to the dark ages of the Inquisition. On the contrary, Brazil fully supported the principle of the freedom of scientific investigation of outer space - which did not, however, mean freedom to conduct economic investigations of other

[39] A/AC.105/C.1/WG.4/L.5.

States' resources through remote sensing. It should also be made clear that the Brazilian text - as its very title showed- dealt with the remote sensing of natural resources of the Earth and was not concerned with remote sensing for other purposes, involving ecology, pollution, etc.

Notwithstanding its support for the free use of outer space, Brazil believed that remote sensing must be subject to international legislation, because its effects were felt on Earth itself and unlawful activities had to be excluded. If it was wrong to take serial photographs of the territory of other States, then it was equally wrong to gain information through the use of satellites.

The argument had been put forward that the international community tacitly accepted the remote sensing activities that were currently being carried out. The falsehood of that argument was proved by the fact that so many delegations had at various sessions expressed contrary views and submitted texts that argued against the practice.

His country did not wish a rule to be laid down that there should be specific consent for every remote sensing activity. Obviously many programmes would involve international co-operation, and Brazil wholeheartedly desired international co-operation but, in order to ensure that all members of the international community benefited from remote sensing activities, the rights and obligations of States in the matter should be clearly defined in an international instrument.

The principle that all countries should have equal access to information obtained through remote sensing was somewhat invalidated by the fact that not all countries would have equal opportunities or facilities for using the information.

The theory that there was no need to introduce regulations to govern remote sensing, on the ground that the rights of States would be protected by their own domestic control of their natural resources, was comparable to stating that there was no need for legislation to protect private property because people could fit locks to their doors.

He hoped that the Sub-Committee's report would fully reflect the various views that had been expressed on the subject of remote sensing, and would recommend that the Committee on the Peaceful Uses of Outer Space should take up the matter as a priority item in the near future.

The meeting rose at 1.5 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-FOURTH MEETING

held on Thursday, 30 May 1974, at 3.30 p.m.

Chairman : Mr. WYZNER (Poland)

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE FOR THE EXPLORATION OR USE OF OUTER SPACE (agenda item 3) (concluded*)

The CHAIRMAN read out a telegram in which the Chairman of the Committee on the Peaceful Uses of Outer Space congratulated the Legal Sub-Committee on its successful preparation of a draft convention on registration of objects launched into outer space (A/AC.105/C.2/13).

ADOPTION OF THE REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS THIRTEENTH SESSION (PUOS/C.2(XIII)/1 and Add.1-5)

The CHAIRMAN invited the Sub-Committee to consider the draft report on the work of the thirteenth session (PUOS/C.2(XIII)/1 and Add. 1-5), drawing attention to the following compromise text proposed by a group of delegations for possible addition to the existing paragraph 28 of the draft report:

"In accordance with the request of Working Group III, and the decision taken by the Sub-Committee on 28 May, the report of that Working Group is included in this report as annex...

"Having regard to the degree of consensus already achieved and the amount of work yet to be done in the elaboration of principles in the field of direct broadcasting by means of satellite in accordance with General Assembly resolution 3182 (XXVIII), the Sub-Committee was of the opinion that it should continue this work at its next session".

Mr. REIS (United States of America) said that he had difficulty in understanding the meaning of that text, in which the Sub-Committee expressed a desire to continue its work on the item at its next session; no such recommendation was made with regard to the draft treaty relating to the Moon or with regard to remote-sensing satellite surveys. His delegation would not oppose the inclusion of such wording in the draft report but it feared that it might be interpreted as prejudging the opinion of delegations concerning a new session of the Working Group on Direct Broadcast Satellites and it therefore proposed that the following woards should be added at the end of the proposed text: "without prejudice to any decision that may be taken with respect to the reconvening of the Working Group on Direct Broadcast Satellites".

Mr. LIND (Sweden) said that he did not understand the misgivings of the United States representative. The Swedish Delegation, like the

*Resumed from the 22nd meeting.

Canadian delegation for example, hoped that, by reconvening the Working Group, it would be possible to make progress in the work on direct broadcast satellites, and it believed that the Sub-Committee should continue its consideration of the question at its following session. His delegation did not, however, oppose the inclusion of the words proposed by the United States delegation.

