

(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

General exchange of views

Question of priorities

Attendance of the Chairman of the Sub-Committee at the Committee on the Peaceful Uses of Outer Space

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GENERAL EXCHANGE OF VIEWS

Mr. HARASZTI (Hungary) said his delegation had felt that the text finalized at Geneva had afforded a good basis for work capable of leading to drafts which could have been submitted to the General Assembly at its twenty-eighth session, and it had been disappointed by the results of the present session of the Sub-Committee.

Most of the problems raised by the draft treaty relating to the moon could have been solved if they had been approached realistically. In fact, in view of the current state of knowledge on the subject, an over-detailed text might cause difficulty in the future. For the same reason, it would also be more reasonable to confine discussion for the time being to the moon and to put off until later the preparation of a text concerning the planets. His delegation was nevertheless ready to accept the compromise text which had been prepared during the present session as a basis for future discussion.

With regard to the draft convention on registration of objects launched into outer space, his delegation felt that a revision clause was necessary, since within a few years the situation would certainly have changed as a result of the very rapid evolution of technology.

Moreover, despite the importance of the two instruments which were being prepared, it was becoming increasingly urgent to conclude a convention relating to direct broadcast satellites, and that question, which was of great importance to international peace and security, should receive the same priority as the two others.

Even though the present session had been disappointing, progress had nevertheless been made by delegations, which had had an opportunity to define their positions better and to hold useful informal discussions.

Mr. RAO (India) said that his delegation, while it regretted that the Sub-Committee had not achieved the goals set for its current session, felt that considerable progress had been made in relation to the outstanding issues concerning the draft treaty relating to the moon and, more particularly, the draft convention on registration.

The delegations of Egypt and India had submitted joint working papers concerning articles II and V of the draft treaty relating to the moon, and the

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Working Group had reached agreement on article II, paragraph 1. With regard to the proposal for the addition to article V of a paragraph 4 dealing with the promotion of international co-operation in the field of scientific investigation, his delegation was pleased to note that agreement in principle had been reached on the text proposed by the Egyptian and Indian delegations, although differences of opinion persisted with regard to the place where the paragraph should be inserted.

His delegation had also proposed that States Parties to the treaty relating to the moon should undertake to inform the international community of any natural resources they might discover during their exploration of the moon, and it thanked the United States delegation for having accepted that proposal. The other important question on which his delegation had prepared a working paper was that of the natural resources of the moon; the views of his Government on the matter were set out in detail in Working Paper 5 of Working Group I. As a follow-up to that proposal, Working Group I had decided to establish a small working group open to all delegations to work out a compromise solution. The text arrived at by the small working group after intensive consultations had been referred by delegations to their respective Governments for instructions. The representative of Japan had pointed out that the text had received broad support within the Group, and his own delegation agreed that the text constituted a basis for reaching agreement on the question. However, the United States delegation had expressed its inability to accept the text in full and had therefore submitted its own proposal (Working Paper 15). That proposal suggested substantial changes in the text prepared by the small working group, which were not acceptable to his delegation. The Government of India maintained that the moon and its resources were the common heritage of the whole of mankind and that a treaty concerning the exploitation of those resources should be drawn up. It was to be hoped that at the next session of the Outer Space Committee, efforts would be made by all parties concerned to reach agreement on that important question. Finally, the proposal submitted by the United Kingdom on the scope of the treaty relating to the moon (Working Paper 10) offered, in his delegation's view, a satisfactory compromise.

Some progress had also been made on the draft convention on registration, but his delegation wished to reserve its right to examine the text agreed upon in

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(Mr. Rao, India)

Working Group II. The convention would be incomplete if it did not contain satisfactory provisions on the question of marking space objects and the possibility of revising it.

Furthermore, his delegation shared the view expressed the previous day by the representative of the Soviet Union concerning the need to draft without delay an international convention on principles governing the use of artificial earth satellites for direct broadcasting. The question was one of interest to the whole world, and particularly to the developing countries. Principles already existed in various instruments such as the United Nations Charter, but they should be brought together in a single instrument.

