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96th Congress }
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COMMITTEE PRINT

DOCUMENTS

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AGREEMENT GOVERNING THE ACTIVITIES
OF STATES ON THE MOON AND OTHER
CELESTIAL BODIES

PREPARED AT THE REQUEST OF
HON. HOWARD W. CANNON, *Chairman*
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE



MAY 1980

PARTS 1 AND 2

Printed for the use of the
Committee on Commerce, Science, and Transportation

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1980

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(II)

LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
Washington, D.C., May 19, 1980.

DEAR COLLEAGUE: Last year the General Assembly of the United Nations requested its Secretary General to open for signature and ratification at the earliest possible date the "Agreement Governing the Activities of States on the Moon and Other Celestial Bodies." This treaty establishes a number of basic legal principals for the use and exploitation of extraterrestrial material; thus, it would have a profound impact on how and when men first use these materials. This is particularly important to the United States because of the leadership it enjoys in the technology and use of outer space.

Many pros and cons have been voiced about the treaty. Consequently, the Committee, which has legislative jurisdiction over the Nation's civil space program, initiated a number of studies of the treaty so that Members of Congress, their staffs, and the public may be better informed on the meaning and implications of this treaty document. This Committee print, which contains a historical perspective and analysis of the treaty prepared by Mrs. Eilene Galloway and a collection of useful documents pertinent to the treaty, should be a useful reference with respect to some treaty issues. The other studies initiated by the Committee will be published as they are completed.

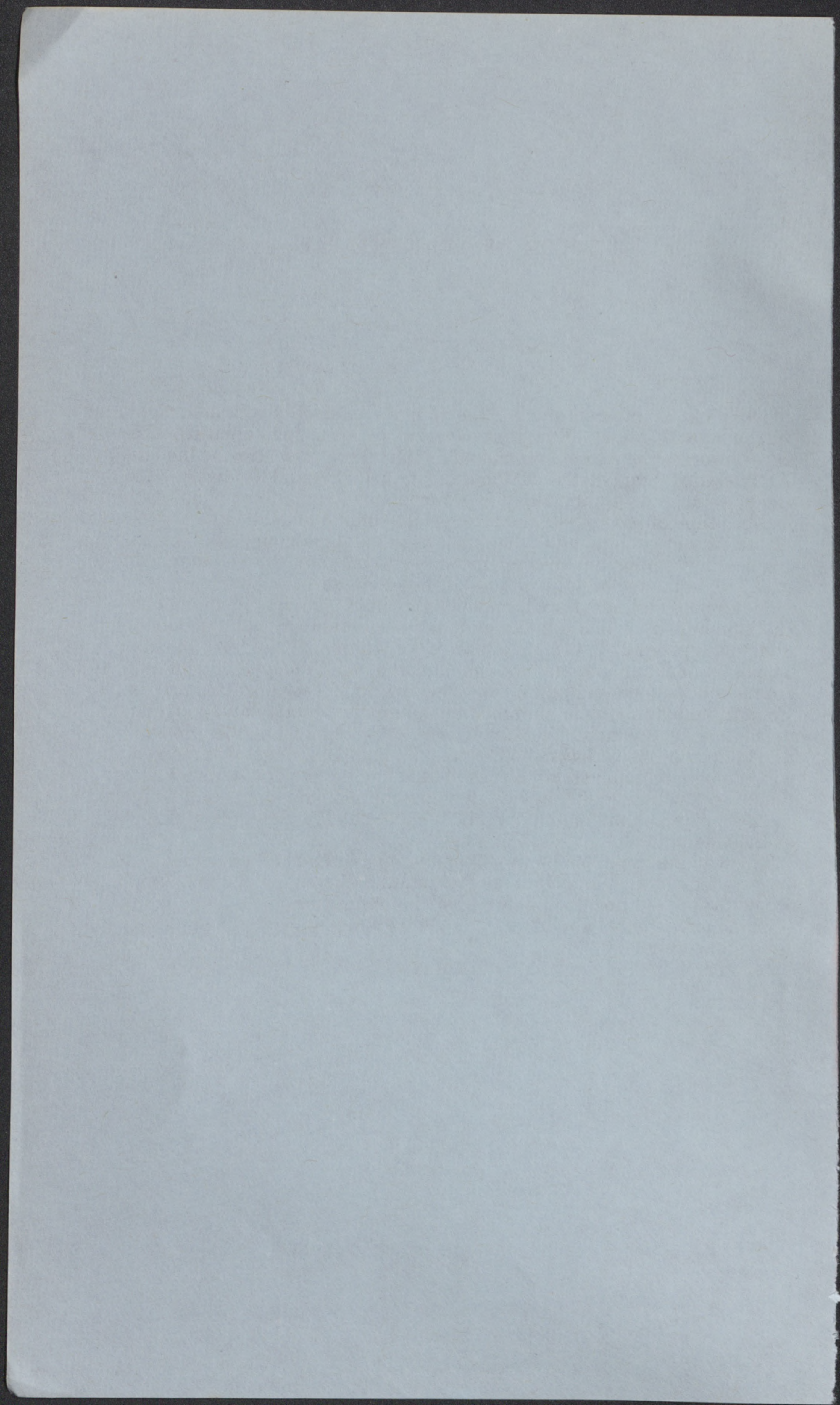
This project is under the overall direction of Mr. James J. Gehrig of the Committee's professional staff.