With regard to the United States representative's first objection, he said that the text concerning direct broadcast satellites read out by the Chairman in no way implied, in the opinion of his delegation, that other items on the agenda of the Sub-Committee would be treated differently.

Mr. OHTAKA (Japan) said that he considered the text read out by the Chairman to be perfectly satisfactory, but he had no objection to the addition of the wording proposed by the United States representative.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that the proposed amendment in no way improved the text, which should be left as it stood.

Mr. BUCHAN (Canada) pointed out that the Swedish and Canadian delegations had expressed the view that it would be useful in 1975 to deal with the question of developing principles governing direct broadcast satellite activities. That having been said, it was true that it was not for the Sub-Committee to make a recommendation concerning the Working Group on Direct Broadcast Satellites, which had been established by the plenary Committee on the Peaceful Uses of Outer Space. But since that question was not mentioned anywhere in the draft report, it would be quite appropriate to add the completely neutral wording proposed by the United States representative.

Mr. CHARVET (France) and Mr. AZIMI (Iran) considered it better to keep the text read out by the Chairman, since the question whether or not to convene the Working Group was the responsibility of the plenary Committee; the present text would in no way prevent the Working Group from being convened.

Mr. REIS (United States of America) withdrew his proposal.

Mr. GREENWOOD (United Kingdom) wished to make it clear that the adoption of the text read out by the Chairman without the words proposed by the United States representative should in no circumstances imply that the Sub-Committee had taken a position on the question of a new session of the Working Group.

The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Committee approved the text he had read out, which would subsequently be inserted in the appropriate place in the report.

It was so decided.

The CHAIRMAN invited the Sub-Committee to consider the draft report paragraph by paragraph.

Introduction (PUOS/C.2(XIII)/1)

Paragraphs 1-3

Mr. REIS (United States of America) suggested that the word "its" in the first sentence of paragraph 3 should be deleted.

The amendment was adopted.

Paragraphs 1 and 2 and paragraph 3, as amended, were adopted.

Paragraphs 4-7

Paragraphs 4-7 were adopted.

Paragraph 8

The CHAIRMAN read out paragraph 8, filling in the blank spaces concerning the number of meetings held.

Paragraph 8 was adopted.

Paragraph 9

The CHAIRMAN suggested that the following new wording should be adopted for paragraph 9: "The Chairmen of Working Groups I and II reported to the Sub-Committee at its 222nd meeting on 28 May and the Chairman of Working Group III reported to the Sub-Committee at its 223rd meeting on 29 May".

It was so agreed.

Paragraph 9, as amended, was adopted.

Paragraph 10

The CHAIRMAN read out paragraph 10, filling in the blank spaces.

Paragraph 10 was adopted.

Paragraph 11

Mr. DELROT (Belgium) and Mr. MELESCANU (Romania) wondered whether it should not be indicated, between paragraphs 10 and 11, that the Sub-Committee had not been able to consider agenda item 6 (Matters relating to the definition and/or delimitation of outer space and outer space activities) because of lack of time.

The CHAIRMAN noted that that point was made in paragraph 32 (PUOS/C.2(XIII)/1/Add.2). He added that paragraph 11 would be completed later.

Paragraph 11 was adopted.

Paragraph 12

Paragraph 12 was adopted.

Chapter I - Draft Treaty relating to the Moon (PUOS/C.2 (XIII)/1/Add.1).

Paragraph 13

The CHAIRMAN suggested that the following amendment should be made at the beginning of paragraph 13 in the English text: "At the 209th meeting of the Sub-Committee...".

It was so agreed.

Paragraph 13, as amended, was adopted.

Paragraphs 14 and 15

Paragraphs 14 and 15 were adopted.

after the words "request its Chairman", in case his duties in his country prevented him from attending the Committee's session.

The amendment was adopted.

Miss CHEN (Secretary of the Sub-Committee) indicated that the financial implications of that decision had already been included in the budget.

The new paragraph proposed by the representative of Australia, as amended, was adopted.

