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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Fifth Session

SUMMARY RECORD OF THE SIXTY-EIGHTH MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 26 July 1966, at 3 p.m.

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Representative of the International Atomic Energy Agency:

	Mr. PISKAREV	
Secretariat:	Mr. STAVROPOULOS	Legal Counsel
	Miss CHEN	Secretary of the Sub-Committee

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CONSIDERATION OF A TREATY GOVERNING THE EXPLORATION AND USE OF OUTER SPACE, THE MOON AND OTHER CELESTIAL BODIES (A/AC.105/C.2/L.12, L.13) (continued)

The CHAIRMAN invited the Sub-Committee to take up article VIII of the Soviet draft, corresponding to article 10 of the United States draft.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that even before the adoption of the Declaration of Legal Principles governing the activities of States in the exploration and use of outer space, the Soviet Union, in a draft put forward in 1962, had proposed in principle that "the implementation of any measures that might in any way hinder the exploration or use of outer space for peaceful purposes by other countries shall be permitted only after prior discussion of and agreement upon such measures between the countries concerned" (A/AC.105/L.2, op. para. 6). The USSR had always been in favour of that principle, which now found expression in article VIII of its draft treaty (A/6352). The first sentence of that article read as follows: "In the exploration and use of outer space, States Parties to the treaty shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space, including activities on celestial bodies, with due regard for the corresponding interests of other States." That idea seemed to be shared by the members of the Sub-Committee and was also expressed in the United States draft. The second sentence of article VIII which dealt with the necessity to avoid harmful contamination when conducting research on celestial bodies, could be brought into line with article 10 of the United States draft. He had no objection to that article, or to the Japanese amendment (Working Paper No. 10), which in substance would replace the words "contamination of celestial bodies" by the expression "contamination of outer space including celestial bodies"; his delegation would modify the second sentence of article VIII to take account of those texts. The sentence would then read as follows: "States Parties to the treaty shall conduct exploration and research in outer space, including the moon and other celestial bodies, in such a manner as to avoid harmful contamination as well as adverse changes in the

(Mr. Morozov, USSR)

environment of the earth resulting from the return of extra-terrestrial matter, and to this end shall, as appropriate, take the necessary steps". The new text should answer the purpose of article 10 of the United States draft and the Japanese amendment to that article. The rest of article VIII would remain unchanged, and he hoped that the members of the Sub-Committee would support the whole of the article, thus amended.

As to the amendment proposed by the Japanese delegation to article VIII of the Soviet draft (Working Paper No. 11), its main purpose was to stipulate that if a State Party to the treaty had reason to believe that an activity or experiment would cause potentially harmful interference with the activities of other States Parties "it shall, before proceeding with any such activity or experiment, notify the Secretary-General of the United Nations of such activity or experiment in accordance with (article 4 of the United States draft)". That amendment contained two distinct parts: first, the Secretary-General of the United Nations would be notified of the activities in question in accordance with article 4 of the United States draft; second, the information to be communicated to him would concern an activity or experiment which might cause potentially harmful interference with the activities of other States Parties to the treaty. On the first point, it would be remembered that no agreement had yet been reached on the nature of information to be communicated to the Secretary-General, and that his delegation adhered firmly to the amendment (Working Paper No. 4) it had proposed to article 4 of the United States draft, i.e., to the principle that the States concerned would provide the information in question on a voluntary basis. His delegation could not therefore accept that part of the Japanese amendment. On the other hand, it had no objection to the second part taken separately. However, the same idea appeared, in a slightly different form, in article VIII of the Soviet draft. Since it was stated in that article that a State having reason to believe that an activity or experiment might cause potentially harmful interference with activities of other States Parties to the treaty should undertake appropriate international consultations, that obviously meant that the said State should provide information on its intentions: it went

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(Mr. Morozov, USSR)

without saying that no consultation could take place without prior notification. In his delegation's view, that method, which was to notify those concerned before proceeding with any activity or experiment, was more effective than that proposed by the Japanese delegation. Besides, as could be seen from the last articles of the Soviet draft, the USSR was not prepared to entrust the Secretary-General of the United Nations with functions connected with the implementation of the treaty. The information in question should rather be communicated directly to the Parties.

