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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Fifteenth Session

SUMMARY RECORD OF THE 248th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 5 May 1976, at 10.50 a.m.

Chairman:

Mr. Wyzner

(Poland)

CONTENTS

- General exchange of views (continued)
- Draft treaty relating to the moon (agenda item 2)
- Election of officers
- Documentation

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GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. GREENFIELD (United Kingdom) expressed his delegation's condolences on the deaths of Mr. Félix Charvet and Mr. Franco Fiorio.
2. The United Kingdom delegation wished to comment briefly on the way in which it felt the Sub-Committee should approach its work. Steady, if at times slow, progress had been made on the draft treaty relating to the moon, and it was important to try to continue that progress by achieving a compromise on articles X and X bis. Delay would not make the Sub-Committee's task any easier.
3. Moreover, following the rapid progress made on the question of direct broadcasting satellites, the Sub-Committee should endeavour to eliminate areas of disagreement, starting with less contentious questions. In the case of the more difficult problems of consent and participation, however, discussion should not be pressed too far at the present stage, since the Sub-Committee's work on those problems might well be facilitated by the conclusions reached at the World Administrative Radio Conference in January 1977.
4. In the sphere of remote sensing, common elements had been identified in five areas, and the Sub-Committee's task would now be to draft legal principles on the basis of those areas of agreement. The most difficult aspects of remote sensing were the consent of the sensed State and access to new information. In that connexion, the United Kingdom delegation welcomed the new idea presented by the USSR in document A/AC.105/C.1/L.81 of dividing remote sensing data into global data and local data, according to the scale on which resolution was possible. Much more technical work on the feasibility of that idea was, however, required before the Sub-Committee would be able to express any firm views on the legal aspects. His delegation also wished to thank the delegation of France for its valuable contribution on the definition of data and natural resources (A/AC.105/C.1/L.86) and the delegation of the Federal Republic of Germany for its interesting proposed new set of principles (A/AC.105/C.2/L.106). A flexible approach was essential in considering remote sensing, since that new technique was still at the experimental stage.
5. Only two delegations had so far expressed their views on the definition of outer space, and more material for study must therefore be assembled. There was no pressure to reach rapid solutions in that sphere, since no practical difficulties had arisen in the nine years since the entry into force of the Outer Space Treaty, nor was any definition of outer space necessary for implementing the Convention on International Liability for Damage Caused by Space Objects. The Sub-Committee could therefore embark upon a preliminary discussion of that item at the present session.
6. Mr. PASZKOWSKI (Poland) noted with satisfaction that space technology was finding new applications through the activities of the United Nations and that a growing number of new States were making a contribution to the exploration of outer space. Moreover, co-operation between the two leading space Powers had intensified and culminated in the impressive completion of the joint Apollo-Soyuz programme.

7. Various aspects of the peaceful uses of outer space were not as remote from everyday human problems as they might seem. It was significant that the Final Act of the Conference on Security and Co-operation in Europe included a direct reference to space exploration, and the General Assembly had repeatedly reaffirmed the common interest of mankind in furthering the exploration and use of outer space for peaceful purposes. The Sub-Committee, for its part, should make every effort to keep pace with accelerated technological progress and the expectations of the international community.
 8. Work on the draft treaty relating to the moon, which had been on the agenda for almost five years, should now be completed. The main stumbling-block seemed to be the question of access to and exploitation of the moon's natural resources. The most promising solution to that problem was offered by the compromise proposal put forward by the USSR, which outlined ways of establishing an international régime to govern the exploitation of the moon's natural resources and specified the main purposes of such a régime. It was to be hoped that the Sub-Committee would make further headway on the basis of that proposal and that the draft treaty could be finalized.
 9. Although satisfactory progress had been made on the question of direct broadcasting satellites, much remained to be done, particularly with regard to the crucial principle of prior consent and participation. At the thirtieth session of the General Assembly, the United States had proposed a procedure consisting of three stages: notification of intention to broadcast, consultation among countries concerned, and solution of possible problems in good faith. Although that proposal might be helpful, the Polish delegation did not regard consultation as an end in itself. Direct broadcasting could never be carried out in a vacuum, and the activities of States in that sphere must be governed by the rules of general international law and the agreed principles of peaceful coexistence. Nor must technological advances be used as a pretext to override the fundamental principles of national sovereignty and non-intervention in the domestic affairs of other States. In order to safeguard the cultural heritage of nations and to prevent abuse, violence and hostile propaganda, the problems of direct broadcasting should be resolved by the States directly concerned.
 10. On the complex question of remote sensing, which had far-reaching political, legal and economic implications, the Sub-Committee would be able to draw on the work already done by the Scientific and Technical Sub-Committee. In that sphere, too, the generally recognized principles of international law should be used as a point of departure.
- DRAFT TREATY RELATING TO THE MOON (agenda item 2) (A/AC.105/147)
11. Mr. LUTHER (German Democratic Republic) said that his delegation, like others, considered the question of the legal status of the moon and its natural resources to be highly important both politically and in international law. The new draft articles X and X bis, in its opinion, constituted the hard core of the draft treaty relating to the moon. It supported the provision contained in paragraph 1 of article X that the moon was not subject to national appropriation by any claim of sovereignty, which gave concrete meaning to article II of the 1967 Outer Space Treaty. Moreover, article X would ensure that activities connected with lunar expeditions would not affect the jurisdiction of States over their nationals, space objects or other installations, and thereby clearly defined the type of legal entity that could engage in the peaceful exploration and use of the moon, since that task might be entrusted to specific bodies or enterprises by States in accordance with their domestic laws.

