

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.105/147
11 March 1975

ORIGINAL: ENGLISH



COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
FOURTEENTH SESSION (10 FEBRUARY-7 MARCH 1975)

Contents

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 18	2
I. Draft treaty relating to the moon	19 - 23	5
II. Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting	24 - 30	6
III. Legal implications of remote sensing of the earth from space	31 - 37	8
IV. Matters relating to the definition and/or delimitation of outer space and outer space activities	38	9

Annexes

- I. Report of the Chairman of Working Group I
- II. Report of the Chairman of Working Group II
- III. Report of the Chairman of Working Group III
- IV. Statement of financial implications of convening the
Legal Sub-Committee at Geneva or New York within the
framework of the conference pattern for the biennium
1976-1977

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INTRODUCTION

Opening of the session

1. The Legal Sub-Committee opened its fourteenth session at the United Nations Headquarters, New York, on 10 February 1975 under the chairmanship of Ambassador Eugeniusz Wyzner (Poland).
2. The Chairman in his opening statement informed the Sub-Committee that the draft Convention on Registration of Objects Launched into Outer Space, which the Sub-Committee had completed at its thirteenth session in May 1974, had been endorsed by the Committee on the Peaceful Uses of Outer Space and was adopted by the General Assembly on 12 November 1974. The Convention was opened for signature and ratification on 14 January 1975, and had already been signed by France and the United States. 1/ The Chairman hoped that other States, also, would become signatories and parties and that the Convention would have the widest adherence possible.
3. The General Assembly in resolution 3234 (XXIX) dated 12 November 1974 had, the Chairman noted, expressed appreciation at the useful work carried out by the Legal Sub-Committee in the progressive development and codification of the law of outer space.
4. As to the work of the Sub-Committee at the present session, the Chairman drew attention to the fact that the General Assembly had in resolution 3234 (XXIX) considered the priorities to be accorded the subjects on the Sub-Committee's agenda. The Assembly had recommended that the Sub-Committee should at its present session consider "with the same high priority: (a) the draft treaty relating to the moon with a view to completing it as soon as possible; (b) the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements, in accordance with General Assembly resolution 2916 (XXVII) of 9 November 1972; and (c) the legal implications of remote sensing of the earth from space, taking into account the various views of States expressed on the subject, including proposals for draft international instruments". The General Assembly had recommended also that the Sub-Committee should consider at its present session "as time permits, matters relating to the definition and/or delimitation of outer space and outer space activities".
5. The Chairman expressed hope that the Sub-Committee was now in a position to resolve the issues still outstanding with respect to the draft treaty relating to the moon and complete its work on the draft treaty at the present session.

Adoption of the agenda

6. At its opening meeting, the Sub-Committee adopted the following agenda for

1/ In the course of the session, Canada became the third signatory to the Convention.

the session (A/AC.105/C.2/L.101):

1. Statement by the Chairman
2. Draft treaty relating to the moon
3. Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting
4. Legal implications of remote sensing of the earth from space
5. Matters relating to the definition and/or delimitation of outer space and outer space activities.

Organization of work

7. The Sub-Committee decided at its opening meeting to organize its work as follows:

(a) The Sub-Committee would devote the first week of its session to agenda item 2 (Draft treaty relating to the moon); the second week to agenda item 3 (Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting); and the third week to agenda item 4 (Legal implications of remote sensing of the earth from space). The Sub-Committee agreed that a certain degree of flexibility should be observed in the allocation of time between the three agenda items, so that all available time was in fact utilized. The same high priority of the three items would, however, be observed. The Sub-Committee would, at the end of the third week of the session, consider how the remaining time at its disposal could best be utilized. Later, to accommodate certain delegations the Sub-Committee at its 230th meeting on 13 February, rescheduled its consideration of agenda item 4 (remote sensing) for the second week of the session; and its consideration of agenda item 3 (direct television broadcasting) for the third week of its session.

