

ORGANIZATION OF WORK

The CHAIRMAN said that, in accordance with the procedures already established, the Sub-Committee should devote the remainder of the day to working, as Working Group I, on the treaty relating to the moon, with the following day devoted to the preparation of the draft convention on registration.

Mr. MILLER (Canada) said that, although his delegation had consistently stressed the importance of the question of registration, it recognized that the Sub-Committee's main effort at the current stage should be focused on the treaty relating to the moon. Accordingly, it would be well to defer until the end of the current day's work any decision as to whether or not the following day should be devoted entirely to work on the draft convention on registration.

The CHAIRMAN suggested that the Sub-Committee should adjourn and reconvene as Working Group I, taking a decision at the end of the day on the organization of its future work in the light of the Canadian representative's remarks. Various delegations had suggested that the adjournment should be for a period of 15 minutes. If there was no objection, he would take it that the Sub-Committee agreed to his suggestion.

It was so decided.

The meeting rose at 11.10 a.m.



UNITED NATIONS
GENERAL
ASSEMBLY



PROVISIONAL

For participants only

A/AC.105/C.2/SR.204
20 April 1973

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twelfth Session

PROVISIONAL SUMMARY RECORD OF THE TWO HUNDRED AND FOURTH MEETING

Held at Headquarters, New York,
on Wednesday, 18 April 1973, at 10.50 a.m.

Chairmen: Mr. WYZNER Poland

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DRAFT TREATY RELATING TO THE MOON (continued)

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE (continued)

The CHAIRMAN drew the Sub-Committee's attention to various new documents. Document PUOS/C.2(XII)/WG.II/5 contained the text of the preamble of the draft convention on registration approved by Working Group II; documents PUOS/C.2(XII)/WG.I/Working Paper 15 and PUOS/C.2(XII)/WG.I/Working Paper 16 contained a United States proposal concerning article X of the draft treaty relating to the moon and an Argentine paper concerning the "common heritage of all mankind" respectively. Document A/AC.105/C.2/INF.5 contained a list of participants at the twelfth session.

Mr. CHARVET (France) considered that the present text of the draft convention on registration was inadequate. The convention would be of limited use if it did not cover the question of marking. It was essential to establish liability for damage caused in a precise manner in order to ensure effective implementation of the Outer Space Treaty. Accordingly, his delegation requested that further consideration of the draft convention should be deferred until a future session, thus enabling members to give further thought to such outstanding problems as the question of marking and the review clause.

Mr. PERSSON (Sweden) recalled that, in the general debate on the draft convention on registration, his delegation had said that it would agree to the establishment and maintenance of a central register by the Secretary-General, provided, inter alia, that it was not too cumbersome or costly for the Secretariat or to States parties to the convention. He also wished to point out that no United Nations organ could make a proposal which would involve expenditure under the United Nations budget without being aware of its financial implications.

Mr. YOSHIDA (Japan) said that despite the progress that had been made, it was unlikely that the Sub-Committee could finalize the draft treaty relating to the moon and the draft convention on registration at its present session.

Referring to article X of the draft treaty relating to the moon, he said that his delegation was of the opinion that it was too early to elaborate provisions concerning the natural resources of the moon, since their quality and quantity and

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(Mr. Yoshida, Japan)

the feasibility of their commercial exploitation were still unknown. That was even more true in the case of the natural resources of other celestial bodies. Furthermore, since the concept of the "common heritage of mankind" was not well defined, it was necessary to take a cautious approach towards its incorporation in the draft treaty. The draft article X proposed by the Bulgarian delegation (PUOS/C.2(XII)/WG.I/Working Paper 1) had therefore been acceptable in principle to his delegation. The Bulgarian draft had not, however, met the wishes of those delegations which wished to incorporate in the draft treaty more specific provisions on the natural resources of the moon, in particular with respect to the régime to be established for the exploitation of such resources. The compromise draft, worked out by the "mini-group" and amended in Working Group I, as contained in the informal paper of 12 April, was a well-balanced formulation which was acceptable to a large majority of delegations, including his own. The United States delegation had, however, pointed out that draft article X, as formulated in that paper, might be interpreted as providing for a kind of moratorium during the period when commercial exploitation of the natural resources of the moon had become feasible but no international régime had been agreed upon. In spite of such problems, his delegation believed that more than 90 per cent of article X had already been found acceptable. It regretted that the Sub-Committee had not had time to consider the new draft submitted by the United States delegation (PUOS/C.2(XII)/WG.I/Working Paper 15) and hoped that the issue of article X would be resolved in the near future.

With regard to articles IV and VI of the draft treaty (A/AC.105/101), his delegation had consistently favoured the idea of advance notification of missions to the moon. It attached great importance to the preservation of the moon's environment, which was a concern of the international community as a whole. If notification and information were given only after launching, it might be too late to ensure that effective measures were taken to prevent the disruption of the environmental balance of the moon or the adverse effects of radio-active material. There was no reason why States parties to the treaty could not give advance notification if they could subscribe to the obligation imposed on them by article VI, paragraph 1.