Chapter III - The various implications of space communications: report of the Working Group on Direct Broadcast Satellites (PUOS/C.2 (XIII/1/Add.1)

Title of the chapter

Mr. COCCA (Argentina) suggested that in the title the words "direct broadcast satellites" should be replaced by the words "direct broadcasting by means of satellites", which seemed to him to be more appropriate.

The CHAIRMAN said that the latter expression was indeed preferable but in the titles of the draft report the same wording as that of the agenda items was used and could not be changed.

Paragraph 23

Paragraph 23 was adopted.

Paragraph 24

The CHAIRMAN pointed out that the inverted commas should be deleted from the paragraph because the wording in question was not an exact quotation from General Assembly resolution 3182 (XXVIII).

Paragraph 24 was adopted.

Paragraph 25

Mr. PIRADOV (Union of Soviet Socialist Republics) requested that the proposal by his delegation referred to in paragraph 25 should be indicated by its full title, namely "Principles governing the use by States of artificial earth satellites for direct television broadcasting, being elaborated pursuant to General Assembly resolution 2916 (XXVII) with a view to the conclusion of an international agreement or agreements".

The amendment was adopted.

Mr. D'ANDREA (Italy) pointed out that six delegations had submitted to Working Group III a working paper containing a list of international instruments relating to direct broadcast satellites (PUOS/C.2(XIII)/WG.III/DG/CRP.1). He proposed that the following sentence should be added at the end of paragraph 25: "The Working Group also took note of document PUOS/C.2(XIII)/WG.III/DG/CRP.1".

Mr. COCCA (Argentina) supported the Italian representative's proposal. He also proposed that document PUOS/C.2(XIII)/WG.III/DG/CRP.1 should be annexed to the Sub-Committee's report.

Mr. DELROT (Belgium), Mr. CHARVET (France, Mr. von WAGNER (Federal Republic of Germany) and Mr. BUCHAN (Canada) supported the proposals made by the representatives of Italy and Argentina.

Mr. PIRADOV (Union of Soviet Socialist Republics) considered that there was no need to annex that document to the Sub-Committee's report; in his opinion, it was sufficient to indicate that the Sub-Committee had taken note of the document.

Mr. D'ANDREA (Italy) pointed out that the document in question had been officially submitted by its sponsors, who were entitled to request that it should be annexed to the report.

Mr. PIRADOV (Union of Soviet Socialist Republics) said that, in a spirit of conciliation, he would withdraw his objection.

The Italian amendment and the proposal by the representative of Argentina were adopted.

Paragraph 25, as amended, was adopted.

Paragraph 26

Mr. DELROT (Belgium) noted that, at the beginning of the French text, the word "constitué", and not "reconstitué", should be used.

Mrs. LAKSHMANAN (India) pointed out that Working Group III had been established on 6 May, and not 7 May.

Paragraph 26, with those corrections, was adopted.

Paragraph 27

Mr. REIS (United States of America) suggested that, for the sake of clarity, the end of the first sentence should be amended to read: "... principles, each of which included certain elements on which agreement was not achieved and which therefore were enclosed in square brackets".

Mr. TUERK (Austria) said there was a danger that the clarification suggested by the United States representative, preceding as it did a sentence in which it was stated that "The texts were subsequently approved", might cause ambiguity.

Mr. CHARVET (France) said that, in the second sentence of paragraph 27 in the French text, it would be preferable to say that the texts of the five principles had been "entérinés", or "exceptés", rather than "approuvés".

Mr. de SEIXAS CORREA (Brazil) felt that in the English text the word "endorsed" rather than the word "approved" should be used.

Mr. MAIORSKI (Union of Soviet Socialist Republics) pointed out that in Russian it was impossible to make the distinction between "approved and "endorsed". However, the fact that many elements of a text were enclosed in square brackets did not mean that that text could not be approved; that had certainly been the case with the draft convention on registration of objects launched into outer space.

The CHAIRMAN suggested that paragraph 27 should be amended in the manner proposed by the United States representative, on the

understanding that in the second sentence the word "endorsed" would be used in English and the word "entérinés" or "acceptés" in French.

