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AD HOC COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL COMMITTEE

SUMMARY RECORD OF THE FIFTH MEETING

Held at Headquarters, New York,
on Thursday, 11 June 1959, at 10.55 a.m.

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PRESENT:

Chairman:

Mr. AMBROSINI Italy

Members:

Mr. ORTIZ de ROZAS Argentina
Mr. HOOD Australia
Mr. NISOT Belgium
Mr. GIBSON BARBOZA Brazil
Mr. CURRIE Canada
Mr. CHAYET France
Mr. ADAMIYAT Iran
Mr. KAKITSUBO Japan
Mr. CUEVAS CANCINO Mexico
Mr. PETREN)
Mr. GIRON) Sweden
Mr. EVANS United Kingdom of Great
Britain and Northern
Ireland
Mr. MEEKER United States of America
Secretariat:
Mr. STAVROPOULOS Legal Counsel
Mr. SCHACHTER Secretary of the Committee

REPORT OF THE WORKING GROUP (A/AC.98/C.2/L.1)

Mr. NISOT (Belgium) said he wished to state at the outset that his delegation would accept only the English text of the report of the Working Group, as it considered the French version inaccurate.

Mr. SCHACHTER (Secretary of the Committee) suggested that the Committee should leave it to the Secretariat to make, at a later stage, any corrections which the French and Belgian delegations might consider desirable to the French text of the report.

It was so decided.

The CHAIRMAN invited members of the Committee to examine the sections and sub-sections of the report one by one, and to begin by considering the first three paragraphs, which might be regarded as a preface.

The first three paragraphs were adopted unanimously.

Section A - Introduction

1. Mandate of the Committee under paragraph 1(d)

Mr. GIBSON BARBOZA (Brazil) suggested that the phrase "contained in the preamble to ..." in the eleventh and twelfth lines of the second paragraph should be amended to read: "contained in the preamble and operative paragraph 1(b) of ...". During the general debate, his delegation had expressed the view that operative paragraph 1(b) of resolution 1348 (XIII) stated one of the general principles which should be taken into account, namely, the principle that international programmes relating to outer space should be undertaken under United Nations auspices "to the benefit of States irrespective of the state of their economic or scientific development".

Mr. ORTIZ de ROZAS (Argentina) supported that suggestion.

The suggestion was adopted unanimously.

In reply to a comment by Mr. ADAMIYAT (Iran), with which Mr. HOOD (Australia) associated himself, Mr. SCHACHTER (Secretary of the Committee) said that, in the English text, the third sentence in the second paragraph should begin with the words "One view expressed was", and not "The view expressed was".

Sub-section 1, as amended, was adopted unanimously.

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2. General Observations

Mr. GIBSON BARBOZA (Brazil) suggested that in the eighth line of the first paragraph the words "and operative paragraph 1 (b)" should be inserted after the words "the principles set forth in the preamble" and that, at the end of the same paragraph, the words "for the benefit of mankind" should be replaced by the phrase "to the benefit of States irrespective of the State of their economic or scientific development".

He suggested that amendment for the same reason as he had suggested the amendment of sub-section 1.

Mr. MEEKER (United States of America) pointed out that operative paragraph 1 (b) of resolution 1348 (XIII) referred solely to international programmes in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices, and not to all activities connected with the exploration and use of outer space. The principle laid down by the General Assembly for those activities as a whole was set forth in the preamble to the resolution, in which the Assembly expressed its desire "to promote energetically the fullest exploration and exploitation of outer space for the benefit of mankind."

No reference to operative paragraph 1 (b) of resolution 1348 (XIII) should accordingly be introduced into the last sentence of the first paragraph of sub-section 2, which referred to activities connected with the exploration and use of outer space in general, nor should the end of the sentence be amended as the representative of Brazil had suggested.