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(Mr. Yoshida, Japan)

With regard to the scope of the treaty, he recalled that, at the eleventh session of the Sub-Committee, his delegation had expressed the feeling that the treaty should focus on the moon and should not be extended to other celestial bodies. It was, however, ready to accept a formulation which accommodated the view of other delegations that wished the treaty to be wider in scope, along the lines suggested in the United Kingdom draft (PUOS/C.2(XII)/WG.I/Working Paper 10).

His delegation had pointed out in Working Group I that it would be premature to decide which principles should be adopted with respect to liability for damage sustained on the moon. It was gratifying to note that a cautious approach had been taken and that the draft contained in document PUOS/C.2(XII)/WG.I/1 had been unanimously approved. Thus, the question would be left open until such time as detailed arrangements concerning liability might become necessary as a result of more extensive activities on the moon.

Progress had been made in the drafting of article V, which concerned international co-operation in scientific investigation. Agreement had been reached in principle in Working Group I on article V, paragraph 4, on the basis of the proposal made by India and Egypt.

Although certain issues remained unresolved, there were areas - including, in particular, article X - where the Sub-Committee was very close to a solution. The Sub-Committee had had a very useful exchange of views and now had a clearer picture of what the problems really were. His delegation's assessment of the work of the present session was a positive one, despite the fact that it was unlikely that the draft instruments under consideration would be finalized. The Sub-Committee should now draft an accurate report of what had been accomplished and what the remaining issues were, so that the main Committee could decide on the organization of the Sub-Committee's future work.

Mr. MILLER (Canada) said he was sorry that some delegations found the results of the work of Working Group II on the draft convention on registration unsatisfactory. The Sub-Committee should proceed in the usual manner with its work on the draft convention for the rest of the session. There was already agreement on nine preambular paragraphs, in which only matters of nomenclature were bracketed, and on ten substantive articles.

One of the issues that remained to be settled was that of marking. His delegation attached considerable importance to the need for some indication on space

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(Mr. Miller, Canada)

objects as to the launching State. The simplest solution would be to use the international designator or registration number. His delegation had already circulated an informal proposal to that effect and was considering submitting an appropriate working paper for inclusion in the Sub-Committee's report. It was to be hoped that, with further time for reflection, those delegations which had reservations concerning the Canadian formula would be able to accept it. His delegation did not consider that the question of marking was sufficiently serious to justify postponing further consideration of the draft convention until June 1974 and delaying its approval by the General Assembly and the opening for signature of a comprehensive and worth-while instrument which was needed in order to give meaning to the Convention on International Liability.

A review clause was a necessary feature of the draft convention on registration, since the effectiveness of the convention depended on scientific and technical developments. Furthermore, the draft convention was an adjunct to the Convention on International Liability, which contained a review provision. It should not be difficult to reach agreement on such a provision before the end of the current session.

Members should bear in mind the constructive work accomplished by Working Group II. The Sub-Committee should now formally approve all those articles, both preambular and substantive, which had been agreed upon in the Working Group so that it would not have to reopen discussion on them at its next session. If necessary, it might even recommend to the main Committee that, if time permitted, the latter should finalize the work on the outstanding issues of review and marking.

Mr. PIRADOV (Union of Soviet Socialist Republics) expressed appreciation to the delegations which had participated actively and constructively in the discussion of the draft treaty relating to the moon, and especially to the delegations of Australia, Austria, Bulgaria, Canada, France, Italy, Japan, Sweden and the United Kingdom.

The position of the Soviet delegation during the current session of the Sub-Committee had been guided by its desire to do all it could to accommodate the wishes of other delegations. That was possible only on the basis of the test which had been agreed upon in Geneva and by means of a compromise "package" solution for all unresolved matters. The wishes of the Soviet delegation had not met with understanding from some delegations. The Sub-Committee's failure to agree on the unresolved matters could thus not be laid at the Soviet Union's door.

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(Mr. Piradov, USSR)

The Soviet delegation's wish to approach all the outstanding problems within the framework of a "package" in no way meant that it agreed with the various elements contained in all the proposals which had been made. His delegation had been prepared to accept them for the sake of reaching agreement on a treaty. However, in the present situation, his delegation wished to eliminate any doubts in the minds of other members as to the basic position of the USSR on some of the most problematical elements in the compromise proposals.

Firstly, the concept of "the common heritage of mankind" did not have a real and practical meaning at the present stage of activities relating to the moon. Too much attention had been paid to that aspect of the problem. The USSR delegation, which had circulated a special working document on the matter, was concerned at the unfounded analogies which had been drawn with other fields of law and at an apparent desire for the early establishment of parts of the international régime, for which at the present stage there was no practical need. His delegation had been prepared to accept such proposals only in the interest of completing the preparation of the treaty at the present session.