Nevertheless, to take into account certain proposals that had been made on the subject, his delegation would agree that States Parties should voluntarily - that condition must never be lost sight of - submit to the Secretary-General and the world scientific community information relating to the nature and conduct of the activities referred to in article VIII of the Soviet draft. At the same time, the provision of information concerning the potentially harmful effects of an activity or experiment must certainly be compulsory, and that was what article VIII stipulated. To make doubly certain, the article even specified that any State Party having reason to believe that an activity or experiment planned by another State might cause potentially harmful interference with peaceful space activities could request consultations on the subject. Information concerning potentially harmful experiments (article VIII) and the information referred to in another article of the draft treaty must not therefore be confused: communication to States of the former should be compulsory, whereas the latter could be submitted to the Secretary-General on a voluntary basis.

Thus, the idea underlying the Japanese amendment was expressed in article VIII of the Soviet draft, and there seemed no need to modify the article.

Mr. YAMAZAKI (Japan) said that he would like first to explain the amendment (Working Paper No. 10) proposed by his delegation to article 10 of the United States draft. The two drafts under study emphasized the necessity to avoid harmful contamination, and the United States draft provided for steps to avoid adverse changes in the environment of the earth resulting from the return of

(Mr. Morozov, USSR)

environment of the earth resulting from the return of extra-terrestrial matter, and to this end shall, as appropriate, take the necessary steps". The new text should answer the purpose of article 10 of the United States draft and the Japanese amendment to that article. The rest of article VIII would remain unchanged, and he hoped that the members of the Sub-Committee would support the whole of the article, thus amended.

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(Mr. Yamazaki, Japan)

extra-terrestrial matter. However, neither article VIII of the Soviet draft nor article 10 of the United States draft seemed sufficient. Celestial bodies, which were of great interest for the scientific study of the universe, were also an invaluable source of knowledge of geophysics, geochemistry, biology, etc., and could provide clues to the origin of the Earth. Great care must therefore be taken to preserve their resources and their natural milieu.

His delegation also proposed an amendment to article VIII of the Soviet draft (Working Paper No. 11). The second sentence of the article would be deleted, for the question of contamination could be dealt with separately in more detail, which was the purpose of Working Paper No. 10. There would also be changes in the third sentence. Article VIII provided that States should undertake international consultations before proceeding with any activity which might cause potentially harmful interference with the efforts of other States Parties to the treaty. In those conditions, the space Powers should have no difficulty in giving the Secretary-General of the United Nations advance notice of such activities. The representative of Bulgaria had stated that there was no link between article 4 of the United States draft and article VIII of the Soviet draft, because the reporting system envisaged in article 4 referred to communications to be submitted after the activities had been completed. However, article 4 of the United States draft did not preclude the possibility of prior notice in certain cases. In any event, it was essential, in the interests of safety, that any State proposing to conduct an activity which might interfere with the activities of other States Parties should give the latter prior notice.

In connexion with the USSR representative's comments on Working Paper No. 11, he recalled that during the discussion of article 4 of the United States draft, his delegation had made clear its support for the idea of compulsory reporting as provided in that article. His delegation maintained that position.

Mr. GOLDBERG (United States of America) welcomed the general agreement that the treaty should include a provision designed to avoid contamination of celestial bodies and adverse changes in the environment of the earth resulting from the return of extra-terrestrial matter and that the USSR representative was willing to include the essence of article 10 of the United States text in the draft treaty. The United States delegation, in its turn fully supported article VIII of the Soviet draft and considered that some of the amendments put forward by Japan might be included in it. It intended to submit a working paper in which it had tried to merge article 10 of its draft and article VIII of the Soviet draft. Knowledge of the questions dealt with in the two texts was still meagre and they required scientific study. Consultations were being conducted on the subject, particularly through the COSPAR Consultative Group. Care must be taken, however, not to establish too rigid procedures, which might hinder research.