This Committee print has not been considered by the Committee on Commerce, Science, and Transportation, and the contents have been neither approved nor disapproved by the Committee.

With best wishes, I am
Sincerely,

HOWARD W. CANNON, *Chairman.*

(III)



LETTER OF SUBMITTAL

Washington, D.C., March 15, 1980.

Senator HOWARD W. CANNON,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.*

DEAR SENATOR CANNON: In accordance with the contract agreement between the Senate Committee on Commerce, Science, and Transportation and myself, dated December 11, 1979, and approved by the Senate Committee on Rules and Administration on December 19, 1979, I am submitting herewith my analytical report on the "Agreement Governing the Activities of States on the Moon and Other Celestial Bodies: History and Analysis".

This report is comprised of a background on U.S. policy concerning this subject, a history of negotiations in the United Nations from 1971 through 1979, a section-by-section comparative analysis with space treaties now in force and other relevant documents, and a final section on the issues and questions raised by the analysis. The "issues" section may serve as a basis for hearings on this proposed treaty concerning the Moon and Other Celestial Bodies.

With appreciation for the opportunity of working on this report,
Sincerely yours,

EILENE GALLOWAY.

PREFACE

The purpose of this committee print is to provide information on the Agreement Governing the Activities of States on the Moon and other Celestial Bodies. Although called an agreement it is in fact a treaty; therefore, if signed by the Government of the United States it must be sent to the U.S. Senate for advice and consent to ratification.

This agreement is frequently referred to as the Moon treaty; however, it is not a treaty that deals only with the Moon but with all celestial bodies within our solar system.

The purpose of the agreement is to provide the basic legal principles to guide the behavior of States (nations), international organizations, and individuals in the exploration and use of celestial bodies other than Earth (including certain orbits and trajectories) within the solar system. Additionally, the agreement includes proposals for the development and use of extraterrestrial materials.

A draft Moon treaty was first introduced into the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) in 1971. During the years 1972-79, the draft Moon treaty was considered in the Legal Subcommittee of COPUOS but the subcommittee was unable to achieve consensus on the final text.

After its Legal Subcommittee failed to reach agreement earlier in the year, the United Nations Committee on the Peaceful Uses of Outer Space, on the last day of its 22d session, July 3, 1979, reached a consensus on the draft agreement governing the activities of states on the Moon and other celestial bodies, and submitted it to the General Assembly at its 34th session for consideration, final adoption, and opening for signature. On November 2, 1979, the Special Political Committee of the United Nations adopted a draft resolution (sponsored by 34 countries, subsequently 38) commending the agreement and requesting the Secretary General to open the agreement for signature and ratification at the earliest possible date; and, recommended to the General Assembly the adoption of the resolution.

