UNITED NATIONS

GENERAL ASSEMBLY

PROVISIONAL

For participants only

A/AC.105/C.2/SR.205
23 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 FIFTH MEETING

Held at Headquarters, New York,
on Thursday, 19 April 1973, at 10.55 a.m.

Chairman: Mr. WYZNER Poland

CONTENTS

PREPARATION OF THE DRAFT REPORT

The CHAIRMAN, speaking as the Chairman of Working Group I, said that the 14 meetings of the Working Group had shown that its members had spared no effort to achieve results. It was clear that if the final objective of a complete draft treaty relating to the moon had not been arrived at, that was by no means the fault of the members of Working Group I.

The achievements of the Working Group were reflected in documents PUOS/C.2(XII)/WG.I/1-6. Those papers contained the texts of provisions which had been approved by the Working Group and which were either new provisions or revised versions of provisions which had been approved at the Sub-Committee's previous session in Geneva.

The first paper contained the text of article XIII, paragraph 2, concerning liability for damage sustained on the moon. Its provisions supplemented provisions already contained in the Outer Space Treaty and in the Convention on International Liability for Damage Caused by Space Objects.

The second paper contained the text of article IV, paragraph 3, relating to activities concerned with the exploration and use of the moon, and especially information on the time, purposes, locations, orbital parameters and duration of missions which was to be provided by the launching State.

The third paper, which was directly related to the second, contained a text of paragraphs 1 and 2 of article VI. He noted with regret that the Working Group had not reached agreement on a major problem relating to the draft treaty, namely, the time of notification to the Secretary-General. That matter had been set aside for settlement in the future.

The fourth paper contained an agreed text of article II, paragraph 1, concerning the need for activities on the moon to be carried out in accordance with international law, and, in particular, the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. The text was a revised version of article II, paragraph 1, as it had been approved at the Geneva session.

The fifth paper reflected two decisions taken by the Working Group. The first related to a new text of article IX, paragraph 3, setting out the obligation

(The Chairman)

of States Parties to inform the Secretary-General and the international scientific community of any phenomena discovered in outer space which could endanger human life or health, as well as any indication of organic life. The second decision taken by the Working Group related to the deletion of article XV, which concerned the relationship of the draft moon treaty to other instruments in the field of the international law of outer space.

The sixth paper contained a text of article VI, paragraph 4, which reflected agreement in the Working Group on areas of the moon having special scientific interest, the so-called "international scientific preserves".

He had already referred to one unresolved matter. Another question, which most members of the Working Group regarded as the most important of all - on whose solution the fate of other matters would largely depend - was the formulation of article X. Document PUOS/C.2(XII)/WG.I/Working Paper 18 contained the text which had resulted from informal consultations on that subject. Many delegations had paid tribute to the representatives of Italy and Bulgaria, who had done much to promote further progress. Though many members could have agreed on most matters relating to article X, final agreement had not been reached because of differences of opinion on paragraph 2. Nevertheless, it had been felt that the discussions had not been useless but had helped to identify points of disagreement which, given further time, could soon be resolved.

A third main problem on which differences of opinion persisted was the scope of the treaty and the manner in which the application of the moon treaty could be extended to other celestial bodies within the solar system. It had been stated that that question might also be resolved, given agreement on the matters relating to article X. Many members had felt that the compromise proposals, such as that put forward by the United Kingdom, might serve as a basis for a solution.

There were other, perhaps more minor questions which were also unresolved; however, he felt that it might be redundant to enumerate them, since most members were already familiar with them.

Mr. TUERK (Austria), speaking in his capacity as Chairman of Working Group II, said that the Working Group had held a total of 13 meetings to consider proposals submitted by the United States (A/AC.105/C.2/L.85) and, jointly, by Canada and France (A/AC.105/C.2/L.86). Following informal consultations by the

sponsors of those proposals and a number of other delegations, the Working Group had before it an informal draft which was the basis for its further work. Other delegations had also submitted working papers, thus making valuable contributions to the work of the Group.