Mr. MOROZOV (Union of Soviet Socialist Republics) assured the representative of Japan that the Soviet Union was willing to provide for two types of information in the treaty. The first type would concern activities undertaken on celestial bodies and would be communicated voluntarily to the Secretary-General of the United Nations, the international scientific community and the public in general. The second type, which was dealt with in article VIII of the Soviet draft treaty, was of a special nature, different from that of the information to be supplied to the Secretary-General. Every State Party to the treaty would be obliged to transmit to other parties information on activities or experiments which might interfere with their own activities and undertake appropriate international consultations before proceeding with any such activity or experiment. The Soviet Union, however, was not prepared, for a number of reasons, to communicate such information to the Secretary-General. In the first place, it would reach the other parties for whom it was primarily intended, more quickly if it did not pass through the intermediary of the Secretary-General of the United Nations. Furthermore, for reasons of principle, the Soviet Union did not intend that the Secretary-General should be the depositary for the treaty nor that he should be given functions which might be interpreted as playing a role

(Mr. Morozov, USSR)

in the application of the treaty by States. According to the Soviet draft, the depositaries would be the Governments Parties to the treaty. The only difference between the Soviet and Japanese texts was that, according to the former, States would communicate the necessary information directly to other Parties, whereas, according to the latter, they would do so through the intermediary of the Secretary-General. The Soviet Union could not accept the latter procedure. That, however, did not in any way affect the fact that the information on activities or experiments which might interfere with the activities of other States Parties to the treaty must be provided on a compulsory basis. It was essential to distinguish clearly between the information transmitted voluntarily to the Secretary-General and the special information dealt with in article VIII of the Soviet draft, which must be communicated on a compulsory basis to other States Parties to the treaty.

Mr. ANGELOV (Bulgaria) stated that the Soviet draft provided for appropriate international consultation as the machinery for applying the provisions contained in article VIII. The Japanese delegation, while keeping the method proposed in article VIII of the Soviet draft, also proposed that the Secretary-General of the United Nations should be informed, as in article 4 of the United States draft, before any activity or experiment was undertaken that might interfere with the activities of other States. Such a link between article VIII of the Soviet draft and article 4 of the United States draft seemed questionable, since article 4 of the United States draft was concerned with the manner in which States would have to make known the results of their scientific research in outer space and on celestial bodies. It was obvious that article VIII of the Soviet draft dealt with a quite different question. Furthermore, article 4 of the United States draft dealt with communication after the activity whereas in the other case the information would have to be provided before the activity itself was undertaken. He could not interpret article 4 (a) of the United States draft in the same way as the Japanese representative. The use of the words "promptly" and "locations of such activities" indicated very clearly that the information was supposed to be provided after the activity had been undertaken. That was why

(Mr. Angelov, Bulgaria)

the amendment proposed by the Japanese delegation, which linked article VIII to article 4 of the United States draft, was not acceptable to his delegation. It was not possible to establish a link between the two texts since they dealt with two very different fields.

Mr. CHAMMAS (Lebanon) noted that the last part of article VIII of the Soviet draft reproduced the last part of paragraph 6 of the Declaration of Legal Principles and that the penultimate sentence contained an obligation to the effect that a State Party to the treaty, having reason to believe that an activity or experiment might interfere with the activities of other States Parties, should undertake appropriate international consultations. Any State Party might also request consultations concerning any activity or experiment which might interfere with activities in the peaceful exploration and use of outer space and celestial bodies. He noted, however, that no obligation was placed on the State which undertook that activity or experiment. That State, therefore, might or might not accede to the request for consultation. He asked the Soviet representative to clarify the point.

Mr. MOROZOV (Union of Soviet Socialist Republics) stated that the text being drafted was not a resolution or declaration, but a treaty having compulsory force and that it would therefore be compulsory to comply with the requests for which it provided. Article VIII offered, in a sense, a double guarantee. The obligation lay in the first place with the State which was going to undertake activities that might interfere with the activities of other States. According to the second part, however, any other State might request consultations on those activities if the State wishing to undertake them had not communicated any information concerning them. Any other interested State which had reason to believe that its interests might be impaired could therefore take the initiative in opening international consultations.

Mr. GOTLIEB (Canada) considered that the principles dealt with in paragraph 6 of the Declaration of Legal Principles and article VIII of the Soviet text constituted one of the most important points in international law concerning

(Mr. Gotlieb, Canada)

the exploration and use of outer space, namely that States should conduct their activities in outer space with due regard for the corresponding interests of other States. That principle was closely linked with the duty of States to co-operate with each other, which was laid down in the Charter of the United Nations, and to the fundamental idea that outer space should be used and explored for the benefit of all mankind.

