

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.105/C.2/SR.268
21 March 1977
ENGLISH
ORIGINAL: SPANISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Sixteenth session

SUMMARY RECORD OF THE 268th MEETING

Held at Headquarters, New York,
on Wednesday, 16 March 1977, at 10.30 a.m.

Chairman: Mr. WYZNER (Poland)

CONTENTS

General exchange of views (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages, preferably in the same language as the text to which they refer. They should be set forth in a memorandum and also, if possible, incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Department of Conference Services, room LX-2332.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

/...

The meeting was called to order at 10.50 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Miss HOLZER (Austria) pledged the full support of her delegation for a fruitful and constructive outcome of the current session. The Sub-Committee's task continued to be to examine possible legal implications of space activities, to study the most suitable way of dealing with such implications and to devise, where necessary, guidelines and rules, including international legally binding instruments. The very nature of space activities called for extensive international co-operation based on mutually agreed principles and required a sound understanding not merely of the art of law-making, but also of the technical economic and organizational aspects of such activities. Consequently, in order to keep up with the rapid pace of development of space activities, the Legal Sub-Committee sought information and guidance on the technological aspects from the Scientific and Technical Sub-Committee and political guidance from the Committee on the Peaceful Uses of Outer Space and the General Assembly.
 2. The fact that the four fundamental international conventions which had emanated thus far from the Sub-Committee had received widespread acceptance and had entered into force testified to the quality of the work accomplished. Her delegation was confident that that trend would continue, and felt that the Sub-Committee should renew its efforts, concentrating on finding generally acceptable solutions to questions which still remained open in those areas referred to by the General Assembly in its resolution 31/8, paragraphs 3 and 4.
 3. The Scientific and Technical Sub-Committee, at its most recent session, had dealt with a number of issues which were of importance for the work of the Legal Sub-Committee, such as the remote sensing of the earth by satellites, and had discussed in considerable detail new suggestions for the classification of remotely sensed data. One important finding of that Sub-Committee had been that there was no scientific or technical basis for a sensed State not having timely and non-discriminatory access to data relating to its territory. Furthermore, important recommendations had been made concerning the co-ordinating role of the United Nations in the area of remote sensing. Without going into detail with respect to the legal implications of remote sensing, her delegation felt that the method followed - identification of common elements and, on that basis, the elaboration of principles - had proved to be fruitful, and was ready to participate in those efforts, both in the Sub-Committee and in Working Group III.
 4. With regard to the use by States of artificial earth satellites for direct television broadcasting, she noted that the work done by the recent ITU Conference in Geneva could usefully enter into the Sub-Committee's consideration of the question. Finally, with regard to the draft treaty relating to the moon, her delegation felt that the differences of opinion concerning natural resources were not irreconcilable, and expressed the hope that renewed efforts in Working Group I would produce a compromise solution.
- /...

5. Mr. LUTHER (German Democratic Republic) said that, in accordance with Article 13, paragraph 1, of the Charter, the United Nations had to promote the progressive development of international law and its codification. Accordingly, at its sixteenth session, the Legal Sub-Committee had to make an essential contribution to the progressive development of the law of outer space, thus contributing to the peaceful co-operation of States in the field of the exploration and use of outer space. As recommended in General Assembly resolution 31/8, paragraph 4 (a), the Sub-Committee should accord equal priority to all the tasks entrusted to it.
 6. Like many others, his delegation considered that the principle of the freedom of outer space was the foundation for the codification and progressive development of outer space law. From a study of the documents of the First Committee at the thirty-first session of the General Assembly, it appeared that some States did not recognize that principle and were endeavouring to sap the content of that jus cogens norm, by unilaterally claiming sovereignty over parts of outer space. The principle of the freedom of exploration and use of outer space, including celestial bodies, as codified in articles I and II of the Outer Space Treaty of 1967, implied that all States must carry out their outer space activities for the benefit of all mankind; that outer space, including the moon and other celestial bodies, must be open to all States without discrimination of any kind; and that outer space, including the moon and other celestial bodies, was not subject to national appropriation.
 7. The principle of the freedom of outer space was, by its very nature, an original right, which every State could exercise irrespective of any treaty and with due respect for the legitimate interests of other States. The three elements which he had just mentioned formed a unity and could not be contrasted with one another. Therefore, from the postulate that outer space activities should be carried out for the benefit of all countries derived the principle of the peaceful use of outer space and the celestial bodies. A combination of the first and second postulates led to different kinds of uses of outer space and the celestial bodies which, in the view of his delegation, had the same priority, without any normative precedence among the kinds of uses.
 8. The Outer Space Treaty differed from other instruments of international law in that, as a matter of principle, the substantive and territorial application of its norms envisaged the common weal of the international community, as was stated, in particular, in article I. However, the interpretation of the "common weal" clause in a way that promoted mankind to the rank of a subject of international law was untenable from a legal and political point of view. In the final analysis, that approach would lead to the elimination of the international personality of States. Consequently, his delegation believed that the formula based on the "principle of the common heritage of mankind" was inadequate without legal qualification. The negotiations held in previous years in the Sub-Committee concerning the treaty relating to the moon had partly created the impression that the representatives of some States had invoked that formula to establish a legal régime which was of unilateral advantage to their States. The principle of the non-appropriation of outer space and the celestial bodies was of overriding importance for the existence
- /...