He was pleased to be able to report that, owing to tireless efforts, a spirit of co-operation and a willingness to reconcile divergent views, the Working Group had been able to reach agreement on the text of a draft convention, which consisted so far of a preamble and 10 articles. The text of the draft convention would shortly be issued as an official document.

He wished to draw the Sub-Committee's attention to the fact that a number of delegations were of the opinion that a provision on the marking of space objects should be included in any registration convention and that that fact should be duly reflected in the Sub-Committee's report on its current session. The report should also, in the view of some delegations, stress that disagreement on the necessity for such a provision was the reason why the draft convention on registration had not been completed. Moreover, the question of the inclusion of a review clause in the draft convention had been discussed by the Working Group and widespread agreement existed concerning such a provision. At the same time, however, one delegation felt that it could not accept an article on that matter.

Working Group II had also considered the question of a provision laying down an obligation for States Parties also to notify the Secretary-General in cases where space objects were manned. Substantial support had existed for such a provision; some delegations, however, had stressed that, in their view, there was no need to state that expressly in the draft convention.

During consideration of the final clauses, suggestions had been made that the Secretary-General should be made the depositary of the convention. A number of delegations had agreed with that proposal; some, however, felt that the system previously used in international instruments on outer space should be retained in the present convention, while one delegation thought that the system of three depositaries had intrinsic merits and should not be changed. In addition, there had been a suggestion to include a new article dealing with the relationship of the present convention to other international agreements in force, a provision

analogous to article 23 of the Convention on Liability. While some delegations felt such a provision might be useful, others did not share that opinion.

With regard to the text now before the Sub-Committee, he wished to draw specific attention to the term "damage". At its 12th meeting, Working Group II had agreed to include the following explanation in the Sub-Committee's report: "The term 'damage' as used in article V of the draft convention is used in the same sense as in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies."

Finally, he wished to point out that certain difficulties appeared to exist in rendering the term "earth orbit or beyond" in all the official languages. Consequently, a foot-note on that point had been included in the text approved by Working Group II.

On behalf of Working Group II, he presented to the Sub-Committee for approval the provisions of the draft convention on registration as far as they had been approved by the Working Group.

The CHAIRMAN requested the views of members as to what formal action the Sub-Committee should take, or what attitude it should adopt, regarding the two sets of provisions drawn up by the Working Groups.

Mr. MILLER (Canada) said that there had been general agreement in Working Group II that the work it had done, as reflected in the articles submitted to the Sub-Committee, was of sufficient importance to merit approval by the Sub-Committee. That was not, of course, to say that the convention was complete. As the Chairman of Working Group II had said, there were a number of points which various members felt should be inserted into the text to make it complete. Nevertheless, the Working Group had felt that the Sub-Committee should approve the text as it stood.

The question was more difficult with regard to the six papers agreed upon by Working Group I. However, his delegation was prepared to approve them in the same way that the Sub-Committee had approved the articles of the draft moon treaty the previous year.

Mr. CHARVET (France) said that the wording of the text which had been agreed upon in Working Group II might lead to confusion. Those who had not followed the work in the Working Group might gain the impression that the convention was now complete. His delegation felt that the Sub-Committee should make it clear that there were parts which had not been agreed upon.

The Sub-Committee could achieve that in either of two ways. In the case of articles which had not been agreed upon, a space could be left so that all could see that something was missing. That was perhaps not the standard procedure, but it would solve the problem. A second solution, which his delegation favoured, would be to refer to the provisions approved by the Working Group not as a text but as draft articles. That would make it clear that it was not a complete convention that was involved, as the present text seemed to imply.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that, in its report, the Sub-Committee should state that it took note of the two sets of articles, those of the registration convention which had been approved and those of the moon treaty which had been considered.