(b) The Sub-Committee would maintain its practice of setting up working groups, open to all members of the Sub-Committee, for consideration of the main items on its agenda. The Sub-Committee, accordingly, re-established its Working Group on the draft treaty relating to the moon (Working Group I) under the chairmanship of Dr. G. Haraszti, the representative of Hungary, and its Working Group on direct television broadcasting (Working Group II) under the chairmanship of Mr. M. A. Vellodi, the representative of India; and established a Working Group on remote sensing (Working Group III) under the chairmanship of Mr. A. H. Abdel-Ghani, the representative of Egypt.

(c) To provide for a general exchange of views, the Sub-Committee would each morning begin with a plenary meeting to enable delegations to make general statements. The Sub-Committee would thereafter adjourn and reconvene as a working group.

A/AC.105/147

English

Page 4

8. The Sub-Committee, at the end of the third week of its session, decided that the fourth and last week of its session should be devoted to the concluding meetings of its three Working Groups, to consideration of the reports of the Chairmen of the three Working Groups, to any other matters, and to the adoption of the Sub-Committee's report on its present session.

9. Working Group I held six meetings, and an informal group for consultations established by it held five meetings. Working Group II held two meetings and a drafting group established by it held 10 meetings. Working Group III held 10 meetings including a night meeting.

10. The Chairmen of the three Working Groups reported to the Sub-Committee at its 241st, 243rd and 244th meetings on 4, 5 and 6 March. The Sub-Committee took note with appreciation of the work done in the Working Groups.

11. The Sub-Committee considered item 5 of its agenda at its 244th meeting on 6 March.

12. The Sub-Committee held a total of 20 meetings. The views expressed in the Sub-Committee are summarized in documents A/AC.105/C.2/SR.226-245.

13. A list of the representatives of States members of the Sub-Committee attending the session, of the observers for specialized agencies and other organizations and of the Secretariat of the Sub-Committee, is to be found in document A/AC.105/C.2/INF.7.

Date and place of the next session of the Sub-Committee

14. The Sub-Committee recommended that its fifteenth session should be held from 3 to 28 May 1976. It is noted that the fifteenth session would be held in Geneva as previously decided by the Committee on the Peaceful Uses of Outer Space

Work at next session

15. The Sub-Committee was of the opinion that at its next session it should continue to consider with the same high priority the issues covered by items 2, 3 and 4 of its agenda.

Date and place of future sessions

16. To assist the conference services in the preparations of its calendar of meetings, the Sub-Committee believed that it might be useful if it were to propose to its parent Committee that future sessions of the Sub-Committee be scheduled for the month of May each year.

17. Pursuant to the request made by the Committee on the Peaceful Uses of Outer Space in paragraph 64 of its report on its seventeenth session, the Sub-Committee considered at its 241st, 242nd and 244th meetings on 4, 5 and 6 March the question

of the venue of the meetings of the Sub-Committee. The Sub-Committee had before it in this connexion a note prepared by the Office of Financial Services on financial implications (A/AC.105/C.2/L.104) which is contained in annex IV to the present report. It is to be noted that these financial implications are as of today and the costs mentioned in the note may change in the future. A number of arguments were advanced in the Sub-Committee both in favour and against the holding of all future sessions of the Sub-Committee in Geneva. The views expressed by delegations on this question are to be found in the summary records of those three meetings of the Sub-Committee. The Sub-Committee regretted, in the circumstances, that it was not in a position to make an agreed recommendation on the question to the Committee. Accordingly, it seemed to the Sub-Committee that the Committee itself would wish to consider the question further.

Adoption of the report

18. The Sub-Committee adopted the present report unanimously, and concluded its work on 7 March 1975.

I. DRAFT TREATY RELATING TO THE MOON

19. At the 227th meeting of the Sub-Committee on 11 February, the Chairman made an introductory statement on the draft treaty relating to the moon (agenda item 2) in which he summarized the work carried out previously in the preparation of the draft treaty and outlined the main outstanding problems to be resolved.