Mr. GRINBERG (Bulgaria) said that at one stage Working Group I had almost succeeded in reconciling the differences of opinion on the outstanding questions, but the question of a moratorium had arisen and had prevented the Working Group from agreeing on a definitive text.

His delegation's views on the concept of the common heritage of mankind appeared in document PUOS/C.2(XII)/WG.I/Working Paper 1, which afforded a basis for a compromise solution. The new wording his delegation had proposed for article X had been supplemented by the Italian proposal concerning an international régime for the exploitation of resources and the possibility of convening a conference to establish it. Like many delegations, his delegation was not in favour of the common heritage concept, since it believed it had no legal meaning and that exploitation of lunar resources was far from being achieved, but could, in view of the great importance certain delegations attached to the concept, accept its inclusion in the text. It was unfortunate that the delicate negotiations that had taken place should be compromised by the moratorium question, but the obstacles did not appear to be insuperable. While an immediate moratorium was not acceptable, that solution should not be excluded in the future. If there was unanimity as to the objective, the means of expressing it in suitable terms could always be found.

With regard to the draft convention on registration, he wished to congratulate the delegations of France and Canada, and Working Group II as a whole, for the efforts they had made, and he hoped that it would be possible to overcome the difficulties to which the draft continued to give rise.

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(Mr. Grinberg, Bulgaria)

Finally, his delegation supported unreservedly the proposal made the previous day by the Soviet Union concerning the preparation of principles concerning direct broadcasting from satellites. The Legal Sub-Committee was perfectly competent to consider the question, which was on the same level of priority as the two other draft conventions that were being prepared. The Soviet Union should also be congratulated on the contribution it had made to the development of law in the field of the use of space technology for the study of earth resources by submitting document A/AC.105/C.2/L.88.

Mr. MORRISON (Australia) said that he shared the disappointment of other delegations at the fact that neither of the two texts the Sub-Committee had hoped to finalize had been completed. Nevertheless, the positive results of the session should not be underestimated. The Sub-Committee had succeeded in drafting an important text on registration which was accepted by a majority of delegations, even though some of them felt that it did not go far enough. A number of questions remained outstanding, but they had been identified and his delegation hoped that they could be rapidly resolved.

With regard to the treaty relating to the moon, it was regrettable that obstacles had arisen after a promising start. Nevertheless, in that case, too, it had proved possible to determine what questions remained to be settled and what the differences of opinion were. The questions of substance would have to be settled on the basis of compromise solutions, but the problems relating to drafting or presentation should not be difficult to solve.

Mr. MIKUCKI (Poland) said that his delegation supported the ideas expressed by Bulgaria in Working Paper 1 of Working Group I as a basis of discussion for the treaty relating to the moon, and welcomed the efforts and constructive proposals made by other delegations. It was regrettable that agreement had not proved possible at the present session either on the treaty relating to the moon or on the draft convention on registration, but the intensive discussions that had taken place had been extremely useful. At its next session, the Sub-Committee should leave sufficient time for consideration of agenda items 5 and 6, which were extremely important.

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Mr. PERSSON (Sweden) said that his delegation, too, hoped that the Sub-Committee would find enough time at its next session to deal with agenda items 5 and 6 concerning direct broadcast satellites and remote sensing of earth resources. It reserved the right to submit its views at the next session of the Outer Space Committee.

Mr. CHARVET (France) said that, although it had not been possible to finalize the instruments relating to the moon and registration, the session had been useful because it had afforded an opportunity of defining everyone's position more clearly. Furthermore, a consensus had emerged on liability for activities on the moon and the need for a régime governing the exploitation of the moon's resources. On the question of registration, consideration of the two drafts in Working Group II had produced a single version which combined the provisions of the two texts. The closely linked questions of the review clause and the marking of space objects still had to be settled. The first should be the easier one to solve. With regard to the second, the usefulness of marking did not yet seem to be fully understood. His delegation regarded marking as essential; others felt it was not essential but was worthy of being mentioned, while still others thought it should not even be mentioned. It was to be hoped that, with further time for reflection, a compromise could be reached among all those positions. Consideration of the two draft instruments should be given priority in the future.

