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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Sixteenth session

SUMMARY RECORD OF THE 266th MEETING

Held at Headquarters, New York,
on Monday, 14 March 1977, at 3 p.m.

Chairman: Mr. WYZNER (Poland)

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The meeting was called to order at 3.25 p.m.

STATEMENT BY THE CHAIRMAN

1. The CHAIRMAN said that continuing developments in space technology required parallel development of the law of outer space. Although the Sub-Committee had not been successful in formulating international treaties as speedily as might have been wished, at the end of each of its sessions it had nevertheless managed to make significant progress despite the novelty and complexity of the legal problems which it had had to resolve.
2. All four outer space treaties which the Sub-Committee had helped to prepare had entered into force. Seventy-two States had become parties to the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, 67 States to the 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 41 States to the 1973 Convention on International Liability for Damage Caused by Space Objects, and 7 States to the Convention on the Registration of Objects Launched into Outer Space, which had entered into force on 15 September 1976.
3. In accordance with article 3 of the Convention on Registration, the Secretary-General had established a register in which information furnished under the Convention would be recorded, and States had been so notified. Two States, namely Canada and the United States of America, had notified the Secretary-General that they had established national registers under article 2 of that Convention.
4. At its preceding session, the Sub-Committee had continued its work on the draft treaty relating to the moon, giving priority to the question of the natural resources of the moon; in the view of many delegations, resolution of the latter question would greatly facilitate agreement on the other two remaining issues, namely, the scope of the treaty and information to be furnished on missions to the moon. Unfortunately, notwithstanding the substantial efforts of Working Group I, the Sub-Committee had not been successful in reaching a final solution.
5. At the fifteenth session Working Group II had been successful in formulating nine principles governing the use by States of artificial earth satellites for direct television broadcasting. A number of important and difficult matters still had to be resolved, and any progress the Sub-Committee might make in that and any other area would be a suitable contribution to the celebration of the twentieth anniversary of the modern space era, which had begun in 1957 with the launching of the first artificial satellite by the Soviet Union. In that connexion, the World Administrative Radio Conference for the Planning of the Broadcasting Satellite Service which had been convened by ITU had only recently concluded its work in Geneva. It was to be hoped that the progress made at that Conference with regard to many technical aspects of broadcasting by satellites would help the Sub-Committee to solve at its current session the outstanding political and legal questions relating to DBS and reach agreement on a full set of principles.

(The Chairman)

6. Working Group III had continued at the preceding session its detailed consideration of the legal implications of remote sensing of the earth and had made significant progress in formulating draft principles on certain "common elements" in the positions of delegations. However, a number of undecided passages in square brackets still remained in the draft principles formulated by that Working Group.
7. The Sub-Committee had not considered the item "Matters relating to the definition and/or delimitation of outer space and outer space activities" in a more substantial manner at its preceding session owing to limitations of time. However, a number of very useful statements had been made on the subject, stressing the importance of the item and expressing the wish that it should receive more detailed consideration in future sessions.
8. In considering the Sub-Committee's report on its fifteenth session, the Committee on the Peaceful Uses of Outer Space had taken note of the Sub-Committee's work on the draft treaty relating to the moon and had expressed the hope that further determined efforts would be made to finalize the text of that Treaty. The Committee had agreed that the Sub-Committee should continue to consider the draft treaty as a matter of high priority. The Committee had also noted progress made on the questions of direct television broadcasting by satellites and remote sensing and had agreed that those items should continue to be dealt with as a matter of high priority. As to the question of the definition and/or delimitation of outer space and outer space activities, the Committee had agreed that the Sub-Committee's work in that area should be continued, and it had requested the Secretariat to revise the background paper and prepare a synoptic table of proposals on that subject.
9. In its resolution 31/8, the General Assembly had endorsed the report of the parent Committee and had noted with satisfaction the work of its fifteenth session. The Assembly had also recommended that high priority should be given to the draft treaty relating to the moon, the elaboration of draft principles governing direct television broadcasting and the legal implications of remote sensing and that the remaining time should be devoted to the question of definition and/or delimitation of outer space and outer space activities. The time that had elapsed since the fifteenth session had enabled delegations to give further thought to the outstanding issues, and he was confident that the Sub-Committee would carry its work substantially forward at the current session in its usual spirit of mutual understanding and co-operation.