20. The Chairman noted that the General Assembly at its twenty-ninth session in resolution 3234 (XXIX) dated 12 November 1974 had recommended that the Sub-Committee should at its present session consider "the draft treaty relating to the moon with a view to completing it as soon as possible".

21. The Sub-Committee had before it the following texts:

A preamble and 21 articles including final clauses which the Sub-Committee approved at its eleventh session in 1972 and on the basis of which the Sub-Committee decided to pursue its work (A/AC.105/101, para. 21);

The text of six provisions formulated by its Working Group and taken note of by the Sub-Committee at its twelfth session in 1973 (A/AC.105/115, para. 17);

The text relating to article X contained in annex I of the report of the Sub-Committee on its twelfth session in 1973 (A/AC.105/115, annex I, C);

An informal proposal referred to in paragraph 25 of the 1973 report of the Committee on the Peaceful Uses of Outer Space (A/9020);

The following working papers reproduced in annex I of the Sub-Committee's report on its thirteenth session in 1974 (A/AC.105/133): one by Bulgaria (A/AC.105/C.2/L.93), one by the United States (A/AC.105/C.2/L.91 and Corr.1),

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A/AC.105/147

English

Page 6

two by India (A/AC.105/C.2/L.95 and A/AC.105/C.2/L.96), one jointly by India, Nigeria and Egypt (A/AC.105/C.2/L.97) and one by Mongolia (A/AC.105/C.2/L.98/Rev.1);

The report of the Chairman of the Working Group established by the Sub-Committee at its thirteenth session in 1974 (A/AC.105/133, annex I).

22. As indicated in paragraph 7 (b) above, the Sub-Committee re-established Working Group I with respect to agenda item 2. The discussions in the Sub-Committee and the Working Group centred on a number of informal working papers relating mainly to the problems of the legal status of the surface and the subsurface of the moon and the natural resources thereof.

23. At the 241st meeting of the Sub-Committee on 4 March, the Chairman of Working Group I reported on the work of that Group. The Sub-Committee took note with appreciation of the report and of the work done by Working Group I. In accordance with the decision taken by the Sub-Committee at the same meeting, the report of the Chairman of Working Group I is reproduced in annex I of the present report.

II. ELABORATION OF PRINCIPLES GOVERNING THE USE BY STATES OF ARTIFICIAL EARTH SATELLITES FOR DIRECT TELEVISION BROADCASTING

24. The Chairman made an introductory statement on agenda item 3 (Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting) at the 236th meeting of the Sub-Committee on 24 February 1975.

25. The Chairman noted that the General Assembly at its twenty-ninth session in resolution 3234 (XXIX) dated 12 November 1974 had recommended that the Sub-Committee should at its present session consider "the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements, in accordance with General Assembly resolution 2916 (XXVII) of 9 November 1972".

26. He further recalled that the Sub-Committee at its thirteenth session in 1974 had before it the report of the Working Group on Direct Broadcast Satellites on its fifth session in March 1974 (A/AC.105/127). The report of that Working Group contained the following proposals:

A proposal by the USSR on principles governing the use by States of artificial earth satellites for direct television broadcasting, being elaborated pursuant to General Assembly resolution 2916 (XXVII) with a view to the conclusion of an international agreement or agreements (A/AC.105/127, annex II);

A proposal by Canada and Sweden on draft principles governing direct broadcasting by satellite (A/AC.105/127, annex III);

A proposal by the United States on draft principles on direct broadcast satellites (A/AC.105/127, annex IV);