(Mr. Luther, German Democratic Republic)

of the freedom of outer space in general. A State infringing that principle would be harming the legitimate interests of all other States and would be contravening the prohibition of appropriation established in article II of the Outer Space Treaty. In that context, his delegation would be gratified if more account was taken of that principle than had so far been the case in the consideration of the draft treaty relating to the moon.

9. Finally, his delegation was of the opinion that, with a realistic approach on the part of all States, it would be possible to make further progress in the development of outer space law. His delegation was ready to make a constructive contribution to that end.

10. Mr. DELROT (Belgium) said that the current session of the Sub-Committee was of the utmost importance and would enable jurists to give free rein to their innovative minds, particularly with regard to three agenda items, namely the treaty relating to the moon, the principles of direct television broadcasting, and the remote sensing of the earth from space, topics which had already given rise to extensive debate and had finally crystallized into a small number of basic questions, whose difficulty lay precisely in their overriding importance. He hoped that it would be possible to arrive at solutions acceptable to all; the work already accomplished by the Committee in the codification of outer space law was the best guarantee of a happy outcome to its deliberations. In that connexion, he recalled that the Convention on Registration of Objects Launched into Outer Space had come into effect in Belgium on 24 February 1977.

11. With regard to the draft treaty relating to the moon, the basic option for Belgium lay in the approval of the principle of an international régime governing the exploitation of the moon's resources; the system which was to govern the pre-operational exploitation plan was still to be established. In that connexion he emphasized the realistic nature of the Italian proposal, which highlighted the economic advantages of the practical use of such resources, which was currently a hypothetical question. The Sub-Committee had been on the point of reaching a solution to the problem at its previous session, and it was to be hoped that delegations would set aside rigid and, in the final analysis, unproductive doctrinaire positions in order to achieve a compromise solution.

12. With regard to direct television broadcasting, it was necessary to bear in mind the ITU rules, which assigned each State or group of States a specific frequency framework within which they could sovereignly carry out radio and television broadcasting, either directly or by means of authorization. Consequently, the requirement of prior consent for the use of frequencies could contravene international law and violate accepted rules. Nevertheless, it should be understood, firstly, that broadcasts to a national public constituted the exercise of a sovereign and inviolable right of States, the necessary corollary of which was respect of the sovereignty of other States. Furthermore, as a member of the European Community, Belgium maintained that the right to disseminate and receive objective information was not limited solely to television broadcasts but covered all mass communication media. It was therefore necessary to find a compromise formula that would take into account technical characteristics,

(Mr. Delrot, Belgium)

State sovereignty and freedom. That solution required only a minimum of imagination and political will. It would involve a radical change; the principle of prior consent would be replaced by another, whereby States would promote to the maximum reception in their national territory, taking into account their security and public order requirements. Views along the same lines had been expressed by the delegations of Canada and Sweden, which had emphasized the concept of granting licences. Finally, there remained the problem of the inevitable technical spill-over in that sphere. For the big Powers, that was a marginal question, so much so that Belgium believed that it could be a beneficial element, provided that the spill-over was not used to make troublesome or ill-intentioned broadcasts.

13. With regard to remote sensing, the basic problem lay in reconciling two imperatives, namely freedom of the use of space for scientific purposes of general interest and respect for the right of States to sovereignty over their national heritage. Belgium was prepared to co-operate in efforts aimed at determining the nature of information obtained by that means with a view to arriving at a definition of a legal régime that would permit a distinction to be made between information of national interest and that of international interest. The fear of harmful use should not hinder the dissemination of information and, in that connexion, he again proposed that a compromise formula should be sought.