Mr. GIBSON BARBOZA (Brazil) did not see why the United States representative, who had accepted the proposed amendment in the case of sub-section 1, could not agree to the same change in the first paragraph of sub-section 2. In any case, his delegation thought that operative paragraph 1 (b) of resolution 1348 (XIII) should not be considered in isolation from the resolution as a whole and that the principle it stated was one of those upon which the Committee should base its study of the legal problems involved.

Mr. MEEKER (United States of America) said that he had not opposed a reference to operative paragraph 1 (b) in sub-section 1, because the amendment in question referred to a passage setting out the views of some delegations only.

(Mr. Meeker, United States)

The first paragraph of sub-section 2, on the other hand, recorded the views of the Committee as a whole; to amend it as suggested by the representative of Brazil might give the impression that certain limitations were being set to the exploration and exploitation of outer space in general, which had not been the Assembly's intention.

Mr. ADAMIYAT (Iran) agreed with the representative of Brazil.

Mr. CUEVAS CANCINO (Mexico) thought that no hard and fast distinction should be drawn between the provisions of the preamble and those of the operative part of resolution 1348 (XIII). There was no doubt that in operative paragraph 1 (b), the Assembly had stated an important principle which was not clearly set forth in the preamble and in consequence a reference to that paragraph was fully justified. Moreover, the formula "to the benefit of States irrespective of the state of their economic or scientific development" was perhaps more in keeping with existing facts and possibilities in regard to the exploration and exploitation of outer space than the phrase "for the benefit of mankind", which was rather too idealistic.

Mr. EVANS (United Kingdom) pointed out that if the Committee was to refer to the principles which it believed General Assembly resolution 1348 (XIII) had enunciated, its members must agree on those principles and consequently on the interpretation of the terms of that resolution. His delegation had agreed to the proposed amendment in the case of sub-section 1, because that sub-section merely contained the views of some delegations. It could not, however, agree to a similar amendment to the first paragraph of sub-section 2, which recorded the views of the Committee as a whole, because, in its view, the only principles that the General Assembly had wished to state were contained in the preamble to the resolution and not in operative paragraph 1 (b), in which the Assembly had sought only to define one of the subjects for consideration and report by the Committee.

Mr. ORTIZ de ROZAS (Argentina) said that in the opinion of his delegation, the Committee should not restrict itself to drawing up a list of problems, but should also establish a number of general principles, including the one set out in operative paragraph 1 (b) of the resolution. He therefore supported the amendments suggested by the representative of Brazil.

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Mr. GIBSON BARBOZA (Brazil) proposed that, in order to meet the objections of the United States and United Kingdom representatives, the present wording of the first paragraph of sub-section 2 should be retained and that a sentence worded as follows should be added to the end of the paragraph: "Certain delegations felt that activities connected with the exploration and use of outer space should be undertaken to the benefit of States irrespective of the state of their economic or scientific development."

The CHAIRMAN, speaking as the representative of Italy, said that that text would have the advantage of retaining the expression "for the benefit of mankind," which took into account the fact that certain territories had not yet achieved statehood.

Mr. MEEKER (United States of America), supported by Mr. HOOD (Australia), said that the formula proposed by the Brazilian representative would be acceptable if the sentence in question were added, not to sub-section 2, which stated the opinion of the Committee as a whole, but to sub-section 1, which set out the views of some delegations.

After an exchange of views, in which the CHAIRMAN, Mr. GIBSON BARBOZA (Brazil) and Mr. CURRIE (Canada) took part, Mr. MEEKER (United States of America) proposed that the beginning of the last sentence of the paragraph should be re-worded as follows: "It considered as a worthy standard for international co-operation and programmes in the Peaceful Uses of Outer Space which could appropriately be undertaken under United Nations auspices, to the benefit of States irrespective of the state of their economic or scientific development, the principles set forth in operative paragraph 1(b) and the preamble of resolution 1348 (XIII), in which the General Assembly".