Mr. FREELAND (United Kingdom) said that, while his delegation, too, was prepared to approve the provisions submitted by the Working Group on the moon treaty, it had no objection to merely taking note of them if other members felt that that was as far as they could go. However, he was not sure that the representative of the USSR had convinced him that there were good reasons for not approving the agreed text for the convention on registration.

His delegation agreed that the convention was not complete. However, it was final in the sense that all delegations were ready to approve the individual articles which would eventually form part of the convention. The Sub-Committee could make it clear that the convention was still incomplete by making use of one of the procedures suggested by the representative of France.

Merely to take note of what had been achieved would inadequately reflect the work which had been carried out and the stage which had been reached. Provided that the report make it clear that the Sub-Committee was not approving a complete convention, he believed that the results which had been achieved so far should be approved.

/...

The CHAIRMAN observed that the least common denominator in terms of agreement among the members of the Sub-Committee was that the latter should take note of the agreed texts. The Sub-Committee was not in agreement that it should give those texts its approval.

Mr. REIS (United States of America) said that the Sub-Committee should be aware of the consequences of resorting to the least common denominator. He was concerned that if approval was not given to the articles of the registration convention, as had been done with the draft moon treaty the previous year, the impression would be given that the Sub-Committee did not desire to work urgently with both sets of provisions so that the instruments could be submitted to the General Assembly later in the year. So much progress had been achieved on the registration convention at least that the Sub-Committee should adopt the same procedure as it had with the draft moon treaty at its previous session, subject to a safeguard such as the one suggested by the representative of France. Otherwise, the parent body might feel that it could not discuss texts which had not received the approval of the Sub-Committee.

If all members felt that the two instruments should not be submitted to the General Assembly until its twenty-ninth session, then there was nothing to be done; however, there still remained time before the next session of the Outer Space Committee in which further progress could be achieved.

Since it considered that the two instruments should be given equal treatment, his delegation believed that both of them should be approved by the Sub-Committee.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that he understood the concern expressed by the representative of the United States. However, he was not happy with the reference made to the procedure adopted in Geneva the previous year in dealing with the draft moon treaty. The result of that action had been seen at the current session.

It did not necessarily follow that if the Sub-Committee merely took note of the two sets of provisions, the full Committee could not take them up. It would be preferable simply to take note of the texts which had been approved by the two working groups. The Sub-Committee could not go any farther than that, since it did not have full texts of both of the instruments.

/...

Mr. SOUZA E SILVA (Brazil) said that the USSR proposal created technical difficulties. If the Sub-Committee transmitted the texts approved by the working groups to the main Committee, having taken note of them but without any decision, the latter might not feel in a position to consider texts which had not been approved by the Sub-Committee.

Mr. MILLER (Canada) said that the Soviet representative did not appear to have any objections to the parent body considering the text in question and, if possible, improving and completing the draft instruments. The Chairman should therefore advise the Sub-Committee as to whether the Soviet proposal might have any consequences which would give rise to constitutional difficulties. If the Soviet proposal was adopted, it would in any case be essential to include in the report a statement encouraging the main Committee to complete the task before it. On the other hand, approval by the Sub-Committee of what had been approved in the working groups could not in any way prejudice the work of the main Committee with regard to the texts in question.

Mr. COCCA (Argentina) agreed with the representative of France that the Sub-Committee should refer not to the text of the draft convention on registration approved by Working Group II but to the draft articles of the convention.

With regard to the nature of the decision that the Sub-Committee should take concerning the draft instruments, his delegation felt that both should be given the same treatment. However, it would be difficult to approve the texts as they stood. For example, article III, paragraph 1, of the draft convention on registration was unsatisfactory and represented little progress over General Assembly resolution 1721 B (XVI). In March the Secretary-General had received information submitted in accordance with that resolution concerning a space mission that had taken place in October 1972. Such a time-lag nullified the effects of the Convention on International Liability, since any damage resulting from such a mission would have already occurred by the time the Secretary-General had received the relevant information. Furthermore, considerable differences existed concerning the wording of the final clauses of the draft convention. Adoption by the Sub-Committee of the present texts would not be binding on States which might wish to improve

(Mr. Cocca, Argentina)

the texts of the still incomplete instruments. It would therefore be preferable to take note of the texts approved by the working groups.