12. With regard to the question whether the moon and its natural resources were the "common heritage of mankind", as stated in paragraph 1/4 of new article X, his delegation maintained the position it had adopted at the eighteenth session of the Committee on the Peaceful Uses of Outer Space. It had not yet found a precise and binding legal definition of that expression in any document, and wondered, for example, whether it gave international organizations and even transnational or national corporations a legal claim to exploit the moon and its resources. If so, that would be inadmissible. Another aspect requiring clarification was how that expression would be related to the generally recognized principle of international law contained in article I of the 1967 Outer Space Treaty that the exploration and use of outer space, including the moon and other celestial bodies, should be the province of all mankind.

13. A further legal question related to the equal right of all States to exploit the natural resources of the moon in accordance with the principle of equal rights for States laid down in paragraph 1 of article X bis. His delegation supported the deletion of the statement in that paragraph that the exploitation of the natural resources of the moon should be carried out under the conditions stipulated in that article. Otherwise, admissible exploitation of those resources would be too closely associated with the international régime provided for in new paragraph 2. His delegation believed that their exploitation should be undertaken in accordance with the provisions of the future treaty as a whole, for exclusively peaceful purposes.

14. His delegation supported the proposal made in paragraphs 4 and 5 of unofficial working paper WG.I/1 of 3 May 1976 that a number of years should be allowed to elapse after the entry into force of the future moon treaty before a meeting of the States parties was convened to determine whether an international régime should be established for the exploitation of the moon's resources, on the grounds that their exploitation would not assume practical importance until the next century. As it believed that only the future States parties would be in a position to decide whether the exploitation of resources had acquired sufficient importance, it supported the arrangement suggested in paragraph 5 that consultations should be held among the States parties before the Secretary-General took any action.

ELECTION OF OFFICERS

15. The CHAIRMAN noted that the posts of Chairmen of Working Groups II and III, had become vacant on the departure of Mr. Vellodi and Mr. Abdel-Ghani. He had consulted delegations about possible candidates and Mr. Mishra of India and Mr. Nettl of Austria had been nominated for the posts in question. If there were no objections, he would take it that Mr. Mishra was elected Chairman of Working Group II and Mr. Nettl Chairman of Working Group III.

16. It was so decided.

DOCUMENTATION

17. Mr. LOPEZ BASSOLS (Mexico) said it would be useful if the Secretariat could provide delegations with comparative tables of the kind made available to the Sub-Committee at its last session, indicating the positions adopted in the working papers on direct television broadcasting by satellites and remote sensing.

18. Mr. MAIORSKI (Union of Soviet Socialist Republics) pointed out that there was no need for new comparative tables of positions because Working Group II, at its last session, had adopted a unified text in respect of certain principles and had agreed on alternative formulations for others. The Secretariat might, however, circulate the same comparative tables as at the last session.

19. The CHAIRMAN drew attention to the unified text of principles set forth in document A/AC.105/147, annex II. In response to the Mexican representative's request, however, the Secretariat would reissue the comparative tables which had been prepared for the last session of the Sub-Committee, purely as reference material.

The meeting rose at 11.55 a.m.