It was so agreed.

Paragraph 27, as amended, was adopted.

Chapter III (continued) (PUOS/C.2 (XIII)/1/Add.2)

Paragraph 28

Mr. MAIORSKI (Union of Soviet Socialist Republics) considered that document PUOS/C.2(XIII)/WG.III/DG/CRP.1 should not have been mentioned in paragraph 25, since all the other documents mentioned in that paragraph were documents that had been annexed to the report of the Working Group on Direct Broadcast Satellites. (A/AC.105/127). The Secretariat might perhaps draft a separate paragraph indicating how the Working Group had dealt with the proposals mentioned in paragraph 25 and stating that the Sub-Committee had taken note of document PUOS/C.2(XIII)/WG.III/DG/CRP.1.

Miss CHEN (Secretary of the Sub-Committee) proposed that, as had been done at the end of chapters I and II of the draft report, the Sub-Committee might include towards the end of chapter III a new paragraph which would reproduce the wording of the mimeographed document distributed in the course of the meeting: "In accordance with the request of Working Group III, and the decision taken by the Sub-Committee on 28 May, the report of that Working Group is included in this report as annex III (A)". The following sentence might then be inserted: "A document submitted by Argentina, Austria, Belgium, the Federal Republic of Germany, Indonesia and Italy (PUOS/C.2(XIII)/WG.III/DG/CRP.1) is reproduced as annex III (B)".

Mr. CHARVET (France) supported that proposal.

Mr. MAIORSKI (Union of Soviet Socialist Republics) also supported the proposal, but requested that the words "report of that Working Group" should be replaced by the words "report of the Chairman of that Working Group".

Mr. de SEIXAS CORREA (Brazil) supported the Secretary's proposal, but considered that the text of the five principles endorsed by the Working Group should also be reproduced in annex III (A) of the Sub-Committee's draft report.

Mr. LIND (Sweden) also considered that it should be made clear that the report of the Working Group and the text of the five principles which it had endorsed would appear in annex III (A).

He noted that in the preceding chapters of the report it had been requested that certain questions should be considered on a priority basis. The same course should be taken with regard to the implications of space communications; he consequently proposed that at the end of the second paragraph of the mimeographed text distributed during the course of the meeting, it should be specified that "the Sub-Committee was of the opinion that it should continue this work as a priority item at its next session".

The CHAIRMAN asked whether the Sub-Committee could accept the wording proposed by the Secretary, with the amendments and additions that had just been proposed. If so, the Secretariat might draw up a new

paragraph 28 which would comprise the sentence already contained in the draft report and the mimeographed text to which the Secretary had referred, together with the proposed amendments and additions.

It was so decided.

Mr. LIND (Sweden) recalled that the Canadian delegation had indicated that it might request that the Working Group on Direct Broadcast Satellites be reconvened for a sixth session. At the 217th meeting, the Swedish delegation had already referred to that question, and had requested that the Sub-Committee should revert to it when the Sub-Committee considered its draft report, in order that a specific recommendation to that effect should be included. However, the Working Group on Direct Broadcast Satellites had not been established by the Sub-Committee, and it was for the plenary Committee itself to decide whether to reconvene it. His delegation would have liked a statement to be included in the Sub-Committee's report to the effect that, in the opinion of several delegations, it would be extremely useful to reconvene the Working Group in order to study the more difficult aspects of the question of the various implications of space communications. The Working Group could give detailed consideration to the points on which it would be difficult to reach consensus.

The Working Group's sixth session should, if necessary, be held before the fourteenth session of the Sub-Committee, in order that the latter might base its work on the results which the Working Group had achieved. His delegation was not asking for its observations to be mentioned in the report, since it did not want to cause a debate which would take up too much time. It nevertheless wished its views to be reflected in the summary record.

Chapter IV - Matters relating to the activities carried out through remote sensing satellite surveys of earth resources (PUOS/C.2(XIII)/1/Add.2).

Paragraphs 29 and 30

Paragraphs 29 and 30 were adopted.