Turning to the report made by the Chairman of Working Group II, he noted that the representative of Austria had indicated that substantial support had existed for a provision relating to notification and that there had been widespread agreement concerning the need for a review clause. The summary of discussions relating to the depositary of the convention was, however, less accurate. All delegations, with the exception of one or two States that now acted as depositaries, had agreed to the proposal to make the Secretary-General the depositary of the convention. However, in view of considerations of both a practical and political nature, Argentina had withdrawn its proposal in that regard and had agreed to the maintenance of the system currently used in international agreements. Nevertheless, in view of the wide measure of support that had been received for the proposal to make the Secretary-General the depositary of the convention, the wording of the summary concerning the depositary system should be brought into line with the portions of the report relating to notification and review clauses.

Mr. TUERK (Austria) suggested that the relevant portion of the report should be amended to read "Substantial support existed for this proposal".

It was so decided.

Mr. GRINBERG (Bulgaria) did not agree that the Sub-Committee's taking note of the texts approved by the working groups would have any adverse consequences. As the Sub-Committee worked on the basis of consensus, all it could do was to try to find the least common denominator. As various delegations had not received instructions to approve the texts, the Sub-Committee could only take note of them.

He did not think that failure to approve those texts could have any juridical significance. The Sub-Committee did not derive its authority directly from the General Assembly. If it so agreed, the main Committee could take up any issue on its agenda regardless of the results of the work of the Sub-Committee.

Mr. MAIORSKY (Union of Soviet Socialist Republics) pointed out that the main Committee was called upon to consider the report of the Sub-Committee which would in any case contain the texts of the draft instruments. The main Committee was free to consider any part of that report. The question now facing the Sub-Committee was not in fact a procedural one, but was a matter of the political will of members to complete certain tasks. Taking note of the texts would accurately reflect the degree of political will that the Sub-Committee had shown.

Mr. REIS (United States of America) suggested that the Sub-Committee should take note of the draft articles and include in the report the recommendation that the main Committee should try to complete the two draft instruments with a view to forwarding them to the General Assembly. In that way, no delegation would be required to exceed its instructions, but the main Committee would not be prevented from considering the work which had already been accomplished.

Mr. MAIORSKY (Union of Soviet Socialist Republics), supported by Mr. CHARVET (France), said that he agreed to the United States proposal.

The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Committee would take note of the two sets of draft articles submitted by Working Groups I and II and authorize the Secretariat to prepare an appropriate recommendation for inclusion in the report to the effect that the main Committee should make every effort to complete both instruments with a view to their adoption by the General Assembly.

It was so decided.

Mr. CHARVET (France) recalled that he had suggested that the title of the text approved by Working Group II should be amended to "Draft articles of the convention on registration of objects launched into outer space".

The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Committee agreed to that proposal.

It was so decided.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that he wished to restate the views expressed by the head of his delegation at the 204th meeting so that they would be fully understood. The Soviet Union attached great importance to two items which had not been considered at the current session because of the time factor and other considerations. In order to remedy that situation, his delegation proposed the inclusion in the Sub-Committee's report of a recommendation that the parent Committee should attach a high degree of priority to the question of direct broadcasting. In the event that there were objections to that proposal, his request should be reflected in the Sub-Committee's report. The question of direct broadcasting should be given the same priority as the draft treaty relating to the moon and the draft convention on registration. Thus, the Committee could devote one week to each of those three items and reserve the fourth week for the preparation of its report. In order to show that it was making a substantive proposal, the Soviet delegation had requested the Secretariat to attach to the Sub-Committee's report a Soviet working paper containing a draft convention on principles governing the use by States of artificial earth satellites for direct television broadcasting, prepared for the General Assembly in September 1972. If members so wished, it would request that the draft should be redistributed. It did not intend that there should be any substantive discussion of the item at the present session but insisted that an appropriate recommendation should be included in the report.