ADOPTION OF THE AGENDA

10. The agenda was adopted.

ORGANIZATION OF WORK

11. The CHAIRMAN suggested that the Sub-Committee should devote the first week of its session to agenda item 2, the second week to agenda item 4 and the third

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(The Chairman)

week to agenda item 3. At the end of the third week, the Sub-Committee could then consider how best to use the remaining time, having regard for the consideration of item 5 and the adoption of the report. There should be a certain degree of flexibility with respect to the allocation of time between agenda items 2, 4 and 3, on the understanding, however, that the same high priority should be accorded to all three.

12. He suggested that, as at the fifteenth session, the Sub-Committee should establish three working groups. Working Group I would consider agenda item 2, Working Group II would consider agenda item 3, and Working Group III would consider agenda item 4. Mr. Haraszi (Hungary) could continue to serve as Chairman of Working Group I, and the chairmanship of the other Working Groups could be decided after the appropriate consultations.

13. Mr. MACAULAY (Nigeria) said that it would be difficult for the Sub-Committee to discuss agenda item 4 without first deciding upon a definition of outer space itself. He therefore suggested that agenda item 5 should be divided into two parts and that the question of the definition of outer space should be discussed at the same time as agenda item 4.

14. The CHAIRMAN said that, according to paragraph 4 of General Assembly resolution 31/8, agenda items 2, 3 and 4 should be accorded high priority. He appealed to the representative of Nigeria not to insist on his suggestion.

15. Mr. MACAULAY (Nigeria) agreed not to insist upon his suggestion.

16. Mr. DELROT (Belgium) said that his delegation had made arrangements for the travel of its experts on the assumption that the agenda items would be discussed in the order set out in the provisional agenda. However, if it suited members of the Sub-Committee to discuss items in the order suggested by the Chairman, his delegation would have no objection.

17. Mr. GREENWOOD (United Kingdom) said that his delegation had also made its arrangements on the assumption that agenda item 3 would follow agenda item 2. His delegation would not object to the proposed change in the order of items if that was the general wish, but he asked that delegations should be informed sooner of any changes that were to be made.

18. Mr. HOSENBELL (United States of America) said that his delegation had requested a change in the order of agenda items because of problems concerning the availability of personnel. He hoped that the proposed new order of items would be acceptable to the other delegations.

19. Mr. LINDENBERG SETTE (Brazil) said that his delegation was prepared to discuss items in any order which was both acceptable to delegations and consistent with the criteria established by the General Assembly.

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20. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Committee wished to follow the programme of work which he had suggested.

21. It was so decided.

22. The CHAIRMAN informed the Committee that Colombia, Ecuador, Guyana and Venezuela had requested the right to participate in the Sub-Committee's meetings. Since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, he suggested that the Sub-Committee should take no formal decision on the matter but that the representatives of the States in question should be permitted to attend the formal meetings of the Sub-Committee and to direct to the Chair their requests for the floor if they wished to make a statement.

23. It was so decided.

GENERAL EXCHANGE OF VIEWS

24. Mr. PIRODOV (Union of Soviet Socialist Republics) said that space activities were increasingly linked to economic, scientific and cultural development. Furthermore, in accordance with article 1 of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, outer space activities benefited all countries, and not just the countries directly involved. The concept that the exploration and use of outer space was the province of all mankind had thus stood the test of time. It was important that all States should become Parties to the 1967 Treaty, and the Sub-Committee should launch an appeal to that effect.

25. In future agreements on international space law, the formula "the province of all mankind" should continue to be used. Several recent events had shown that space activities were indeed the province of all mankind; he mentioned the signing of the Convention on the International Organization for Maritime Satellite Communication (INMARSAT), by which maritime communication by satellite was made available to all States, and the report of 16 February 1977 (A/AC.105/C.1/L.96) in which the Soviet Union had announced that it was prepared to carry out work on remote sensing of the territory of other States and to make the resulting data available to the States concerned on the basis of the appropriate agreements. The Sub-Committee would be able to do much to ensure that outer space activities would continue to promote peace, friendship and international co-operation.

