

VERBATIM MEETING OF THE ONE HUNDRED AND THIRD MEETING

Held on Tuesday, 7 September 1971, at 3 p.m.

Chairman:

Mr. WALDHEIM

(Austria)

CONSIDERATION OF REPORTS (continued):

(b) REPORT OF THE LEGAL SUB-COMMITTEE (A/AC.105/94)

The CHAIRMAN: The meeting this morning was adjourned on the understanding that we would continue the discussion on the various ideas in connexion with the two matters before the Committee from the Legal Sub-Committee -- the liability convention and the priority question.

With regard to the liability convention, I think that those delegations which wanted to make reservations have done so in the meantime. I have been informed by the Rapporteur that he has received such reservations and even a draft text for them, which will be included in the Committee's report to the General Assembly.

With reference to the second question, namely, that of priority, a few delegations made statements this morning. But I do not think that the debate on that question was concluded.

I wonder whether other delegations would like to take the floor now to express their views on both questions? I should be grateful if they would do so now. I already have the name of one representative on the list of speakers -- the representative of Mongolia -- and I am happy to call on him.

Mr. NARKHUU (Mongolia): I have asked for the floor to address myself very briefly to the two issues which are now before this Committee.

It can be said that the Outer Space Committee is on the threshold of an important achievement. We now have before us a draft convention on international liability for damage caused by space objects, which has been agreed upon in the Legal Sub-Committee.

(Mr. Narkhuu, Mongolia)

The Legal Sub-Committee, under the able chairmanship of Mr. Wizner, has done an excellent job and my delegation would like to associate itself with those who have showered praises upon him for the wisdom and skill with which he presides over the work of that Sub-Committee.

After seven or so years of assiduous labour and painstaking negotiations, at last we are able to express ourselves on an agreed text of a draft convention. It is indeed commendable that the Legal Sub-Committee during its tenth session was able to reach a compromise agreement on provisions concerning the settlement of claims and the applicable law, which were long outstanding from previous sessions. My delegation is highly appreciative of the spirit of compromise and co-operation shown by each and every member of that Sub-Committee.

After a lucid and comprehensive statement of presentation of the draft convention by Mr. Wizner on the first day of our meeting and after statements by many representatives in favour of that draft, it is really difficult for me to add anything to underscore its importance.

It can be said that this convention has arisen from and responded to the practical needs of the increasingly rapid progress in the field of space exploration. As such it has further developed and elaborated one of the basic provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space. The draft convention embraces a wide spectrum of important rules and procedures which reflect new legal approaches stemming from scientific and technological advancements.

On the other hand, my delegation is well aware that the draft is not an ideal perfection and that it may not satisfy all parties one hundred per cent. There are indeed certain provisions which would possibly have gained from more explicit wording. We also take cognizance of the fact that the draft convention, being as it is a fruit of accommodation, contains certain stipulations which are inclined to rely on the good faith of the parties concerned.

My delegation has listened with great attention to those representatives who expressed their reservations with regard to provisions concerning the measure of compensation and the strength of the decision or award by the Claims Commission. With due respect for the motives and reasons for such

(Mr. Narkhuu, Mongolia)

reservations, my delegation is, nevertheless, of the firm opinion that the draft Convention, taken as a whole, will provide an effective safeguard of the legitimate rights and interests of a State which suffers damage caused by space objects. It is rightly said that the draft, on the whole, is victim-oriented.

In the opinion of the Mongolian delegation, the present draft constitutes one of the significant achievements of the Outer Space Committee, and its Legal Sub-Committee in particular, and it represents an important contribution to the progressive development of international space law. It will undoubtedly serve as one of the effective instruments for settling international disputes arising from space exploration activities and will thus promote good will, understanding and co-operation among nations.

My delegation, which has always expressed itself in favour of an early conclusion of an effective agreement on international liability for damage caused by space objects, associates itself with those who are commending the draft Convention to the General Assembly for its approval.