Mr. GIBSON BARBOZA (Brazil) said that he was not entirely satisfied with that compromise formula but that he was prepared to accept it in the desire to facilitate agreement.

The suggestion of the United States representative was adopted unanimously.

In reply to a question by Mr. ORTIZ de ROZAS (Argentina), the CHAIRMAN said that the phrase "and other regions of the earth" in the second and third lines of the second paragraph referred to certain polar areas.

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Mr. ORTIZ de ROZAS (Argentina) said that the territories of Antarctica were subject to national sovereignty, a fact that excluded any possibility of analogy with air space. As the general trend of the report was in favour of treating outer space as res communis omnium, he wished to ensure that the second paragraph was not interpreted to mean that the same situation prevailed with respect to Antarctica. He therefore proposed that the words "the sea, and other regions of the earth" should be replaced by the words "and the sea".

Mr. NISOT (Belgium) saw no objection to accepting the proposal of the Argentine representative, particularly as it was clear from the wording of the sentence that the list was not intended to be exhaustive.

The proposal of the Argentine representative was adopted unanimously.
Sub-section 2, as amended, was adopted unanimously.

Section B. Legal problems susceptible of priority treatment

1. Freedom of outer space for exploration and use

After a brief exchange of views between the CHAIRMAN and Mr. EVANS (United Kingdom), Mr. NISOT (Belgium) proposed that sub-section 1 should be entitled: "Question of the freedom of outer space for exploration and use".

It was so decided.

Mr. KAKITSUBO (Japan) reminded the Committee that, in the Working Group, his delegation had submitted certain amendments with a view to making it clear that "freedom of outer space for exploration and use" was not an absolute freedom, as the General Assembly had stated that space should be used for peaceful purposes only. On the other hand, if the Committee said that outer space was freely available to all for exploration and use for peaceful purposes, that statement might be interpreted as implying an immediate prohibition of the use of outer space for other purposes. The Committee should not, however, give the impression that it was trying to enter the field of disarmament. For those reasons, it was desirable to emphasize that the Committee was remaining within the scope of its mandate and that objective might perhaps be achieved by replacing the last sentence of sub-section 1 by the following: "The Committee believes that, as far as exploration and use of outer space for peaceful purposes are concerned,

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(Mr. Kakitsubo, Japan)

there may have been initiated, with this practice, the recognition or establishment of a generally accepted rule to the effect that outer space is, on conditions of equality, freely available to all in accordance with existing or future international law or agreements."

Mr. NISOT (Belgium) believed that it would be better to amend the existing text and that it would be sufficient to add a sentence to the effect that the Committee had not considered the question of military uses.

The CHAIRMAN and Mr. GIBSON BARBOZA (Brazil) thought it was preferable to make no reference to military problems in the Committee's report.

Mr. MEEKER (United States of America), supported by Mr. HOOD (Australia) and Mr. NISOT (Belgium), pointed out that the second paragraph of sub-section 1 of the Introduction to the report stated the principle that the terms of reference of the Committee referred exclusively to the peaceful uses of outer space. That principle applied to the report as a whole and there was therefore no point in restating it. Moreover, it would be difficult to define what was a peaceful use and what was not.

After an exchange of views, in which the CHAIRMAN, Mr. ORTIZ de ROZAS (Argentina), Mr. KAKITSUBO (Japan), Mr. NISOT (Belgium), Mr. GIBSON BARBOZA (Brazil) and Mr. MEEKER (United States of America) took part, Mr. EVANS (United Kingdom) proposed that the last sentence of sub-section 1 should begin with the words: "The Committee, bearing in mind that its terms of reference refer exclusively to the peaceful use of outer space, believes that ...".

It was so decided.

Sub-section 1, as amended, was adopted unanimously.

2. Liability for injury or damage caused by space vehicles

Mr. NISOT (Belgium) pointed out that the beginning of the first paragraph - "Despite all reasonable precautions" - was incompatible with the text which followed, which dealt with the question of fault; he proposed that that part of the sentence should be deleted.