Paragraph 31

Mr. MELESCANU (Romania) pointed out that the General Assembly had only requested that matters relating to the activities carried out through remote sensing satellite surveys of earth resources should be examined at the Sub-Committee's present session. Since that was an area in which there was bound to be great technological progress in the future, it might be asked what work would be done on it after the current session.

Mr. de SEIXAS CORREA (Brazil) noted that paragraph 31 mentioned working paper A/AC.105/C.2/L.99, submitted by France and the Soviet Union. Perhaps reference should also be made to earlier proposals, such as those of Argentina and Brazil, contained in documents A/AC.105/C.2/L.73 and A/AC.105/122 respectively. Those proposals should also be reproduced in annexes to the report, so that the reader might have an over-all picture of the specific proposals which had been submitted.

He also shared the concern which had been expressed by the representative of Romania, and considered that in the paragraph under consideration the Sub-Committee should express the view that at its fourteenth session it should continue its work on the question on a priority basis.

After an exchange of views in which Mr. GREENWOOD (United Kingdom), Mr. MAIORSKI (Union of Soviet Socialist Republics), Mr. COCCA (Argentina) and Mr. de SEIXAS CORREA (Brazil) took part, the CHAIRMAN suggested that the representative of Brazil, in consultation with the other delegations concerned, should draft for the following meeting an amendment reflecting the suggestions he had made.

It was so agreed.

Chapter V - Matters relating to the definition and/or delimitation of outer space and outer space activities (PUOS/C.2(XIII)/1/Add.2)

Paragraph 32

Paragraph 32 was adopted.

The meeting rose at 6.45 p.m.

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-FIFTH MEETING

held on Friday, 31 May 1974, at 11 a.m.

Chairman : Mr. WYZNER (Poland)

ADOPTION OF THE REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS THIRTEENTH SESSION (concluded) (PUOS/C.2(XIII)/1/Add.2-5, A/AC.105/C.2/L.100)

Chapter IV - Matters relating to the activities carried out through remote sensing satellite surveys of earth resources (continued) (PUOS/C.2(XIII)/1/Add.2)

Paragraph 31 (continued)

Mr. de SEIXAS CORREA (Brazil) said that it would be useful to annex to the report all the draft proposals so far submitted. The following sentence should therefore be inserted after the first sentence in paragraph 31:

"The Sub-Committee also had before it the text of the following proposals:

"Argentina: Draft international agreement on activities carried out through remote-sensing satellite surveys of earth resources (A/AC.105/C.2/L.73);

"Brazil: Treaty on remote sensing of natural resources by satellites - draft basic articles (A/AC.105/122);

"France: Draft principles governing remote sensing of earth resources from outer space (A/AC.105/L.69);

"Union of Soviet Socialist Republics: Model draft principles governing the use of space technology by States for the study of earth resources (A/AC.105/C.2/L.88)".

Mention might perhaps be made also of the options submitted by Canada in document A/AC.105/C.1/WG.4/L.5. In any case, the existing second sentence of paragraph 31, beginning with the words "In the course of the discussions in the Sub-Committee", should follow the proposed new sentence and the last sentence of the paragraph should read "Those proposals are reproduced in annex IV of the present report".

Mr. REIS (United States of America) said that he agreed in principle with the proposed amendment but was not in favour of the inclusion of the Canadian options. The Canadian document had been submitted, together with replies from other Governments, in answer to a questionnaire of the Task Force on the Dissemination and Utilization of Environmental Resources Data, and he felt that it would be wrong to imply that the Canadian reply was the only one which had received consideration.

Mr. BUCHAN (Canada) said that his delegation would have no objection if the Canadian options were not referred to in the report.

The CHAIRMAN suggested that, in order to avoid confusion, no mention should be made of the Canadian options, and paragraph 31 should read as proposed by the representative of Brazil.

The Brazilian amendments were adopted.

Paragraph 31, as amended, was adopted.

Annex I - Documents relating to agenda item 2 (Draft treaty relating to the Moon) (PUOS/C.2(XIII)/1/Add.3)

Mr. PIRADOV (Union of Soviet Socialist Republics) pointed out that there was some discrepancy between the wording of the third paragraph which stated that of the three main unresolved issues "only the first (Scope of the treaty) and the third (Natural resources of the Moon) had been discussed", and the wording of the first sentence of the last paragraph, which read "After a general exchange of views on the three main unresolved problems ...".