Turning to the question of priority order for the different questions the Legal Sub-Committee is bound to take up in the future, my delegation fully subscribes to the view often expressed here that the question of man's activities on the moon should find the highest place it deserves as an urgent matter of practical importance.

Man has set foot on the moon, and the latter has ceased to be a distant place for the space Powers. Exploratory lunar missions have become almost routine exercises. The moon is likely to serve in the near future as a basis for the exploration of other celestial bodies. These facts adequately show that the question of elaborating of an international instrument governing man's activities on the moon has acquired an urgent, practical sense. Furthermore, this Committee might soon have before it a draft treaty on this subject which has been submitted by the Soviet Union to the forthcoming twenty-sixth session of the General Assembly for its consideration.

(Mr. Narkhuu, Mongolia)

My delegation, therefore, hopes that the Legal Sub-Committee, taking into consideration the aforesaid factors, will at its next session accord top priority to the question of the preparation of an international agreement concerning the moon.

My delegation also attaches due importance to matters relating to the various implications of space communications and the registration of objects launched into space.

Mr. Chairman, I conclude my short remarks by expressing my sincere satisfaction at seeing you again presiding over our deliberations. I am confident that under your able and wise guidance this Committee will accomplish new successes.

Mr. VRANKEN (Belgium) (interpretation from French): The Belgian delegation, generally speaking, would like to endorse the statement made this morning by the French delegation concerning the priority to be given to the items discussed by the Legal Sub-Committee. My delegation feels, in fact, that there is a certain logic in the way the Sub-Committee does its work. Once the legal rules to be applied have been set down, I think it is perfectly normal that we should deal with the question of what those rules are to be applied to. That is why the Belgian delegation believes that a certain priority should first be granted to the definition of space and, secondly, to the registration of space objects. We stated this position three years ago in the Sub-Committee.

We understand, however, that an evolution has taken place since then, and the Belgian delegation therefore agrees that, as far as these two problems are concerned, a certain priority should now be given to the registration of objects launched into outer space.

The third problem which my delegation feels warrants priority is the legal regulation of activities in, and of objects launched into, outer space. A number of proposals have been made along these lines, and although in my opinion we are not competent to decide upon these things, we should nevertheless

(Mr. Vranken, Belgium)

take into account item 100 of the provisional agenda of the forthcoming General Assembly session, namely the Soviet proposal regarding the elaboration of an international treaty concerning activities on the moon.

In conclusion, therefore, my delegation considers that we should keep for the next session of the Legal Sub-Committee two questions, to be given priority: first, that of registration -- and the Belgian delegation is happy to note that the Canadian delegation intends to submit a formal proposal to this effect -- and, second, the legal status of the moon.

Mr. VALLARTA (Mexico) (interpretation from Spanish): This morning my delegation pressed for maximum priority to be given the question of registration of objects launched into outer space. After I had addressed the Committee, a number of delegations brought up other items as warranting that first priority. In order for the Legal Sub-Committee to be able to work and not be paralysed because of having only a single item on its agenda -- as was the case with the Treaty on responsibility -- a certain flexibility is required of all of us.

I do recall that in the Sixth Committee once, when examining the work of the International Law Commission, a representative suggested that the International Law Commission be given a single item to consider and that that body be not allowed to go on to a second subject until the first one had been completely dealt with. A member of the International Law Commission who was sitting near me at the time commented that that method was tantamount to paralysing the International Law Commission, because any organ that has to codify or develop international law must show and be given flexibility to go from one subject to another as the work on each subject matures, grows and becomes ready for discussion.

(Mr. Vallarta, Mexico)

It is for this same reason that what we could do is to select those subjects for which the maximum priority has been suggested, put them all into one paragraph, and state clearly that the Committee will be free to consider one or the other of these items as its work requires. My delegation is extremely eager to see that the Sub-Committee should not be paralysed by being given only a single subject to study.