On December 5, 1979, the United Nations General Assembly adopted the agreement governing the activities of states on the Moon and other celestial bodies by resolution 34/68.

The agreement was opened for signature on December 18, 1979.

If the United States signs the treaty, and it is sent to the U.S. Senate for advice and consent to ratification it most probably will be referred to the Committee on Foreign Relations which has jurisdiction over all treaties. However, the Committee on Commerce, Science, and Transportation has legislative jurisdiction over most civil space programs, and oversight jurisdiction over all space programs. Therefore, the Committee on Commerce, Science, and Transportation has an interest in any proposed law which affects the use of the space environment, and a duty to examine, from its perspective, whether any such proposed law is in the best interest of the United States.

Consequently, last fall, when it became clear that the United Nations would open this agreement for signature, the committee initiated the preparation of three reports on the agreement. Both the Congressional Research Service and the Office of Technology Assessment were requested to prepare reports; a third study was contracted for with Mrs. Eilene Galloway, who served as Special Consultant to the Senate Special Committee on Space and Astronautics (1958-59) and to the Senate Committee on Aeronautical and Space Sciences (1959-77). Upon retiring as Senior Specialist in International Relations, Congressional Research Service, Library of Congress, Mrs. Galloway became a consultant on international space activities. She is now honorary director of the International Institute of Space Law of the International Astronautical Federation, and president of the Theodore Von Karman Memorial Foundation, Inc.

The first report by Mrs. Eilene Galloway consists of a summary of the negotiations in the United Nations on the agreement, a section-by-section comparative analysis with other space treaties now in force, and a statement of issues and questions raised by the above analyses.

The report by the Congressional Research Service (CRS) will follow the pattern of reports prepared by the service on earlier space treaties negotiated in the United Nations. Briefly, the report will contain an explanation of each article of the agreement, an analysis of the article, such pro or con discussion as appropriate, background material, a survey of applicable international law, and such other information as found appropriate by the CRS.

The report by the Office of Technology Assessment (OTA) will be a small scale assessment of the impact the agreement would have on the capability of the United States to exploit extraterrestrial materials.

The three studies are planned to dovetail with one another, and provide a comprehensive analysis of this proposed space treaty.

This volume consists of two parts, part one is the report prepared by Mrs. Eilene Galloway.

Part two consists of the text of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, those international agreements mentioned in the text of the agreement, and several other international documents deemed useful in understanding this proposal for governing the activities of states on all celestial bodies within our solar system.

The CRS and OTA reports on the agreement will be published later as committee prints.