The discussions which had taken place on article VIII and the very nature of the article helped to make the Sub-Committee's task clearer. The international community was not yet in a position to draw up an instrument on the rights and duties relating to the freedom of outer space. It was not a question of indicating that the principles set forth in the present article were valid subject to subsequent conventions. Those principles were in themselves a starting point and would be applied in practice later, in particular in the field of liability and the return of astronauts. It was therefore essential to define and codify now the largest possible number of points of agreement. In 1962, for example, Canada had proposed at the Disarmament Conference that the orbiting of weapons of mass destruction in outer space should be prohibited. The United Nations had accepted that principle eighteen months later and extended it to celestial bodies. At the present time, the leading space Powers seemed to be willing to include such a obligation in a treaty and to declare also that celestial bodies would be used solely for peaceful purposes and that there would be no military bases or manoeuvres on the moon. The Sub-Committee's task, therefore, was to reach agreement on a number of points, so that general principles could be drawn up which would govern the exploration and use of outer space and would serve as a basis for the development of international space law.

The CHAIRMAN observed that the Sub-Committee had concluded the first reading of the essential provisions of the draft treaty. He suggested that the text of those provisions should be referred to the working group and that the Sub-Committee should briefly examine the other articles, which were not in the main body of the treaty.

Mr. KHALLAF (United Arab Republic) submitted for the Sub-Committee's consideration the text of a new article concerning space telecommunication (Working Paper No. 19), which read as follows:

"The Parties to the treaty, recognizing the enormous potentialities of space applications for communication purposes and more specifically for sound and television broadcasting, undertake to make use of such applications only in accordance with the resolutions of the General Assembly which condemn using the media of information for hostile propaganda, and urge States to utilize them for promoting friendly relations among nations, based upon the purposes and principles of the Charter. In particular, they shall undertake to regulate at the world-wide level, direct broadcasting by artificial satellites, as regards both its technical and programme contents aspects. They undertake to refrain from using communication satellites for direct broadcasting until such regulations are set by the competent international organizations."

The proposal was not a new one; the last preambular paragraph of the Soviet draft treaty mentioned General Assembly resolution 110 (II), which was concerned with propaganda and friendly relations among nations. That resolution was also mentioned in the preamble to the Declaration of Legal Principles adopted by the General Assembly at its eighteenth session. His delegation therefore considered that those questions should be mentioned in a provision of the treaty which the Sub-Committee was endeavouring to draft. It was admittedly impossible to enter, in such a treaty, into the details of a problem which required scientific and technical studies, but it was necessary to include in it an article pointing to a possible solution. In his delegation's opinion, an international treaty on the question of space communication should be placed on the Legal Sub-Committee's agenda. The new article which the United Arab Republic was proposing drew attention to the potentialities of space applications for communication purposes; it provided for an undertaking by States Parties to make use of such applications in accordance with General Assembly resolutions 110 (II) and 1962 (XVIII); and it mentioned the extremely important problem of direct broadcasting from satellites, which was of considerable importance in the modern world. Pending the preparation of a binding legal instrument on the subject, States Parties would undertake to refrain from using communication satellites for direct broadcasting. There was

(Mr. Khallaf, United Arab Republic)

still time, in his delegation's view, to devise solutions that would make space communications an effective instrument of international co-operation.

Mr. MOROZOV (Union of Soviet Socialist Republics) drew attention to the progressive nature of the proposal just submitted by the representative of the United Arab Republic. The general principles on which it was based were fully in keeping with the spirit and objectives of the proposed treaty. Those principles were mentioned in the preamble to the Soviet draft treaty, and had been mentioned earlier in the draft declaration submitted by the Soviet Union in 1962. The Sub-Committee should give the United Arab Republic proposal careful consideration.

Mr. GOLDBERG (United States of America) said that the implications of the United Arab Republic representative's proposal deserved careful study. Telecommunication was an extremely important subject, and the Scientific and Technical Sub-Committee should give it the necessary attention. It might also be a subject for discussion in the Legal Sub-Committee.

Mr. de CARVALHO SILOS (Brazil) said that his delegation endorsed the basic idea behind the United Arab Republic representative's proposal. His delegation had long urged the necessity of regulating the use of outer space for communication purposes, especially for direct broadcasting by means of satellites. It reserved the right to take up the subject again at a later stage in the Sub-Committee's work.

Mr. Krishna RAO (India) associated his delegation with the basic principle underlying the proposal submitted by the representative of the United Arab Republic. A few necessary drafting changes could be made by the working group.