Mr. MOTT (Australia): My delegation would like to comment briefly on how we feel the action we took this morning in regard to priorities might be translated into a passage in our report. I perhaps do not need to say that my delegation's view on this question remains as set forth in the statement made by the leader of our delegation last week: namely, that matters relating to the moon might profitably be remitted to the Legal Sub-Committee for study.

In considering this question, we have before us the recommendation of the Legal Sub-Committee, which did two things. First, it suggested to this Committee certain subjects for inclusion in the agenda of the next session of the Legal Sub-Committee. As far as my memory serves me, delegations really have not addressed themselves to this specific point, except in so far as they have singled out certain individual subjects for priority attention. This presumably, however, will have to be faced before the next session, and my delegation does not feel that it need cause us too much difficulty.

Second, the Legal Sub-Committee's recommendation asked the Committee to consider the desirability of establishing a priority order for the items listed. Quite a few delegations have commented on this second point, and so far it has seemed to my delegation that the two items singled out most for priority attention have been those affecting the moon and those relating to registration. This led to the action, as we understood it, this morning, that these two items must be given equal priority by the Legal Sub-Committee in its future work.

In translating these views into a passage in our report, my delegation feels that we should keep in mind the fact that we shall have had only a limited time for discussion of this matter in the Committee and that perhaps, in light of this, it would be unwise to take decisions that might be regarded as final and binding upon the Legal Sub-Committee. We should, in other words, leave the Sub-Committee as much flexibility as possible to order its own business in the future.

(Mr. Mott, Australia)

Here, I would particularly express agreement with what the representative of Mexico has just said. If we accept that as the background, it might be possible for the report to make perhaps three points on this subject, and again without prejudice, of course, to the views of Governments as to questions of substance.

The report might say that the Committee, first, has considered the recommendation of the Legal Sub-Committee and has heard a number of statements on it; second, that the Committee was conscious of the need to allow maximum flexibility to the Legal Sub-Committee in ordering and conducting its business; and third, that the Committee could at the same time see some advantage in asking the Legal Sub-Committee to treat as items of high and equal priority -- some such phraseology -- the matters relating to the moon and the question of registration.

I put these views forward just as a suggestion, but I hope they may be of some interest to the Committee.

Mr. CORREA (Brazil): In its statement during the general debate, the Brazilian delegation mentioned three specific points to which we attach priority for the future work of the Legal Sub-Committee. These three points were: the definition of outer space, the question of the registration of objects launched into space for the exploration or use of outer space, and the various implications of space communications. The ordinal enumeration of these items does not imply that we have already set our minds on a specific priority order for them. In fact, it is the opinion of the Brazilian delegation that these three points, as well as the others mentioned in the recommendations put forward by the delegations of Argentina and France, should be dealt with simultaneously.

I shall not comment on the substance of each one. This is not the moment, and as a matter of fact our views have already been expressed in a preliminary way in our opening statement. What I would like to stress is the fact that, in our opinion, they are all basic and of the utmost importance for our future deliberations.

(Mr. Correa, Brazil)

Besides, since the work of the liability convention is already concluded, my delegation believes that no other major issue precludes examination of others. It is thus the opinion of the Brazilian delegation that these three points should be included in the agenda of the next session of the Legal Sub-Committee, with, I would say, a joint and flexible priority order. The Sub-Committee would then see if it would be possible to deal with them simultaneously according to the nature of the concrete proposals to be put forward for the controversy that will eventually arise. In this sense, we are in agreement with the proposals of the representatives of Mexico and Australia.

As to the question of the preparation of a treaty concerning the moon, proposed by the Soviet Union, which was one of the issues that has been referred to by some delegations as one of the priorities, my delegation thinks that its examination should not preclude the questions which I stated above, which have been far longer on our agenda. In any event, I think that it would perhaps be somewhat unorthodox to recommend priority to an item which has not officially been presented to the Committee, and I believe that is the case.

