

The CHAIRMAN suggested that, in view of the advanced stage of the Sub-Committee's work, members should be free to make statements on any agenda item.

It was so decided.

The meeting rose at 11.10 a.m.



UNITED NATIONS
GENERAL
ASSEMBLY



PROVISIONAL

For participants only

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ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twelfth Session

PROVISIONAL SUMMARY RECORD OF THE TWO HUNDRED AND SECOND MEETING

Held at Headquarters, New York,
on Friday, 13 April 1973, at 10.50 a.m.

Chairman:

Mr. WYZNER

Poland

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Date of the next session of the Sub-Committee

Draft treaty relating to the moon

Draft convention on registration of objects launched into outer space

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AS THIS RECORD WAS DISTRIBUTED ON 17 APRIL 1973, THE TIME-LIMIT FOR CORRECTIONS WILL BE 20 APRIL 1973.

The co-operation of participants in strictly observing this time-limit would be greatly appreciated.

DATE OF THE NEXT SESSION OF THE SUB-COMMITTEE

The CHAIRMAN said that he had contacted the Office of Conference Services concerning the Sub-Committee's 1974 session and had been informed that the period 4-28 June would be available in Geneva. He had mentioned the matter to a number of delegations, none of which had objected; several delegations had expressed the view that, in view of the forthcoming Law of the Sea Conference in the spring of 1974, June 1974 would be an appropriate time for the Sub-Committee's next session.

If he heard no objection, he would take it that the Sub-Committee decided to recommend those dates and that location to the Committee.

It was so decided.

DRAFT TREATY RELATING TO THE MOON

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE

Mr. CHARVET (France) said that the statement and proposal made by the representative of Australia in the Working Group had helped to clarify the situation.

France was not a great space Power, but it did undertake space activities, which would increase with the years. It was in a position to understand the rights and responsibilities of both space Powers and non-space Powers, and it therefore approached the problems of space in a restrained, objective fashion.

With regard to the moon, he emphasized that the activities currently being undertaken were for the purposes of scientific investigation for the good of mankind, in conformity with the principles of the Outer Space Treaty. The international community had already benefited from such investigation, for scientists of all countries had acquired knowledge that they could not have gained if the moon had not been explored. France had no reason to believe that future exploration of the moon would not be undertaken in the same spirit of co-operation. If that did not prove to be the case, it would be the first to speak out in defence of the rights which the Outer Space Treaty conferred on it and other States and which the Sub-Committee was now trying to elaborate further and extend to the exploration and utilization of the moon. The Outer Space Treaty, which laid down the principle of non-appropriation, had established those rights on a basis of

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(Mr. Charvet, France)

equality and non-discrimination. Although certain States had considered that there was no need for a treaty relating to the moon since the Outer Space Treaty already established equality of rights in outer space, France wished above all to preserve and broaden the access of States to the scientific information that determined whether the moon was suitable for commercial exploitation. It upheld the rights conferred on it by the Outer Space Treaty, but it did not thereby wish to handicap those who undertook scientific research on the moon for other than commercial reasons.

In view of its liberal attitude towards scientific research, France considered that, when it became possible and profitable to exploit the moon and its natural resources, there should be an international régime to ensure equitable distribution of profits and to take into account the needs of the developing countries. France would take a firm position concerning the régime, since it could not agree to scientific research that created privileged situations contrary to the letter and spirit of the Outer Space Treaty.

He hoped that his remarks would help to clarify the situation and contribute to a reasonable compromise. Like the Canadian delegation, he felt that some progress had been made by establishing the concept of the common heritage of the moon and agreeing in principle that a conference should be held to establish an international régime governing the exploitation of natural resources. It would be a pity to endanger the gains that had been made simply because the Sub-Committee was not able to agree on another article in the draft treaty. All delegations should therefore make a further effort to find an acceptable solution. In view of the extraordinary but at times disturbing advances made in technology, there was an urgent need for the formulation of new provisions in the international law of outer space.