Annex I

REPORT OF CHAIRMAN OF WORKING GROUP I

1. The Sub-Committee at its 226th meeting, held on 10 February 1975, decided to re-establish Working Group I to continue its consideration of the draft treaty relating to the moon. The Working Group held six meetings between 11 February and 3 March. At its meeting on 13 February, Working Group I decided, in order to facilitate the direct and informal exchange of views between delegations, to establish an informal group for consultations, open to all interested delegations. This group held a total of five meetings.
2. At the previous session of the Sub-Committee no agreement could be reached on three main outstanding issues: the questions on the scope of the treaty, the information to be furnished on missions to the moon, and the natural resources of the moon. The Working Group decided to give priority to the question of the natural resources, regarded by many delegations as the problem whose solution would facilitate an agreement on the two remaining issues.
3. The Working Group based itself in its debates on the documents enumerated in paragraphs 15 and 16 of the 1974 Report of the Legal Sub-Committee. During the exchange of views which took place in the informal group for consultation, several unofficial drafts on the question of natural resources were submitted by members of the group and considered by it.
4. As a result of the debates which took place in the Working Group and the informal group for consultations, the texts concerning natural resources were redrafted into articles X and X bis. In the draft, however, a number of words or sentences, owing to a lack of consensus, appear in square brackets. For the same reason, certain provisions were drafted in two versions; in those cases both texts were placed in square brackets.
5. The texts of articles X and X bis are annexed to the present report.

Appendix

DRAFT TREATY RELATING TO THE MOON. ARTICLES X AND X BIS

Article X

1. The moon [and other celestial bodies] is [are] not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means.

[2.] [Without prejudice to the provisions of Article X bis] areas or zones on or below the surface of the moon [or other celestial bodies] shall not become the property of any State, international intergovernmental or non-governmental organization, national organization or any other legal entity or natural person. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon [or other celestial bodies], including structures permanently affixed to the surface or subsurface, shall not create a right of ownership over any areas or zones on or below the surface of the moon [or other celestial bodies].

[3.] Areas or zones on or below the surface of the moon [or other celestial bodies] shall not be the object of grant, exchange, transfer, sale or purchase, lease, hire, gift or any other arrangements or transactions with or without compensation between States, international intergovernmental and non-governmental organizations or national organizations having the status of juridical persons or not, or of arrangements or transactions between natural persons.]

[1/4.] The moon as well as its natural resources are the common heritage of mankind.]

Article X bis

1. States Parties have an equal right to undertake the exploration and use of the moon [and other celestial bodies], [including the exploitation of its natural resources,] without discrimination of any kind [under the conditions stipulated in this treaty]. [Nevertheless, the exploitation of the natural resources of the moon [and other celestial bodies] shall be carried out under the conditions stipulated in this article.]

2. States Parties undertake to establish an international régime governing the exploitation of the natural resources of the moon [and other celestial bodies], when such exploitation becomes feasible, [on the basis of the principle that those resources of the moon [and other celestial bodies] are the common heritage of mankind.] [Exploitation of the natural resources of the moon shall not be done except in accordance with the international régime to be established.]

3. The main purposes of the international régime to be established shall include:

- (a) the orderly and safe development of natural resources of the moon and other celestial bodies;
- (b) the rational management of those resources;
- (c) the expansion of opportunities in the use of those resources and
- (d) an equitable sharing in the benefits derived from those resources.

The interests and needs of the developing countries, as well as the efforts of those countries which have contributed to the discovery and exploration of the resources and of those which are responsible for exploiting them, shall be given particular consideration in this regard.

4. A conference of all States Parties shall be convened by the Secretary-General of the United Nations, as depository, at the request of one third of such States for considering the fulfilment of in order to implement the provisions of paragraph 2 of this article.

5. States Parties shall inform the Secretary-General of the United Nations as well as the public and the international scientific community to the greatest extent possible and practicable of any natural resources they may discover on the moon and other celestial bodies.

6. Without prejudice to the provisions of Article V of this Treaty, all activities with respect to the natural resources of the moon and other celestial bodies shall be carried out in a manner compatible with the purposes of the international régime to be established, as specified in paragraph 3 of this Article.

Without prejudice to the provisions of Article V of this Treaty no activities shall be carried out on the moon and other celestial bodies with regard to its natural resources which may be incompatible with the purposes of the international régime to be established as specified in paragraph 3 of this article.