The CHAIRMAN: Does any other delegation wish to comment on the proposals which have been made by the speakers so far, especially the proposal put forward by the representative of Australia and the one put forward by the representative of Brazil?

Mr. DEJAMMET (France) (interpretation from French): I was ready to join the representative of Australia and agree to what he said, correcting not his ideas perhaps, but the impression that he might have derived this morning from the statement of my delegation. If this morning I talked about the preferences of the French delegation in case a time-table were set up for the study of various items, I, of course, mentioned the recommendation made last June by the delegations of Argentina and France, a recommendation which was adopted by the Legal Sub-Committee.

This recommendation, as the Committee knows, does not merely mention two topics, but a series of important items, among which are rules that regulate the activities of man on the moon -- which is dealt with in a draft treaty that we shall have to debate later under item 100 of the provisional agenda of the General Assembly -- as well as the matter to which my delegation also attaches special interest: the consequences of space communications.

(Mr. Dejammet, France)

Therefore, the idea of the French delegation was not at all to ask the Committee to deal with only two items among those approved for study by the Legal Sub-Committee June last. Without going back on the agreement that I gave to the proposal of the representative of Australia, I should like to say that the proposals or more exactly the intentions of the French delegation in fact coincide more or less with the statement of the representative of Brazil. My delegation does agree with the suggestion put forward by the delegation of Brazil.

The CHAIRMAN: I should like to sum up the situation before we go further. The delegation of Australia has put forward a proposal which, as I understand it, stresses that the Legal Sub-Committee should be the master of its own business. I think that is a very wise proposal. It has always been recognized, and it still is recognized, that each committee or sub-committee should be the master of its own business. Therefore, I think that we should not try to pressure the Legal Sub-Committee too much. The Legal Sub-Committee has an excellent Chairman and excellent representatives, experts in this field. I believe that they are able to make up their own minds on how to deal with the problems before them. On the other hand, we have been asked by the Legal Sub-Committee to consider the desirability of establishing an order of priority. Therefore, we cannot avoid making some effort to help the Legal Sub-Committee out of its dilemma. I am sure we all agree that we should try to be helpful and not avoid taking a position on the matter.

In my opinion, the proposal which was put forward by the representative of Australia and the one put forward by the representative of Brazil, which was supported by the representative of France, seem to be a sound basis for our procedure. I would therefore suggest that we take up the proposal put forward by the delegation of Brazil, which, as I understand it, incorporates quite a bit of the Australian proposal; it broadens it by one point. The Brazilian proposal could serve as a basis for an understanding of the Committee on the question of priority. Of course, it should be a flexible priority. I do agree with the representative of Mexico that we should not pressure the Legal Sub-Committee too much. I think that taking up the Brazilian proposal, which is supported

(The Chairman)

not only by the delegation of France but by a number of other delegations -- and I think that the representative of Australia has contributed a great deal to this proposal -- would be of considerable help in solving the problem.

Does any Member wish to comment on what I have just said? I am in the hands of the Committee. If I hear no objection, I shall take it that the Committee agrees to the Brazilian proposal, and I shall ask our Rapporteur to formulate the proposal in close co-operation with those delegations that are interested in offering their assistance, especially those that have put forward concrete proposals, such as the delegations of Australia and France.

It was so decided.

The CHAIRMAN: I am happy that it has been possible with the kind co-operation of members to settle this matter in a relatively short time. What we must next do is formulate the reservations to the report of the Legal Sub-Committee. Those delegations wishing to make reservations should communicate with the Rapporteur so that we can take up the draft report at our meeting either tomorrow afternoon or Thursday. If there is no objection, we shall proceed accordingly.

It was so decided.

The CHAIRMAN: We shall now proceed to the next question, the report of the Scientific and Technical Sub-Committee. Are any delegations prepared to make their statements now on that report? No delegations are ready to speak now on this report. The Committee will hold its next meeting tomorrow morning at 10.30 o'clock.

The meeting rose at 4.10 p.m.