Mr. CAPOTORTI (Italy) observed that, while much had been achieved, a number of problems remained to be solved if the Sub-Committee was to consider its present session one of achievement. Notable among the outstanding problems was article X of the draft treaty relating to the moon.

His delegation was pleased that the working paper which it had submitted on that subject had served as a basis for discussion and might still provide a basis for the compromise which it was essential to reach.

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(Mr. Capotorti, Italy)

At the meeting of Working Group I the previous day, the United States delegation had set out its point of view and had requested that the reference to natural resources should be removed from the draft treaty and the word "parts" replaced by the word "areas". The Working Group had considered the United States proposals and had recognized that the United States, in accordance with its consistent view, wished to avoid a moratorium on the exploitation of the resources of the moon. Since all felt that there was no need for such a moratorium, perhaps there was hope that a generally acceptable formula could be found.

Reference had been made the previous day to existing law. His delegation believed that a proper understanding of existing law was essential so that the Sub-Committee would have a clear idea of what it was reasonable to expect of the draft treaty. For example, article I of the Outer Space Treaty laid down the principle that the right to use outer space, including the moon, belonged to all States. There could, of course, be differing interpretations of that article, but it seemed to permit all States to use the moon and its resources. If the example afforded by that provision was followed, the Sub-Committee could reach a solution similar to the one adopted in connexion with the freedom of the seas. The Outer Space Treaty did not contain a clause concerning non-appropriation of the resources of the moon, but it did contain one which made it impossible for States to claim sovereignty over those resources. It could thus be seen that existing law, and especially article I of the Outer Space Treaty, laid down the principle of the freedom of all States to exploit the resources of the moon. That interpretation had been confirmed by the discussion of article X, paragraph 3, of the draft treaty, in which the representative of Argentina had contended, without objection by any other delegation, that the right to exploitation included the exploitation of natural resources.

Article IV of the present draft, at least in its 1972 Geneva formulation, confirmed that the exploration and use of the moon was the province of all mankind. The situation in the case of the moon was thus the same as that governed by the principle of freedom of the high seas.

His delegation's proposal on article X, paragraph 2, would have prevented further progress and made it possible to establish that the natural resources of the moon should also be subject to the principle of non-appropriation. That was the reason why the clause relating to natural resources had been inserted. Unfortunately, the proposal had not met with general acceptance. It should,

(Mr. Capotorti, Italy)

however, be possible to reach a consensus on the establishment of an international régime under which it would perhaps be possible to settle the question of the non appropriation of natural resources. For the present, the first option open to the Sub-Committee was a United States proposal calling for all references to natural resources in paragraph 2 to be deleted, so that the appropriation of the resources of the moon by a State would be permissible until such time as an international régime came into force.

The previous day, his delegation had introduced a compromise proposal which would have expanded the notion of the appropriation of samples contained in article V, paragraph 2, to cover the use of samples not only for scientific research but also for technical purposes. The appropriation of certain parts of the surface or subsurface of the moon would be permitted. The principal purpose of the proposal was to maintain the concept of non-appropriation of natural resources while at the same time enlarging the notion of exceptions in the case of scientific research so that it would cover experiments looking to the exploitation of the moon's resources. However, that proposal had not been accepted.

The second option which would provide a way out of the impasse was to seek the most realistic possible solution in the light of the general recognition that a moratorium could not be put into effect as far as the major space Powers were concerned. The article in question should therefore refer to provisional exploitation, since it was impossible to prevent all exploitation of the moon by States before an international régime came into force. There should be a phase during which such exploitation was left to States which were in a position to carry it out.

Turning to the text of draft article X, he suggested adding, at the end of paragraph 2, a reference to provisional and limited exploitation of the natural resources of the moon pending the establishment of an international régime. That formula would give recognition to the fact that, while such exploitation could be carried out, it would be subject to the future international régime.

The present wording of the last four paragraphs of article X seemed to represent what the Sub-Committee as a whole wished to say. Consequently, the Sub-Committee should work on the basis of what had already been agreed upon and not prolong the debate. A new text for paragraph 7 had been proposed, and his delegation did not foresee any problems in accepting it. However, the new text should be discussed in the Working Group.