Mr. DARWIN (United Kingdom) said that the United Arab Republic representative's proposal was a very interesting one which went some way further than the last preambular paragraph of the Soviet draft treaty. In addition, it introduced certain complex elements which would require close examination before the scope of the resulting rules could be fully appreciated. Thus the concept of hostile propaganda would need careful analysis before it could be regarded as a matter for an express obligation. Secondly, careful consideration should be given to the proposal that programme content should be regulated at the world-wide

(Mr. Darwin, United Kingdom)

level. That question should be examined in the light of the normal freedom of speech recognized in many countries, and of the measure of autonomy enjoyed by broadcasting entities under certain systems. The importance of such a study was emphasized by the fact that the last sentence in the United Arab Republic proposal would have the effect of preventing the use of communication satellites for direct broadcasting until all the technical questions involved had been studied and resolved. His delegation would make a careful study of the proposal.

Mr. VINCI (Italy) approved the principle underlying the draft article submitted by the representative of the United Arab Republic. The proposal was of the greatest interest and was in harmony with the objectives of the treaty under consideration. It should be carefully studied by each delegation and, in due course, examined in the light of the results of the Sub-Committee's discussions.

Mr. RIHA (Czechoslovakia) said that he had listened with interest to the proposal submitted by the representative of the United Arab Republic. Czechoslovakia had long been interested in space telecommunication programmes, and in the Scientific and Technical Sub-Committee two years previously his delegation had put forward the idea of elaborating the principles which should govern space communications. The idea had not been accepted at that time. His delegation hoped that the United Arab Republic representative's proposal would lead to a thorough study of the problem. The Czechoslovak delegation would state its views at a later stage.

Mr. DELEAU (France) said that his delegation was keenly interested in the proposal just submitted by the representative of the United Arab Republic. The proposal represented one of the technical aspects which should be dealt with in the draft treaty under consideration, and it showed the need to define very clearly the scope of the Sub-Committee's negotiations. His delegation reserved the right to speak again on the subject.

Mr. TELLO MACIAS (Mexico) said that his delegation supported the idea underlying the proposal just submitted by the representative of the United Arab Republic. He reserved the right to discuss the wording of the text at a later stage, but felt that there should be no objection in principle to the new draft article.

The CHAIRMAN said that the text of the proposal submitted by the representative of the United Arab Republic would be circulated as a working paper and discussed in the working group. He invited the Sub-Committee to take up the question of the settlement of disputes, which was the subject of article 11 of the United States draft and article X of the Soviet draft.

Mr. DELEAU (France) considered it essential that a multilateral treaty of that type should include a procedure for the binding settlement of disputes. The Soviet text, which referred only to a customary practice, was altogether insufficient in that respect, whereas the United States text, which recognized the competence of the International Court of Justice in the matter, was satisfactory. It might also be stated that the parties might agree on some other means of binding settlement.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that, when the French representative specified what improvements he wished to be made, he himself would consider the possibility of amending the text of the Soviet draft article X in order to make it acceptable to all. However, there was no need to go so far as to mention in that article all the means for the settlement of disputes which were enumerated in the Charter of the United Nations.

He was also prepared to give favourable consideration to the proposal that disputes relating to the interpretation and application of the treaty should be referred to the International Court of Justice, subject to the consent of all parties concerned.

Mr. DARWIN (United Kingdom) said that he agreed with the observations of the French representative and expressed his preference for the United States draft, which provided the assurance that a judgement binding on the parties could be obtained. However, his delegation would also be able to accept an alternative procedure which provided the same assurance and was equally satisfactory, if it had the support of the Sub-Committee.

Mr. Krishna RAO (India) recalled that in 1958, in connexion with the Conventions on the law of the sea, the States Parties to the Conventions had been given the option of signing or not signing a separate protocol; the same had been true of the Vienna Conventions of 1961 and 1963. India had accepted without

(Mr. Krishna Rao, India)

reservation the jurisdiction of the International Court of Justice. In the case of the Vienna Convention it had signed the optional protocol but had refused to accept the provision which sought to compel the parties to have recourse to the Court at the desire of only one of them because it had feared that a number of States wishing to adhere to a convention might be prevented from doing so by that provision. In the present instance, the text of article X of the Soviet draft was not entirely satisfactory. His delegation could not, moreover, accept article 11 of the United States draft, which would give the International Court jurisdiction at the request of only one of the contracting parties.