It was so decided.

Sub-section 2, as amended, was adopted unanimously.

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Allocation of radio frequencies

Interference between spacecraft and aircraft

5. Identification and registration of space vehicles and co-ordination of launchings

Mr. SCHACHTER (Secretary of the Committee) suggested some drafting amendments which would improve the form of the text of the three sub-sections.

The CHAIRMAN proposed that those amendments should be adopted.

It was so decided.

Sub-sections 3, 4 and 5, as amended, were adopted unanimously.

6. Re-entry and landing of space vehicles

Sub-section 6 was adopted unanimously.

Section C. Other problems

1. Question of determining where outer space begins

Mr. GIBSON BARBOZA (Brazil) considered that the sentence in the first paragraph "It was noted that these limits are not necessarily the same" was not very clear; if a reference to the possible establishment of a contiguous zone was desirable some such wording as "It was noted that these limits do not necessarily coincide" should be used.

It was so agreed.

Mr. NISOT (Belgium) supported by Mr. ADAMIYAT (Iran) proposed that the beginning of the second sentence of the third paragraph should be replaced by: "It was considered that in the absence of an express agreement ...".

The proposal was adopted.

Sub-section 1, as amended, was adopted unanimously.

2. Protection of public health and safety: safeguards against contamination of outer space or from outer space

The CHAIRMAN stated that that sub-section was the result of work on that problem done by the Technical Committee.

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Mr. GIBSON BARBOZA (Brazil) wondered whether, in view of its strictly scientific character, that sub-section should appear in a legal report.

The CHAIRMAN pointed out that sanitary conventions already existed in similar fields, such as aviation.

Mr. MEEKER (United States of America) thought that all the questions considered by the Technical Committee might give rise to legal problems; consequently, the possibility of reaching agreements on such questions should be considered. Sub-section 2 should therefore not be deleted.

After an exchange of views in which Mr. EVANS (United Kingdom), Mr. ORTIZ de ROZAS (Argentina), Mr. CHAYET (France) and Mr. GIBSON BARBOZA (Brazil) took part, Mr. MEEKER (United States of America) proposed the addition of the following sentence at the end of sub-section 2: "This study could be undertaken with a view to the possible formulation of appropriate international standards".

The proposal was adopted.

The CHAIRMAN thought that reference should also be made to the field of meteorology.

Mr. NISOT (Belgium) proposed that a reference should be made in a footnote on the relevant page of the report.

The proposal was adopted.

Sub-section 2, as amended, was adopted unanimously.

3. Exploration of celestial bodies

Mr. ADAMIYAT (Iran) pointed out that the title did not correspond to the contents of the second paragraph, which also dealt with the exploitation of celestial bodies.

Mr. EVANS (United Kingdom) proposed the adoption of the following title: "Questions relating to Celestial Bodies".

The proposal was adopted.

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Mr. CUEVAS CANCINO (Mexico) said that the statement made in the second sentence of the first paragraph, that celestial bodies were incapable of appropriation to national sovereignty was insufficient; another principle should be laid down, to be expressed as follows: "and that the exploration and exploitation of such bodies should be carried out solely for the benefit of mankind as a whole".

Mr. EVANS (United Kingdom) proposed that the amendment submitted by the Mexican representative should be retained, but as a separate sentence.

It was so decided.

Sub-section 3, as amended, was unanimously adopted.

4. Interference among space vehicles

After a brief exchange of views between the CHAIRMAN and Mr. CHAYET (France), Mr. MEEKER (United States of America) proposed that the title should be replaced by: "Avoidance of interference among space vehicles", and that the title of sub-section 4 of section B should be amended accordingly.

It was so decided.

Sub-section 4, as amended, was adopted unanimously.

The CHAIRMAN declared the work of the Legal Committee to be finished.

The meeting rose at 1.35 p.m.