Mr. HARASZTI (Hungary) proposed that, to avoid any ambiguity, the words "in a detailed manner" be added after the word "discussed" at the end of the third paragraph.

The amendment was adopted.

Mr. VALLARTA (Mexico) said that in the interests of accuracy, the final phrase in the fifth sentence of the last paragraph should read "concerning the legal status of the Moon and of its natural resources".

The amendment was adopted.

Annex I, as amended, was adopted.

Annex II - Documents relating to agenda item 3 (Draft convention on registration of objects launched into outer space for the exploration or use of outer space) (PUOS/C.2(XIII)/1/Add.4)

Mr. PIRADOV (Union of Soviet Socialist Republics) suggested that in the second sentence of the third paragraph the word "appropriate" should be deleted.

Mr. REIS (United States of America) pointed out that the words "an appropriate designator" appeared in article IV, paragraph 1 (b), of the draft convention itself.

The CHAIRMAN proposed that the word "an" be substituted for the word "the".

It was so decided.

Mr. CAPOTORTI (Italy) drew attention to the fact that the word "approprié" did not appear at the corresponding point in the French text.

The CHAIRMAN said that the word "approprié", which was used in the French text of the draft convention, should also be inserted in the French text of annex II.

It was so decided.

Annex II, as amended, was adopted.

Mr. REIS (United States of America) said that the United States of America took considerable pride in having been one of the principal negotiators of the decade-old voluntary system for the registration of earth satellites and other space objects maintained by the Secretary-General of the United Nations on behalf of Member States. Its reason for negotiating what had become General Assembly resolution 1721 B (XVI), parts of which he quoted to the Sub-Committee, was that it felt it would be useful for the international community to have at its disposal a central and public registry of man-made space objects. So far, the system had worked very well - though there had been a certain variety in the reporting format - and registration statements had been filed by Canada, France, Italy, Japan, the United Kingdom, and the Soviet Union, as well as the United States of America. The United States, for its part, had adopted the practice of reporting its own launchings at regular intervals, generally about every two or three months, and from the outset it had also reported space objects that had de-orbited. However, that practice, which was based on its view that the registry should be complete and up to date, had not been universally copied.

After recalling the draft treaty proposals introduced by the delegations of France and Canada since 1961, he reminded the Sub-Committee that in 1972, his delegation had introduced in document A/AC.105/C.2/L.85 its own treaty proposal, in order to give a clear indication of the United States Government's view as to what would constitute an acceptable treaty and what would not.

In view of the complexity of the concerns felt by countries participating in the negotiations on the draft convention, and also because of the character of some of the issues involved either directly or in an ancillary manner, his delegation had been neither surprised nor discouraged that the current negotiations had required three sessions to complete. The policy of reaching decisions by consensus had, of course, lengthened the process, but now, at last, the Sub-Committee had before it a draft convention on registration of objects launched into outer space which almost all delegations - including that of the United States - considered to be in their mutual interests, and to which no country had objected.

Referring to individual articles of the Convention, he stated that the United States view of the primary purpose of article II was that it should encourage every State engaging in space activities to establish and maintain an orderly national record of launchings. Nevertheless, each party to the Convention remained entirely free to decide the manner in which it wished to maintain its national registry. As was clear from article II, paragraph 3, the registry could be maintained as a public document or could, on the other hand, receive no publicity. The United States and other launching States took the view that pre-launch notification was neither practical nor appropriate to a registration convention and that view had also been reflected in article II. One useful feature of article II, paragraph 2, part of which he quoted, was that it suggested a practical way of registering the launching of a space vehicle that was the product of a bilateral or multilateral co-operative space activity.