Mr. GOLDBERG (United States of America), associating himself with the views expressed by the representatives of France and the United Kingdom, said that the United States draft aimed at establishing a definitive method of settling disputes, whether through reference to the International Court or through recourse to some other body which might be deemed appropriate.

Mr. PARTLI (Hungary) said that the Soviet draft, which proposed the diplomatic channel as the means of settling disputes, was suited to the existing situation and that there was no reason to doubt its efficacy. In accordance with that text the parties would agree, by means of diplomatic consultations, on the means of peaceful settlement appropriate to each case. Under article 11 of the United States draft, on the other hand, the International Court of Justice would have compulsory jurisdiction, a provision which a large number of States could not accept. Moreover, the Court itself, in its decision of 19 May 1953 in the Ambatielos case and earlier, with reference to the interpretation of the clauses of the peace treaties and to the case of the Anglo-Iranian Petroleum Company, had recognized that no sovereign State could be compelled, without its consent, to submit legal disputes in which it was involved to arbitration proceedings and that the consent of all parties constituted the foundation of the Court's jurisdiction. Article 36 of the Statute of the Court was, in fact, based on that principle. Furthermore, the Court recognized that its jurisdiction was limited to cases where the declarations of the two parties coincided or, if that was not the case, that it must proceed on the basis of the more limited declaration.

(Mr. Partli, Hungary)

In those circumstances, his delegation could not subscribe to the United States text and would support the Soviet proposal.

Mr. CHAMMAS (Lebanon) said that as the divergent positions which stemmed basically from acceptance or rejection of the compulsory jurisdiction of the Court had been clearly set forth, it was useless to prolong the debate on that subject. He proposed that the Chairman should read out the relevant articles and that any discussion of the matter should be referred to the working group, which would submit to the Sub-Committee whatever agreement it might reach.

He fully agreed with the principle underlying the important proposal made by the representative of the United Arab Republic. It should be made the subject of an article, the details of which would have to be discussed initially in the working group.

The CHAIRMAN said he had thought that the proposal of the United Arab Republic might lead to an exchange of views which would have enabled those who were interested to state their positions; the working group would then have embarked on a detailed discussion. If there were no further speakers on that subject, the Sub-Committee could take up the other articles, which related essentially to the two problems of accession and ratification. It could deal simultaneously with article XI of the Soviet draft and articles 13, 14, 17 and 18 of the United States draft, as they dealt with the same subject; it could then examine articles 15 and 16 of the United States draft, which had no counterpart in the Soviet draft.

Mr. CHAMMAS (Lebanon) said that although he stood by his proposal, he was not opposed to the Sub-Committee's engaging in a brief discussion if that might prove useful. He feared, however, that a discussion of a political nature might ensue.

The CHAIRMAN invited the Sub-Committee to discuss the articles in question as briefly as possible.

Mr. RUDA (Argentina) said he would like to reaffirm the traditional position of his country, namely, that the Argentine Government could not support a provision which might lead to a legal decision on a dispute without its having signified its agreement in advance in each particular case. Argentina had recognized the compulsory jurisdiction of the Court only in certain exceptional cases relating exclusively to humanitarian decisions.

The CHAIRMAN said that with the statement by the Argentine representative he took it that the Sub-Committee had completed its discussion of article X of the Soviet draft and article 11 of the United States draft and that it could proceed to take up article XI of the Soviet draft and articles 13, 14, 17 and 18 of the United States draft.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that although article XI of the Soviet draft appeared among what were called the final clauses of the treaty, it should be regarded as one of the treaty's key provisions. Paragraph 1 of that article stipulated that the treaty was open to all States for signature. To take a different position, for political reasons having nothing to do with the United Nations Charter or with the purposes of the treaty, would be to jeopardize the constructive work which had been accomplished. While he respected the various points of view on that subject, he appealed to all delegations, in view of the exceptional importance and lofty objectives of the treaty in question, to put aside their usual objections.

Mr. GOLDBERG (United States of America) said that the wording of article 12 of the United States draft was based on that used in United Nations treaties and resolutions. On the question of the way in which States were to be invited to accede to a treaty, there were differences of opinion which resulted from long-standing political situations. The United States position on that subject was well known, and he hoped that the Sub-Committee, after a brief exchange of views, would first settle the essential questions raised by the treaty before taking up the final clauses.