The Soviet delegation attached equal importance to the question of remote sensing and had therefore circulated model draft principles governing the use of space technology by States for the study of earth resources (A/AC.105/C.2/L.88). The text was self-explanatory. His delegation was prepared to accept any recommendation that the Sub-Committee might wish to make for the purpose of giving priority to the question of remote sensing. The fact that he had referred first to the question of direct broadcasting, a matter which was more ready for consideration than remote sensing, did not mean that he attached lesser importance to the latter.

(Mr. Maiorsky, USSR)

With regard to paragraph 5 of the draft report (PUOS/C.2(XII)/1), he considered that the statement made by the representative of the Secretary-General should be reflected in greater detail, particularly with regard to references to the link between the work of the Sub-Committee and that of the Committee on the Peaceful Uses of the Sea-Bed. The representative of the Secretary-General had said that there was a parallel development in the work of the two organs in that the legal principles governing outer space activities and those governing activities in the area of the sea-bed and the ocean floor appeared to be very similar. It should then be stated that although some delegations had upheld that view, some had spoken out resolutely against that approach to the problem. Unless such a statement was included, the draft report would not present a true picture of what had happened.

His delegation had reservations concerning the title of document PUOS/C.2(XII)/WG.I/Working Paper 18. It had not been in favour of distributing the working paper and was not happy with the expression "considered by Working Group I". It was not clear what stage of the Working Group's deliberations the text represented. When Working Group I had begun its consideration of the question, the phrase in square brackets in article 4 had not been included. If, on the other hand, the text was to reflect the situation when the Working Group had reached an impasse, the words "their parts" in paragraph 2 should be replaced by the words "any areas thereof" and the words "subject to the provisions of article V, paragraph 2" should be deleted. Furthermore, the phrase "including the exploitation of its natural resources", deleted from the original informal working paper at the insistence of the Egyptian delegation, should be restored. Unless such changes were made, his delegation would have to express its disapproval of the text of Working Paper 18.

The CHAIRMAN pointed out that the Working Group had decided to maintain the reference to the provisions of article V, paragraph 2, in paragraph 2.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that the words "due regard being paid to the provisions of article V" should be inserted at the end of paragraph 6 after "the common heritage of mankind".

/...

The CHAIRMAN agreed that the working paper should conform to the original text. Accordingly, the phrase in square brackets in paragraph 4 should be deleted, as it had been introduced by Argentina at a later stage. An appropriate corrigendum would be issued.

Mr. MAIORSKY (Union of Soviet Socialist Republics) stressed that the words "including the exploitation of its natural resources" should be inserted in paragraph 3 after the words "use of the moon".

Mr. ZAHRAN (Egypt) said that the words "including the exploitation of its natural resources" had been added to the original text at a later stage and had been deleted on the basis of a proposal made by his delegation.

The CHAIRMAN said that the phrase in question had been included in the original formulation read out by the representative of Bulgaria and had been deleted by the Working Group at a later stage. If the working paper was to reproduce the original text prepared by the "mini-group", those words should be retained.

Mr. TUERK (Austria) said that the text that was to be included in the report would have a historical value and should therefore be the one that had been submitted to Governments for approval. Hence, it should not include changes that had been made after the text had been submitted to Governments. The original text prepared by the "mini-group" should be retained.

Mr. REIS (United States of America) pointed out that there had not been unanimous agreement that the text should be submitted to Governments for approval. Members had undertaken to submit it only for consideration.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that unless the text had been submitted to Governments for approval, it might just as well not exist.

The CHAIRMAN said that unless there was unanimous agreement to the contrary, the working paper should reflect accurately the text originally proposed by the "mini-group".

/...

Mr. ZAHRAN (Egypt) said that although paragraph 3 had not originally contained the words "including the exploitation of its natural resources", they had been inserted later. However, his Government had instructed him to indicate that there would be some confusion if those words were included in paragraph 3 and accordingly a consensus had been reached to delete them.