In his comments on articles III, IV and V, he mentioned that the words "launched into earth orbit or beyond" constituted the key phrase of

the national registration provision in article II and were carried forward into article IV with regard to the transmission of information to the international register by the State of registry. Under the provisions of article IV, parties would report on the launching of objects into earth orbit or sustained space transit. On a voluntary basis, they could also submit information concerning objects intended to be launched into orbit or beyond but which had failed to achieve orbit. The United States had regularly submitted such information. However, he pointed out that article IV did not require or anticipate the transmission of information concerning other objects that might briefly transit areas that could be considered as lying beyond air space - such as sounding rockets, with which many negotiating countries had experimented, or ballistic missile test vehicles. As would be expected, no State had filed information concerning such activities under General Assembly resolution 1721 B (XVI). His delegation was glad to note that article IV, paragraph 3, incorporated the United States idea that a State of registry should make every effort to inform the Secretary-General of the United Nations when an object earlie[r] reported as being in orbit no longer remained in orbit. Without such a provision, the register might become out of date and contain data that would not be relevant.

Turning to article V, on the much-disputed issue of the marking of space objects and vehicles, he reaffirmed his view that no marking system had yet been devised which was practicable in the sense that the marking would survive re-entry; and, in support of that view, he quoted paragraphs 33 to 36 of the 1970 report of the Committee on the Peaceful Uses of Outer Space.[40] Nevertheless, the United States had accepted a Canadian proposal, which took into account a suggestion by Brazil, to the effect that when a space object had in fact been "marked", the State of registry should notify the Secretary-General of that fact when submitting the other information to the international register. In the foreseeable future, however, the United States did not anticipate marking any space objects it launched. Nevertheless, it was aware of the problem of possible difficulties in identifying a man-made object or fragment thereof which had come back to Earth and caused damage to a State or which appeared to constitute a hazard. Consequently, in its draft treaty issued in March 1973, it had proposed that a party having difficulty in identifying a space object should be able to ask for and receive appropriate assistance from a party with advanced space monitoring or tracking facilities. That proposal, which had been developed in co-operation with the delegations of France, Japan, the United Kingdom and the Soviet Union, was incorporated in article VI.

With regard to the final clauses of the Convention, his delegation was glad that the Sub-Committee had accepted the Argentine proposal that the Secretary-General should serve as the depositary for the convention on registration - an arrangement which was obviously appropriate in the case of any general, multilateral treaties concluded within the framework of the United Nations, and even more so in the case of the convention on registration, since the Secretary-General was also to maintain the

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40/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 20 (A/8020).

register. The United States delegation was also glad that political developments with regard to problems posed by attempted signatures of, or adherence to, United Nations treaties by unrecognized régimes had made it possible for the United States of America to support that view. With regard to possible future problems in that context, his delegation attached importance to the willingness of the Secretary-General to implement the "all States" accession and related clauses by holding consultations in the event of serious controversy, in accordance with the statement delivered by the Legal Counsel at the 2202nd meeting of the General Assembly on 14 December 1973 concerning the manner in which the Secretary-General would intend to act under the similar provision in the Convention on Punishment of Crimes against International Protected Persons, including Diplomatic Agents.

Annex III - Documents relating to agenda item 4 (The various implications of space communications: report of the Working Group on Direct Broadcast Satellites (PUOS/C.2(XIII)/1/Add.5)

The CHAIRMAN said that there were three corrections to be made in the text of annex III. In the second sentence of the first paragraph, the words "in its order of priority" should be replaced by the words "in the order indicated"; in the second sentence of the second paragraph, the word "seven" should be replaced by the word "six"; and the second word in the third sentence of the second paragraph should be "consideration".

Mr. LIND (Sweden) requested that the word "the", before the word "proposals" in the third sentence of the second paragraph, should be deleted.

Annex III, as amended, was adopted.

Statement of the financial implications of convening the Legal Sub-Committee at Geneva or New York in 1975 (A/AC.105/C.2/L.100)

The CHAIRMAN drew attention to the note by the Secretary-General containing the statement of the financial implications of convening the Legal Sub-Committee at Geneva or New York in 1975 (A/AC.105/C.2/L.100) and said that the representative of the Secretary-General would be pleased to answer any questions.

Mr. REIS (United States of America) asked why paragraph 3 did not include a similar statement of estimated costs for convening the Sub-Committee in New York.