Mr. RIHA (Czechoslovakia) said that he supported the views of the representative of the USSR. His delegation could not accept the discriminatory provision in article 12 of the United States draft, which was contrary to the essential idea underlying the treaty, namely, that the exploration of outer space and of celestial bodies should be conducted for the benefit of all mankind. All States should be able to accede to that treaty.

Mr. Krishna RAO (India) said that, in his delegation's view, treaties should unquestionably be open to all States for signature. Any other arrangement would run counter to the concept of universality on which a great many of the provisions of the treaty were based - including those relating to international liability and the use of outer space for the benefit of all mankind - and would give rise to the problems which had been experienced in connexion with disarmament. He recalled that the Moscow treaty banning nuclear weapons tests was open to all States for signature.

His delegation could not accept the Soviet proposal that the depositaries of the treaty should be certain Governments, presumably those of the USSR and the United States. The Secretary-General, who was the depositary of all treaties, should likewise be the depositary in that case, for such an arrangement could not but facilitate his activities in the matter in question.

He was aware that the application of his two proposals would give rise to problems in connexion both with the discharge of the Secretary-General's functions and with the meaning of the words "all States", but he was sure that the General Assembly could readily solve them.

Mr. DARWIN (United Kingdom) said that, in his view, it would be advisable to reach agreement on the substantive clauses of the treaty before beginning consideration of the final clauses. Since the treaty was being drawn up under the auspices of the United Nations, the provisions of the United States draft seemed preferable.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the opponents of his proposal that the treaty should be open to all States for signature had confined themselves to pointing out that the corresponding provisions of article 12 of the United States draft were based on General Assembly resolutions against which, moreover, his delegation and many other delegations had voted. His delegation considered that the question of determining which States should be parties to the treaty was a question of substance.

He was grateful to the representative of India for having approved the first part of article XI of the Soviet draft, but he could not agree that the General

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Assembly should be asked to define the words "all States". Circumstances being what they were, it would not be very difficult to guess what kind of decision the General Assembly would make. It was not for the General Assembly to rule on the issue - just as it had not been called upon to do so in the case of the Moscow treaty of 1963. The decision should be made by the Sub-Committee.

With regard to paragraph 2 of article XI, if the Secretary-General became the depositary for the treaty, he would have to ask the General Assembly which States could be parties to it, and that would in effect contradict the principle set forth in paragraph 1 of the article. In the Soviet delegation's view, the solution adopted in the Moscow treaty should be followed in that instance too. With regard to the comment by the representative of India that, under the Soviet draft, the depositaries of the treaty would be the United States and the Soviet Union, it should be noted that when the provisions concerning the depositaries of the agreement on assistance to astronauts had been considered, the Soviet delegation had implied that certain Asian countries could also be depositaries; once the principle that the depositaries would be States had been acknowledged, it would be easy enough to reach agreement on the choice of those States.

Mr. Krishna RAO (India) said that, unlike the Moscow treaty and the Antarctic treaty, which had been concluded between Governments, the treaty under discussion was to be concluded under United Nations auspices and, as such, should be deposited with the Secretary-General. With regard to the meaning of the words "all States", he himself, like the representative of the Soviet Union, had been fighting for a number of years for universality of membership in the United Nations. It was not for the Sub-Committee to define the words "all States"; in any case, a provision that the Secretary-General would be the depositary of the treaty would in no way be incompatible with the provision that the treaty should be open to all States for signature.

Mr. MOROZOV (USSR) said that the question of universality of membership in the United Nations went far beyond the framework of the treaty under discussion and that the effectiveness of the United Nations for the maintenance of international peace and security was in large measure dependent upon it. However, the principle

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of universality was not yet a fact, and the present situation, as well as the errors committed in certain regards by the Secretariat, had to be borne in mind. He wondered what the attitude of the Secretariat would be if, as in the United States draft, the Secretary-General was to become the depositary for a treaty to which all States could become parties.

He therefore urged that paragraphs 1 and 2 of article XI of the Soviet draft should be adopted, since the provisions in question were essential if the treaty was to be an international instrument binding upon all States Parties to it.

The CHAIRMAN suggested that the Sub-Committee should complete its discussion of the articles under consideration the following morning and not begin consideration of the preamble at that stage. The working group would then begin its consideration of the draft treaty article by article.

The meeting rose at 6.30 p.m.