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(Mr. Capotorti, Italy)

Of course, other questions still remained open. With reference to the scope of application of the treaty, he had already said that the United Kingdom proposal would provide a reasonable and practical way out of the impasse and that he supported it. If that approach did not win acceptance, he felt that the Sub-Committee could leave the problem aside, complete the preparation of the rest of the draft treaty and request the parent body to make a decision on the matters which had been left pending.

Turning to the question of the time at which information was to be provided in pursuance of articles IV and VI, he pointed out that a measure of agreement had been reached in the case of the draft convention on registration, in which the phrase "as soon as practicable" had been used. The Sub-Committee might wish to use that phrase in the draft moon treaty as well.

With regard to the question of international co-operation in scientific research, his delegation favoured the Indian-Egyptian proposal to the effect that the relevant article should be further developed and should specify what kind of co-operation was envisaged in the draft treaty.

His delegation was pleased with articles I, II and III of the draft convention on registration as elaborated by Working Group II. The Working Group's achievement showed that difficulties were not insurmountable if all concerned demonstrated co-operation and goodwill.

Another matter which was still open was the utility of additional information on personnel travelling in space vehicles. His delegation would leave that important question to the Sub-Committee to decide and had not made a formal proposal. It felt, however, that it would be useful for States to provide information on their astronauts, especially in view of the Agreement on the Rescue of Astronauts and of the uses to which manned space vehicles could be put.

His delegation also favoured the revision clause. Although the convention already contained a clause which provided for future amendments, the revision clause would be useful in that it would permit the convention to be adapted to future advances in the field.

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(Mr. Capotorti, Italy)

Finally, he expressed the hope that, now that the Sub-Committee was reaching the end of its session, the outstanding problems could be solved in a manner satisfactory to all. However, compromise would be necessary on all sides if that aim was to be achieved.

Mr. COCCA (Argentina), referring to article X of the draft treaty relating to the moon, said that ever since 1970 his delegation had adopted a consistent position concerning the natural resources of the moon. It had no intention of seeking a moratorium in respect of the activities undertaken on the moon by those States which were in a position to exploit it. It had always attached great importance to the rights of States which undertook activities on any celestial body.

He was not sure that paragraph 1 was sufficiently explicit to dispel all concern about possible appropriation of the natural resources of the moon. The principle that the moon and its subsoil could not be appropriated had been established, and it must be made clear that the natural resources thereof could not become the property of any State. He agreed with the representative of Italy that a provision should be inserted in paragraph 2 rejecting the concept of a moratorium and establishing the right of States to undertake provisional and limited exploitation. The wording suggested by the representative of Italy seemed ambiguous, for it would be difficult to establish the duration of "provisional" exploitation and the nature of any limitations imposed on exploitation. However, he would support the idea in principle, just as he would support the new draft of paragraph 7. He suggested that the words "provisional and limited" in the Italian proposal should be replaced by the word "experimental". By its very nature, experimental exploitation would be provisional and limited. It was, in any case, logical for States to start experiments aimed at determining whether exploitation of the moon was feasible. Accordingly, he suggested that the following phrase should be inserted at an appropriate place in article X: "without prejudice to the initiation, on an experimental basis, of the exploitation of such resources for the purpose of determining the advisability of convening the conference envisaged in paragraph 6".

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The CHAIRMAN announced that Mr. Capotorti, the representative of Italy, was leaving the Sub-Committee. On behalf of the members, he expressed his appreciation of the contribution which Mr. Capotorti had made, particularly with regard to the formulation of article X.

The meeting rose at 11.40 a.m.



UNITED NATIONS GENERAL ASSEMBLY



PROVISIONAL

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18 April 1973

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twelfth Session

PROVISIONAL SUMMARY RECORD OF THE TWO HUNDRED AND THIRD MEETING

Held at Headquarters, New York,
on Monday, 16 April 1973, at 10.50 a.m.

Chairman: Mr. WYZNER Poland

CONTENTS

Draft convention on registration of objects launched into outer space
(continued)

Organization of work

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