14. With respect to the definition of outer space, his delegation had already proposed in the Scientific and Technical Sub-Committee that its limit should be set at 100 km from the earth. That proposal was in line with those of other delegations and implied that activities carried out beyond 100 km would fall within the scope of the 1967 treaty and that space beyond that limit would not be subject to national appropriation. Furthermore, he believed that determining whether certain orbits constituted a limited resource and whether rules for distribution should be envisaged was a separate question; Belgium was prepared to consider that item also and to strive to eliminate possible friction.

15. Mr. HOSENBALL (United States of America) mentioned some of the accomplishments during the previous year in matters of space technology. There was, firstly, the space shuttle testing programme being carried out at NASA's Dryden Flight Research Center. The reuse of launch vehicles would mark the commencement of a new stage in aerospace technology and would lead to more significant international co-operative projects, as indicated by the expected joint operations of the shuttle and the space laboratory (Spacelab) of the European Space Agency (ESA). The first operational flights of the NASA shuttle would take place in 1980 and the aforementioned joint operations had not been restricted to scientists of the countries directly involved; planned experiments selected from 16 countries were to be carried out. More than 220 scientists selected from among 2,000 applications were involved in the Spacelab I mission. The shuttle and the European Spacelab together constituted the nucleus of a "space transportation system" which would be extensively used by the international community. Final selection of the payload for the first flight of Spacelab had been announced on 16 February and reported to the Scientific and Technical Sub-Committee by the representative of the United States on 24 February. Plans were also being made for a free-flying long duration exposure facility to be placed in orbit.

(Mr. Hosenball, United States)

16. Mention should also be made of the results of the Viking missions to Mars, which had been carried out to analyse the environment and surface conditions of that planet through orbiters and landers. Furthermore, NASA's ATS-6 experimental broadcast satellite was again above the western hemisphere and was ready to begin a third year of experimental programmes. That satellite had been used to carry out experimental broadcasts over the North American continent and in India's SITE educational television experiment. It was hoped that it would continue to provide services for several more years. Since January 1976, the Communications Technology Satellite (CTS) had been operating in a joint development of the United States and Canada and would be used to broadcast to small and relatively inexpensive ground terminals for purposes of education, health care, community and special services and for other communications experiments.

17. The United States continued to furnish launch services for a variety of uses. Twelve of the 23 launches scheduled by NASA for the current year were for non-United States entities, both national and multilateral. Similarly, the benefits of many past NASA launches continued to be shared, as was the case with the lunar sample studies, which involved hundreds of scientists in some 20 countries. The number of countries and international organizations officially sharing in NASA's LANDSAT research programmes was now over 50, which meant that the LANDSAT series of remote sensing satellites was one of the most important projects of space research yet undertaken. The programme involved the world-wide collection of data and imagery from the earth's natural environment and resources and had permitted studies to be carried out on the protection of crops, natural vegetation, rainfall and hydrology, cartography, land use and planning, pollution control and other questions. The imagery collected in the United States from LANDSAT was available from the Earth Resources Center at Sioux Falls, South Dakota, which had already served approximately 130 countries. He was especially pleased to note that in addition to the United States, Brazil, Canada and Italy were now operating ground stations to receive, process and disseminate LANDSAT data and that other ground stations were under construction or being planned in Argentina, Chile, Iran and Zaire. LANDSAT I was nearing the end of its operating life which had already greatly exceeded what had been anticipated. LANDSAT II continued to function well which meant that the launching of LANDSAT C might be deferred. It was hoped to place another LANDSAT satellite in orbit in 1981 if the Congress of the United States approved the necessary funds.

18. Other international activities in the field of space research had also yielded highly beneficial results. In 1976, the two Helios solar probes of the Federal Republic of Germany made the closest ever perihelion passages, as a result of which it had been possible to obtain important data on the solar magnetic fields and on solar and terrestrial interactions. The University of Rome was continuing with its investigation of physical processes taking place at the upper reaches of the terrestrial atmosphere in order to determine the fate of the earth's ozone layer. Recently, Japan had launched and placed a satellite in geostationary orbit and the United Kingdom, the Federal Republic of Germany, the Netherlands and France were also carrying out important space programmes. That meant that space research was no longer a novelty or the sole province of a few nations. What was

(Mr. Hosenball, United States)

especially positive was the fact that so many countries were involved in international co-operation to secure the benefits of space exploration and research and he hoped that such co-operation would continue to grow for the benefit of all mankind.

19. Mr. MAIORSKI (Union of Soviet Socialist Republics) said he fully shared the opinions expressed by the representative of the German Democratic Republic with respect to freedom of exploration and use of outer space, and observed that those opinions touched on questions of great theoretical and practical importance which should be considered with great care.

The meeting rose at 11.40 a.m.