The Sub-Committee had failed to arrive at a compromise solution, and the appropriate conclusions should be drawn in preparation for the next session.

Possibilities for the development of space law were not restricted to the moon and registration. The progressive development of space law was logically inevitable. It would be appropriate for the jurists in the Committee to formulate rules which could be applied in international practice.

The Sub-Committee's agenda contained two other items to which his delegation attached great importance and on which a decision should be taken as soon as possible. His delegation supported the proposal made by France and certain other delegations to the effect that the question of direct television broadcasting should be given priority in the Sub-Committee's work; further, the draft convention on the subject submitted by the Soviet Union in August 1972 should be included in the Sub-Committee's report as a working document. The question of direct television broadcasting could be given the same priority as the moon treaty and the convention on registration; the Sub-Committee should make a recommendation to the plenary Committee to that effect.

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(Mr. Piradov, USSR)

The Soviet Union had also introduced a working paper containing draft legal principles governing remote sensing of the earth by satellite. The Sub-Committee should begin a thorough discussion of that important matter in the near future.

In short, the Sub-Committee had many tasks before it. If, during the three weeks of the present session, no progress had been made on the moon treaty or the convention on registration, then the Sub-Committee should turn to such matters as direct television broadcasting and remote sensing.

He wished to reiterate that, from the outset, the Soviet Union had demonstrated a sincere readiness to do all it could to promote the completion of work on the instruments relating to the moon and registration. However, while the compromise solutions suggested by his delegation had met with the approval of many members of the Sub-Committee, some members had adopted unacceptable positions.

Yet, in the final analysis no one wished to have an unsatisfactory convention. Greater efforts should be made in the future to achieve a fully acceptable text. It was, however, highly regrettable that the Sub-Committee's first session in Geneva had produced a situation in which, in the words of the Russian proverb, "the first pancake always comes out bad".

Mr. CHARVET (France), replying to a question by the representative of Canada, said that in urging that the problem should be deferred until a later session he had meant only the two points on which no agreement had been reached, namely, the clauses relating to marking and review. Naturally the discussion should not be reopened on the articles which had been approved.

Mr. ZAHARAN (Egypt) said that the most important problem in connexion with the draft treaty on the moon was that of the exploitation of natural resources. It should be pointed out in that connexion that some delegations had tried to fill the gaps in the report of the Legal Sub-Committee on its eleventh session, the most recent of such attempts being the proposed formula contained in the working paper presented by the United States representative the previous day. Although his delegation did not find that formula fully satisfactory, it still hoped that a compromise formula might be found before the end of the year. Turning to the draft convention on registration, he said that it should be clearly understood that it must include a provision specifying the obligation of registering States

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(Mr. Zahran, Egypt)

to mark all space objects capable of surviving re-entry into the atmosphere. If the convention did not contain such a provision, it would have serious consequences with regard to the ratification of and accession to the Convention on Liability.

Mr. COCCA (Argentina) pointed out that one of the nine principles had been omitted from page 3 of the Russian version of his delegation's working paper (PUOS/C.2(XII)/WG.I/Working Paper 16).

Mr. FREELAND (United Kingdom) said that although everyone had been disappointed the previous day on realizing that the likelihood of resolving the outstanding issues on the moon treaty before the end of the session was very small and although members would probably be similarly disappointed over the convention on registration, the Sub-Committee should not become discouraged since, in the view of his delegation, given a little more time and the spirit of co-operation which had been in evidence throughout the current session, the remaining issues should prove susceptible of solution. Nothing had happened to change his delegation's view concerning the priority that should be given to the two items. To depart from that now would be tantamount to an acknowledgement of defeat which would be unwarranted. The Sub-Committee should therefore do nothing that would preclude the possibility of making further progress on one or both of the instruments at the next meeting of the main Committee.

Mr. DELROT (Belgium) said that his delegation, too, had been disappointed at the failure to achieve complete agreement. However, it should not be forgotten that much progress had been made, for whereas at the start of the session there had been large areas of disagreement those areas were now considerably narrower. Moreover, the problem of resources was, at present, merely a philosophical one, so to speak. Indeed, if the session had lasted one more week agreement might have been reached on a compromise formula. He agreed with the representative of Canada that the problem should not be postponed until the next session of the Sub-Committee and expressed the hope that a way out of the impasse might be found before the start of the main Committee's session.

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ORGANIZATION OF WORK

The CHAIRMAN pointed out that if the Sub-Committee was to consider its report at the end of the week, agreement would have to be reached as soon as possible on what the report should contain so that the Secretariat could prepare it.

The meeting rose at 11.55 a.m.