International regulation of direct broadcast satellites and remote sensing surveys of earth resources was essential and was advocated by the overwhelming majority of the international community because such matters affected the security of States and could become a source of friction.

Mr. COCCA (Argentina) was pleased that many of the proposals made by his delegation had been received in a spirit of understanding and co-operation and had been incorporated in the texts agreed upon by the working groups.

Evaluating the Sub-Committee's twelfth session, he said that, despite undeniable progress, the slow pace at which work had advanced was indeed deplorable. It was true that the complexity of the questions involved and the need to find a common denominator among such varied legal systems to some extent justified that pace. A more serious point was that elements in the development of the law of

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(Mr. Cocca, Argentina)

outer space that were taken to be accepted were questioned every time that a new instrument was being elaborated. He had in mind in particular the review clause in the instruments under consideration and the principle of the equality of States in respect of the implications of the deposit of instruments of ratification. His delegation also regretted that the provisions adopted at Geneva in 1972 were not of a more mandatory nature; it had always shown flexibility and a spirit of compromise, but it could not compromise on matters which affected the fundamental rights of States.

His delegation had been pleased to learn that the process of ratification of the 1972 Convention on International Liability for Damage Caused by Space Objects was already far advanced in the United States and that the number of States Parties was growing rapidly.

With regard to the other two items on the Sub-Committee's agenda, the question of direct broadcast satellites was of such importance as to warrant a high level of priority. Remote sensing satellite surveys of earth resources was another extremely urgent question which could not be deferred, and the draft worked out in 1970 should be studied in the light of technical developments since that time.

Mr. SOUZA E SILVA (Brazil) said that the new proposals which had been made at the current session with regard to the treaty relating to the moon, and particularly those advanced by the delegation of India, should help to make the draft treaty more generally acceptable, especially for the developing countries. In the view of his delegation, negotiations relating to outer space, and in particular to the moon treaty, should always be pursued in a spirit of compromise, mutual understanding and respect for the interests of all parties concerned. Accordingly, it refused to draw any dividing lines between co-operative and non-co-operative delegations or to question the motivations of the various delegations. It preferred to respect the positions and interests of all, believing that the only way to reach a consensus was to take into account the position of all States, space Powers and non-space Powers, developed and developing.

His delegation had expected that more positive results would be achieved in Working Group I. With regard to article X, for example, the text worked out in informal consultations in fact contained all the elements essential for a compromise

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(Mr. Souza e Silva, Brazil)

among the different groups of States: the inadmissibility of the right of ownership over the natural resources of the moon, the concept of the common heritage of mankind and the commitment regarding the establishment of an international régime governing the exploitation of the moon's resources.

With regard to the draft convention on registration, Working Group II had accomplished some noteworthy work, on the basis of which members of the Sub-Committee had been able to agree on a national registration system, the procedures for the establishment of a central register to be maintained by the Secretary-General, and assistance to be offered in the identification of space objects. Unfortunately, it had not been possible to reach a consensus on one of the fundamental provisions of the draft, which related to marking. The overwhelming majority of delegations, including his own, favoured mandatory marking. The objections expressed by certain delegations seemed to stem from political considerations.

In the view of his delegation, the review clause was absolutely indispensable and could, if necessary, be more flexible than the one adopted in the Liability Convention since the registration convention covered a field which was developing at an extraordinarily fast pace.

The difficulties were not, however, insurmountable, and he hoped that they would be overcome at the forthcoming session of the Outer Space Committee.

With regard to the proposal made at the previous meeting by the representative of the USSR concerning the priority to be accorded to the various items on the agenda, he stressed that items 2, 3, 5 and 6 should have the same degree of priority.