Mr. RAO (India), referring to the statement made by the representative of the United States, said that it had been his understanding that the text was to be submitted to Governments for approval.

Mr. GRINBERG (Bulgaria) read out a record of additions to the Italian proposal in Working Paper 12 which he had made while acting as chairman of the "mini-group". He would make that record available to the Secretariat. As to the question of whether the text should be sent to Governments, he confirmed that the words he had used in the "mini-group" were to the effect that the text was to be sent to Governments for approval. However, he had intended the wording he had used to be flexible because he had been fully aware that the issue was sensitive and difficult.

The CHAIRMAN, observing that human memory was imperfect, appealed to the Sub-Committee to leave the matter as it stood in the document before it.

Mr. RAO (India) observed that the United States representative had not been present at the final meeting of the "mini-group" at which it had been agreed that the text should be recommended to Governments for approval.

Mr. REIS (United States of America) recalled that, although he had not been present at the final meeting of the "mini-group", he had spoken to the Indian representative immediately after its conclusion. Ironically, the situation appeared to be that whereas the Indian representative had never undertaken to secure his Government's approval of the text but had in fact obtained it, the United States delegation had undertaken to secure such approval but had not obtained it.

The CHAIRMAN said that, if there was no objection, he would take it that there was agreement on the addition to paragraph 3 of the words read out by the USSR representative and on the deletion from paragraph 4 of the words in square brackets.

It was so decided.

/...

Mr. ZAHRAN (Egypt) proposed that, to avoid any possible confusion, the title of Working Paper 18 should read: "Text worked out originally...".

Mr. REBAGLIATI (Argentina) pointed out that there had been no objections to the words in square brackets in paragraph 4 when they had been reproduced, without brackets, in Working Paper 15 containing the United States proposal. They had been similarly reproduced in earlier working papers. In any case, if it was clear that the whole text was the result of informal discussions there was nothing to be gained by using such brackets. The most practical solution would be to leave Working Paper 18 as it stood but without the brackets.

The CHAIRMAN observed that, although the facts stated by the representative of Argentina were entirely correct, the Sub-Committee had decided to reproduce the text as originally submitted by the "mini-group".

Mr. MORRISON (Australia) said that the record read out by the Bulgarian representative agreed with the notes which he himself had taken at the meeting of the "mini-group".

The CHAIRMAN suggested that a corrigendum to Working Paper 18 should be issued, which would take account of the Egyptian proposal.

DRAFT TREATY RELATING TO THE MOON (A/AC.105/101; PUOS/C.2(XII)/WG.I/1-6) (continued)

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE (A/AC.105/101; PUOS/C.2(XII)/WG.II/4) (continued)

Mr. YOSHIDA (Japan) said that the provisions of articles II, III and IV of the draft convention on registration, as approved by Working Group II, provided an appropriate compulsory registration system which established a juridical link between each space object and the launching State. With regard to article II, the Working Group had considered the case where two or more States were concerned in the launching of one space object. His own and other delegations had argued that in such a case the convention should leave it to the discretion of the launching States concerned to make appropriate arrangements to reflect the reality of each joint project. Other delegations had proposed that the launching State should designate only one State of registry and that the space object should be subject to the jurisdiction of that State to avoid any conflict of jurisdiction. Article II, paragraph 2, as contained in document PUOS/C.2(XII)/WG.II/3, was a good compromise between those different approaches.

/...

(Mr. Yoshida, Japan)

The Japanese delegation was pleased to note that draft articles III and IV provided for an appropriate international census of space objects, based on a mandatory registration system, and that article IV, paragraph 2, allowed for full access to the information in the central register.