26. With respect to the coming session, the conclusion of a treaty relating to the moon had been delayed because of disagreement over the legal status of the natural resources of the moon. However, the two opposing positions had much in common, and every effort should be made to reach a consensus. It might be possible to do so by using treaty language which suited all parties but which did not substantively affect the content of the over-all agreement.

27. With respect to agenda item 3, his delegation had made significant concessions on those principles which had already been established, and he

(Mr. Pirodov, USSR)

regretted that not all delegations had acted in a similar manner. Nevertheless, it should be possible to reach an agreement on principles for direct television broadcasting at the current session. In that connexion, it was extremely important to reach agreement on the so-called principle of prior consent. Such an agreement would not hinder the development of television broadcasting by satellite, and the principle of prior consent to foreign direct television broadcasting would be quite consistent with the technical decisions taken at the ITU Conference at Geneva in January-February 1977.

28. With respect to agenda item 4, his delegation suggested that the Sub-Committee should establish specific criteria for the division of remotely-sensed data into two categories, namely data which could be freely disseminated and published for general use, and data which could be disseminated only with the agreement of the sensed State. Soviet specialists had reached the conclusion that a spatial resolution of 50 metres could be used as the criterion for dividing data into the two categories.

29. Ms. RYNEN (Committee on Space Research) said that because basic science in general and space research in particular had an increasing influence on human society in all its facets, the activities of COSPAR were increasingly related to the legal aspects of space research.

30. In December 1976 the issue of the delimitation of outer space had been suddenly thrust to the fore when eight States in the area of the Equator had claimed priority rights on the space above their territory up to an altitude of 35,000 kilometres. The States concerned had explained that their aim was to secure for themselves the advantages of outer space, but they had not indicated whether they were planning to levy taxes on the use of the space they had claimed or how their claim would be enforced. In that connexion, document A/AC.105/164, which had been prepared by COSPAR at the request of the Scientific and Technical Sub-Committee, might provide an answer to the question of the delimitation of outer space, particularly with regard to the definition of its lower boundary.

31. The discussion of the scope of the draft treaty relating to the moon seemed to centre on whether the treaty should apply only to the moon or to other celestial bodies as well. If the latter was to be the case, one possibility would be to restrict the application of the treaty to the celestial bodies of the planetary system alone. The phrase "other celestial bodies" would encompass all the bodies of cosmic space, including the most remote ones, which would never be reached by man and which might even be inhabited by other intelligent beings and COSPAR had in the past pointed out the neo-colonial aspect of such a situation. On the other hand, the restricted extension of the treaty to "the other bodies of the planetary system" would not entail such difficulties, since evidently none of those bodies were populated.

32. Another difficult matter was the definition of the term "natural resources" of celestial bodies. The proposals put forward so far had been based on the concept of economic profit to be derived from extra-terrestrial materials.

(Ms. Rynen)

However, it was questionable whether lunar or planetary material could ever yield economic profit, in view of the expense of planetary travel. Accordingly, she suggested defining the natural resources of the moon and other bodies of the planetary system as everything of their surface or under it which by its origin, nature or composition served mankind; that would cover those materials which, while not having commercial value in the strict sense, were of scientific interest to mankind. A definition which included the space above the surface of the planets would provide for the remote possibility of exploiting the huge amounts of energy that existed in the atmospheres of certain planets, such as Jupiter.

33. A COSPAR Working Group was concerned with the application of space research to meteorology and earth surveys. A series of manuals had been produced for the benefit of scientists, mainly in developing countries, who wished to set up stations for the reception of remote-sensing data. A limited number of those manuals was still available. The forthcoming twentieth plenary meeting of COSPAR, to be held at Tel Aviv in 1977, would include a symposium, organized in co-operation with FAO and WMO, on the contribution of space observations to global food information systems.

34. With regard to the exploration of the planetary system, the International Council of Scientific Unions had agreed at its General Assembly at Washington, D. C., in October 1976 to establish a major co-operative research programme to be known as the International Solar System Programme (ISSP). COSPAR had been asked to organize the Programme and was in the process of establishing a Steering Committee. It was expected that work would begin in the summer of 1977.

35. Lastly, COSPAR welcomed the possibility of convening a United Nations Conference on Outer Space Matters in 1978 and was willing to contribute to such a conference in any way deemed appropriate.

The meeting rose at 4.35 p.m.