Mr. MAIORSKY (Union of Soviet Socialist Republics) said that, in the case of the draft treaty relating to the moon, the only possibility of success lay in reaching a compromise on the text as a whole rather than endeavouring to agree on each provision separately. For its part, his delegation had made efforts in that direction which had unfortunately failed. The results were thus negative. Every delegation bore its share of the responsibility for that failure, particularly those which had confined themselves to recalling their unshakable positions on particular questions. Thus, the twelfth session of the Sub-Committee had at least had the merit of demonstrating that the only possible approach was that of the Bulgarian

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(Mr. Maiorsky, USSR)

delegation, which had said that it was ready to agree to the text as a whole. The session had also provided an opportunity of identifying certain elements which had to be included in the treaty, particularly the concept of the common heritage of mankind.

The fact that no compromise had been possible on the text as a whole led one to consider what approach should be taken in future work and what direction the law of outer space, as a separate branch of international law, should take. He categorically rejected any exaggerated analogy with, for example, the law of the sea. His delegation, for its part, was ready to consider constructively any new proposal that would help to finalize the draft treaty relating to the moon and the draft convention on registration either at the June session of the Committee or at the thirteenth session of the Sub-Committee.

## QUESTION OF PRIORITIES

The CHAIRMAN recalled that, at the preceding meeting, the representative of the Soviet Union had suggested that a recommendation should be included in the report to accord priority at the forthcoming session to the question of direct broadcast satellites.

Mr. REIS (United States of America) cautioned the Sub-Committee against being too optimistic and recommending too heavy an agenda for its forthcoming session. It was true that all the items included in the agenda for the present session were important, but clearly they could not all have the same priority and the Sub-Committee should first finish the two instruments relating to the moon and registration. It should be borne in mind that sessions were only four weeks long, and experience showed that each agenda item took up much more than one week. Too heavy an agenda might turn the session into one of highly interesting, but hardly productive, general debate.

Mr. MAIORSKY (Union of Soviet Socialist Republics) was not convinced by the arguments put forward by the United States representative. It was true that one week might not be enough to finish, for example, the treaty relating to the moon. It was not, however, the amount of time devoted to each question that was important but rather the determination of all concerned to reach an agreement. Furthermore,

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(Mr. Maiorsky, USSR)

it would always be possible to request the Committee to make the next session of the Sub-Committee one week longer.

Mr. YOSHIDA (Japan) considered that it should first be decided whether or not to recommend that the Committee should consider the draft treaty relating to the moon and the draft convention on registration before talking about the order of priority of the three other questions.

The CHAIRMAN recalled that at the previous meeting the Sub-Committee had decided to recommend that the Committee on Outer Space should make every effort to complete both instruments for submission to the General Assembly at its twenty-eighth session.

Mr. FREELAND (United Kingdom) said that he did not see any reason why the degree of priority which had been given to consideration of the two texts should now be withdrawn. Needless to say, if one of those texts was completed by the Outer Space Committee, there would still be time to review the question of priorities. If the Sub-Committee recommended that the priorities should be changed that would amount to saying that it had lost all hope of completing the two instruments relating to the moon and to registration of objects launched into outer space.

Mr. MILLER (Canada) said that it was premature to raise the question of priorities, both for the reasons just set out by the representative of the United Kingdom and because the Sub-Committee should wait for the conclusions of the Working Group on Direct Broadcast Satellites. Moreover, it should be pointed out that, whereas the problem of direct broadcast satellites was not an urgent one at present, there was a growing backlog of work on the items relating to the moon and registration.

Mr. SOUZA E SILVA (Brazil) said that, when he had previously brought up the questions of direct broadcast satellites and remote sensing of earth resources, he had not felt it necessary to raise the question of priorities. There was no need to revise the order of priorities set by the Committee in 1971, and, moreover, it was doubtful that the Sub-Committee could reach any agreement on the matter at the present stage. It would be enough to mention in the report that the Sub-Committee had considered the question and that the Committee could revise the order of priorities which it had set.

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Mr. MORRISON (Australia) agreed with the representative of Japan that no recommendation should be made at present on the question of priorities, since the Committee would not be in a position to deal with that question until it had, in accordance with the Sub-Committee's recommendation, considered the drafts relating to the moon and to registration and, if possible, completed those instruments.