As to identification, some delegations had advocated the inclusion of a clause on marking to facilitate the identification of fragments. The experience gained in launching activities in Japan, however, showed that effective marking involved technical and economic difficulties. Accordingly, he felt that the question should be further considered at a later stage in the light of technological developments, the expansion of space activities and the experience accumulated in the application of the registration convention. For the time being, it would be realistic to rely on other means of identification, such as monitoring and tracking. The Japanese delegation therefore favoured the text of article V in document PUOS/C.2(XII)/WG.II/4. That article struck a proper balance between the interests of States seeking information and the burden assumed by those maintaining monitoring or tracking stations.

The unresolved question of a review clause should be considered after all the substantive articles had been agreed on.

There was no doubt that quite substantial progress had been made in the elaboration of the convention on registration. Although a few important issues relating to the moon treaty remained unresolved, there had been progress at the current session in the sense that those problems had been more clearly identified. Against that background, it would be a pity if the Legal Sub-Committee could not take advantage of the progress made as a basis for completing the two important instruments. The Japanese delegation considered it necessary that the Legal Sub-Committee should complete that work before commencing the substantive work on other items.

Mr. REIS (United States of America) recalled that the Argentine delegation had stated at an earlier meeting that the Convention on International Liability for Damage Caused by Space Objects was of little use unless the countries that conducted space activities ratified it. He pointed out that the process of its ratification by the United States was far advanced, and he welcomed informal assurances that there was a prospect of its early ratification by other space Powers.

(Mr. Reis, United States)

Although his delegation had hoped that the negotiation and drafting of the convention on registration and the moon treaty could be completed on a mutually acceptable basis at the current session, it was not unduly discouraged over the fact that that goal had not been attained. The United States had proposed the text of a draft registration convention in the hope that it would provide a mutually acceptable basis for a satisfactory instrument. Working Group II had made very substantial progress on the basis of that text and the Canadian-French proposal. The articles which had been agreed upon made provision for an international registry of orbiting vehicles and called for assistance by States having advanced space monitoring facilities in the identification of space objects which caused damage. He welcomed acceptance of the idea that the agreement should also make provision for the national registration of objects launched into orbit. Some delegations thought that Governments should have an opportunity to review the draft registration convention before its finalization. The interval before the Committee on the Peaceful Uses of Outer Space met offered an opportunity for such a review. The only significant problems that Working Group II had been unable to resolve concerned the marking of space objects and the review clause.

The United States delegation did not believe that any system of marking that would have utility with regard to identification or liability or in any other context was currently available or in prospect. For that reason, it had agreed to the inclusion of a provision in the convention requiring a State having advanced data acquisition capabilities to provide assistance, upon request, to a party suffering damage caused by an object which it could not identify. The United States could have accepted a less conditional provision but had agreed, in the interests of arriving at a mutually acceptable text, to the formulation of article V in the draft before the Sub-Committee.

The second outstanding problem related to the desire of a number of delegations for a strong review clause on the lines of article XXVI of the Convention on International Liability. The matter of a review clause, however, should not be an obstacle to the conclusion of a registration convention.

(Mr. Reis, United States)

Progress on the treaty relating to the moon had been slower; the three basic issues to be resolved concerned the scope of the treaty, the matter of advance notification and the question of possible natural resources. With regard to the scope of the treaty, his delegation was pleased by the widespread acceptance of the view that it should apply to activities on the moon and other celestial bodies in the solar system. It was those bodies which lay within the practical reach of exploration and use in the foreseeable future. His delegation therefore welcomed the suggestion by the representative of Sweden that the expanded scope of the instrument should be limited to the solar system, and it had changed its position accordingly. The question of a formulation to provide for the expansion of the scope was important. The United States was not opposed to giving special emphasis to the moon, but the moon was not the exclusive or even the primary objective of current or projected space activities and therefore should not be cited in the operative articles of the treaty to the exclusion of the other celestial bodies. Planetary exploration was well under way. In addition to the most recent Mariner probe, the United States was planning soft landings on Mars in 1976. Jupiter, Saturn, Venus and Mercury were scheduled for exploratory investigations by United States probes. That was why the United States believed that the treaty should include in its title, preamble and operative provisions explicit mention of celestial bodies other than the moon. To meet the views of others, it had accepted a United Kingdom suggestion for the inclusion of an introductory provision stating that the question of the possible utility of additional treaty rules concerning the exploration and utilization of some particular planet or other celestial body remained open. Such additional rules could be incorporated in the existing treaty as a protocol or series of amendments, or might take the form of a separate instrument. In any event, the matter could not reasonably be foreclosed at the present juncture.