Mr. ZAHLES (Representative of the Secretary-General) replied that, owing to the unfavourable exchange rate for the dollar, unit costs were almost identical in Geneva and New York, and it had therefore seemed unnecessary to provide figures for New York.

The CHAIRMAN invited further comments from the Sub-Committee as to its choice of venue.

Mr. TUERK (Austria) recalled that, wherever the next session of the Sub-Committee was held, the Sub-Committee had decided to request its Chairman, or if he was unable to do so, the Chairman of Working Group II, to attend the forthcoming session of the Committee on the Peaceful Uses of Outer Space in order to present to the Committee the draft convention on registration of objects launched into outer space and to provide such

information relating to the draft convention as might be required.

Mr. MAIORSKI (Union of Soviet Socialist Republics) proposed the following text for inclusion as an additional paragraph of the report:

"The Sub-Committee considered the question regarding the venue of its future sessions. In this connexion, some delegations proposed that the parent Committee be recommended to change the system of rotation of the sessions of the Legal Sub-Committee between New York and Geneva. Upon the request of the Sub-Committee, the Secretariat submitted to the Sub-Committee a document on the financial implications of convening the Legal Sub-Committee at Geneva or New York in 1975 (A/AC.105/C.2/L.100), from which it follows that costs for holding meetings at Geneva outside the peak load periods may be somewhat lower than in New York. The Sub-Committee was of the opinion that in establishing the 1975 time-table of meetings of United Nations bodies dealing with questions pertaining to outer space, it would be appropriate for the Committee to take this document into account (the document is reproduced as annex V of the present report)".

The CHAIRMAN suggested that the Sub-Committee should interrupt its proceedings while copies of the USSR proposal were prepared and circulated to members.

The meeting was suspended at 12.25 p.m. and resumed at 12.45 p.m.

Mr. GREENWOOD (United Kingdom) noted that it was not clear from the second sentence of the USSR text what new system was being proposed. He therefore proposed that the following words should be added at the end of the second sentence: "and to hold all sessions at Geneva".

The United Kingdom amendment was adopted.

Mr. REIS (United States of America) proposed that, in order to reflect more accurately what had actually occurred, the words "the Sub-Committee" at the beginning of the third sentence should be replaced by the words "these delegations". In the same sentence, the word "the" before the words "financial implications" should be deleted in order to avoid the implication that the Sub-Committee was competent to determine all the relevant financial implications. In the same sentence, it would be preferable to delete the words "from which it follows that" and to begin a new sentence with the words "According to this document".

He wished to propose that the following new sentences should be inserted before the final sentence in order to reflect the position of his own and other delegations:

"Certain other delegations said that they had no instructions that would permit changing the agreed system of alternating sessions between New York and Geneva, and noted that they had not had a sufficient opportunity to study the cost data contained in document A/AC.105/C.2/L.100, which had been circulated on the day before the session concluded. These delegations believed that any decision to alter the agreed rotation system would have to await consideration of the question in the Committee on the Peaceful Uses of Outer Space".

Mr. BUCHAN (Canada) supported the United States proposals.

He proposed that in the third sentence the words "may be somewhat" should be replaced by the words "might in certain circumstances be slightly", which reflected more accurately the final sentence of paragraph 6 (ii) of the note by the Secretary-General.

The United States and Canadian amendments were adopted.

The text proposed by the USSR, as amended, was adopted and included as paragraph 11 of the draft report, the remaining paragraphs being renumbered accordingly.

The draft report as a whole, as amended, was adopted unanimously.[41/]

TRIBUTE TO MR. ABDEL/GHANI, CHIEF, OUTER SPACE AFFAIRS DIVISION

The CHAIRMAN, endorsing the tributes paid by a number of delegations, expressed good wishes to Mr. Abdel-Ghani (Chief, Outer Space Affairs Division) on the occasion of his leaving the Secretariat.

CLOSURE OF THE SESSION

After an exchange of courtesies, the CHAIRMAN declared the thirteenth session of the Legal Sub-Committee closed.

The meeting rose at 1.35 p.m.

41/ The final text of the report was circulated under the symbol A/AC.105/133.