Mr. KOLOSSOV (Union of Soviet Socialist Republics) expressed regret that a number of delegations refused to grant the same priority to the question of direct broadcast satellites as to the moon treaty and the convention on registration. Agreement on the latter two questions had been prevented by factors which were not of an urgent nature. In the case of the moon, the exploitation of its resources was in no way a pressing question, for the simple reason that such exploitation was not feasible at the moment or in the near future. In the case of registration, the need for marking had not been demonstrated in practice. On the other hand, the question of direct broadcast satellites was indisputably an urgent matter. For 10 years, direct television broadcasts had been beamed to Soviet territory by United States satellites. Technological progress in that field was extremely rapid, and some specialists believed that direct television and radio broadcasting by satellite might be a common practice by 1975. For that reason, the Soviet Union considered that the use of such satellites should be regulated as soon as possible with a view to bringing the peoples of the whole world closer together. Some specialized agencies, including ITU and UNESCO, had already taken up the question, and UNESCO had recently adopted a declaration of principles which fell within the political and legal sphere rather than within UNESCO's own field of education, science and culture. France and the Soviet Union had already submitted draft principles on the subject, and Canada and Sweden had submitted reports relating to it. One space Power which was very active in the field of direct television broadcasting had even submitted a comprehensive draft on the question. Consequently, it was no longer possible to defer the problem from one session to another, and he urged delegations not to lose sight of resolution 2916 (XXVII), in which the General Assembly had stressed the need for the earliest possible elaboration of principles governing the use of satellites for direct television broadcasting.

Mr. REIS (United States of America) said that his delegation did not accept any of the arguments just put forward by the Soviet delegation, either with

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(Mr. Reis, United States)

regard to the urgency of the question of direct radio and television broadcasting by satellite or with regard to the interpretation of General Assembly resolution 2916 (XXVII).

Mr. DELROT (Belgium) said that he was aware of the importance of the questions of direct broadcast satellites and remote sensing of earth resources. Nevertheless, the Sub-Committee could not revise the order of priorities it had laid down until it knew what conclusions the appropriate working groups had reached.

Mr. PERSSON (Sweden) said that he shared the view expressed by the representatives of Australia and Brazil.

Mr. FREELAND (United Kingdom) suggested that the Sub-Committee should mention in its report merely that it had considered the possibility of making a recommendation concerning priorities and that the Committee could itself consider the question of priorities.

The CHAIRMAN suggested that the Committee should be recommended to consider the question of priorities in the light of the discussion in the Sub-Committee and of further developments.

It was so decided.

ATTENDANCE OF THE CHAIRMAN OF THE SUB-COMMITTEE AT THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

Mr. MAIORSKY (Union of Soviet Socialist Republics), supported by Mr. TUERK (Austria) and Mr. REIS (United States of America), said that particularly in view of the fact that the Sub-Committee had decided to recommend the Committee to complete, if it could, the elaboration of the drafts relating to the moon and to registration, it would be extremely useful for the Chairman of the Sub-Committee to attend the forthcoming session of the Committee.

Miss CHEN (Secretary of the Sub-Committee) said that attendance by the Chairman of the Sub-Committee at the Committee's session would cost \$1,800.

The CHAIRMAN said that he could not accept the proposal himself without consulting his Government first. Nevertheless, he would do his best to ensure that he was able to attend the Committee's forthcoming session.

The meeting rose at 5.40 p.m.



UNITED NATIONS  
GENERAL  
ASSEMBLY



PROVISIONAL

For participants only

A/AC.105/C.2/SR.207  
24 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 SEVENTH MEETING

Held at Headquarters, New York,  
on Friday, 20 April 1973, at 10.50 a.m.

Chairman:

Mr. WYZNER

Poland

CONTENTS

Draft treaty relating to the moon (continued)

Preparation of the draft report of the Legal Sub-Committee on the work of its twelfth session (26 March-20 April 1973) (continued)

Closure of the session

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