His delegation had explained its views on the issue of advance notification of missions to the moon and other celestial bodies in considerable detail. In 1972, it had proposed that a State intending to conduct such a mission should, 60 days in advance of launching, provide notice of the intended time of launching and the purposes, locations, orbital parameters and duration of the mission. It

(Mr. Reis, United States)

had also proposed that information should be furnished on the results, including scientific results, upon completion of the mission and further that 30-day interim reports should be filed in connexion with missions lasting more than two months. The United States delegation proposed advance notification for three reasons: first, it would assist in promoting the safety of missions and non-interference among missions of various countries, whether manned or unmanned. Secondly, it would help make the best use of the scientific benefits resulting from each mission in that greater knowledge of what other parties were doing would stimulate efforts to avoid duplication. Thirdly, it would help protect the balance of the existing environment of a celestial body by facilitating the exchange of scientific opinion between exploring parties.

The question of the natural resources of celestial bodies was, essentially, one of determining the rules and procedures that should reasonably apply in the event of the discovery of exploitable natural resources. At the previous session, the United States delegation had proposed that the natural resources of the moon and other celestial bodies should be the common heritage of all mankind. It had also proposed that there should be protection of the use of such resources for scientific research, as well as their utilization *in situ*. In addition, it had proposed that if practical exploitation of lunar resources should become a reality, the parties to the treaty should join in an international conference with a view to negotiating arrangements for the international sharing of the benefits of such exploitation.

As far as they had gone, those proposals had met with very wide acceptance. However, the United States was not prepared to accept an express or implied prohibition of the exploitation of possible natural resources before the international conference met and agreed on appropriate machinery and procedures and before a treaty embodying them took effect. The treaty relating to the moon could not reasonably require that exploitation must await the establishment of the treaty-based régime.

His delegation had sought to meet the concern of other delegations by accepting, for example, the suggestion that the current treaty should call for States conducting missions to the moon and other celestial bodies to report not

(Mr. Reis, United States)

only on scientific results but also on natural resources. Such a provision would help to ensure that all parties to the treaty were informed and could prepare for the international conference.

Working Paper 15, introduced by the United States delegation, excluded the concept of a pre-régime moratorium. The words "in place" in the first sentence of article X, paragraph 2, were intended to indicate that the prohibition against assertion of property rights would not apply to natural resources once they were reduced to possession through exploitation either in the pre-régime period or, subject to the rules and procedures that a régime would embody, following the establishment of the régime. In the last sentence of the same paragraph the "without prejudice" clause would apply to exploitation whether by a State, governmental entity, non-governmental enterprise or international organization.

He hoped that Governments would study the United States proposal on natural resources and that its essential elements would provide the basis for a fair resolution of the natural resources issue. If that hope was fulfilled, the United States believed that, given goodwill and a respect for the limits which were set for each participant in the negotiations, the Committee on the Peaceful Uses of Outer Space should try to finish the registration convention and moon treaty during 1973. He was gratified by the willingness shown in the Legal Sub-Committee to make every effort towards that end.

The meeting rose at 1 p.m.

UNITED NATIONS

GENERAL ASSEMBLY

PROVISIONAL

For participants only

A/AC.105/C.2/SR.206
24 April 1973
ENGLISH
ORIGINAL: FRENCH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twelfth Session

PROVISIONAL SUMMARY RECORD OF THE TWO HUNDRED AND SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 19 April 1973, at 3.15 p.m.

Chairman: Mr. WYZNER Poland

CONTENTS