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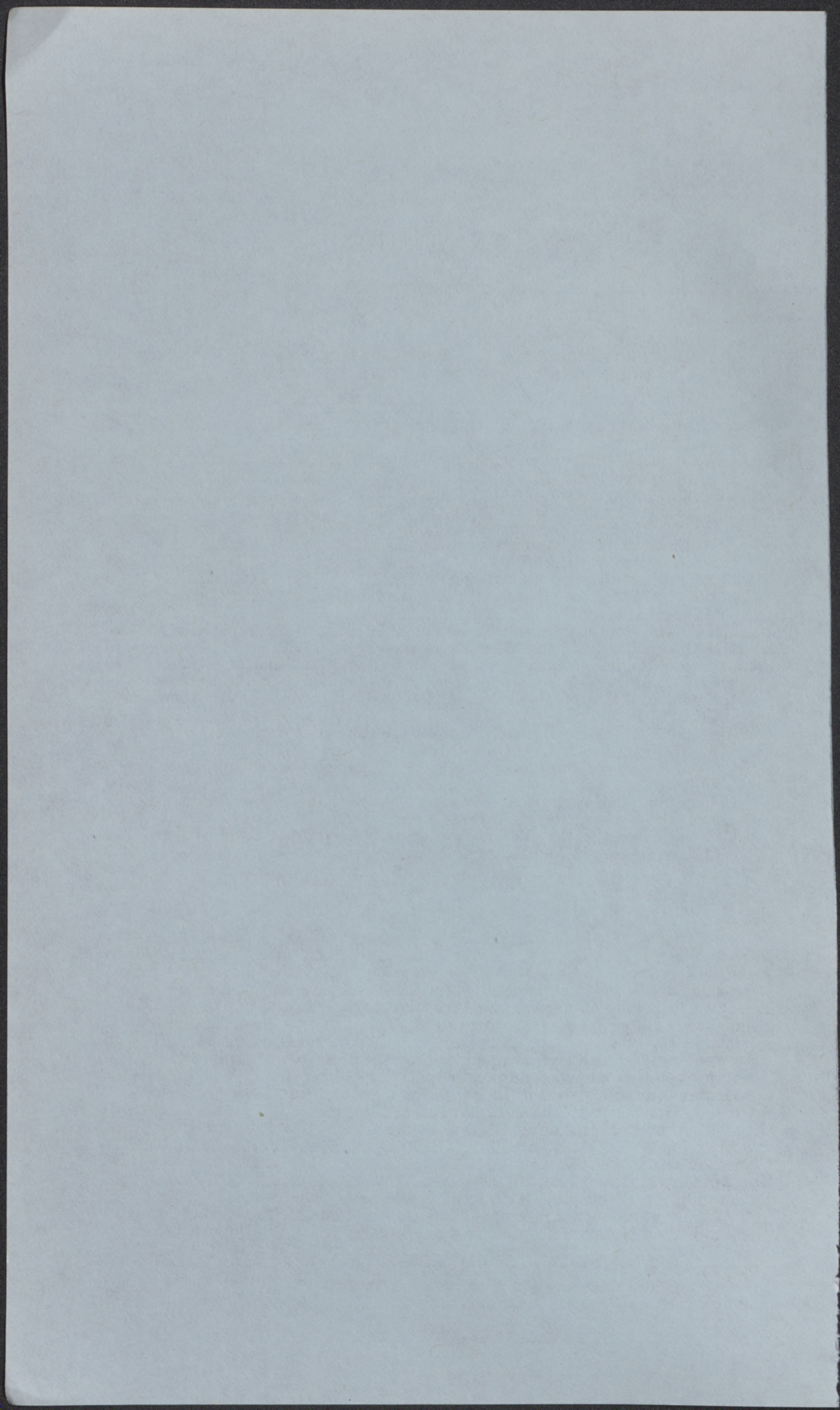
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PART 1

Agreement Governing the Activities of States on the Moon and Other Celestial Bodies: History and Analysis

By Eilene Galloway

BACKGROUND

On December 5, 1979, the United Nations General Assembly approved the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies and requested the Secretary General to open the treaty for signature and ratification at the earliest time. This decision was made by consensus, *i.e.*, without voting, and the Agreement was opened for signature on December 18, 1979. By May 21, 1980, the Agreement had been signed by 5 nations: Chile on January 3, 1980; France on January 20, 1980; Romania on April 17, 1980; Philippines on April 23, 1980; and Austria on May 21, 1980. In signing the Agreement, France reported the following clarification to the United Nations:

France is of the view that the provisions of article 3, paragraph 2, of the Agreement relating to the use or threat of force cannot be construed as anything other than a reaffirmation, for the purposes of the field of endeavour covered by the Agreement, of the principle of the prohibition of the threat or use of force, which States are obliged to observe in their international relations, as set forth in the United Nations Charter.

The provisions of the Moon agreement had been under negotiation since 1971 when the General Assembly requested the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee to consider formulating a draft treaty on the Moon.¹

The Moon Agreement was the fifth outer space treaty formulated by the Legal Subcommittee and the Committee on the Peaceful Uses of Outer Space, the other four being the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies which entered into force on October 10, 1967;² the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (December 3, 1968);³ the Convention on International Liability for Damage Caused by Space Objects (October 9, 1973);⁴ and the Convention on Registration of Objects Launched into Outer Space (September 15, 1976).⁵ Although these treaties were negotiated and finally formulated in the United Nations, when ratified they are binding on the States which choose to be parties and should not thereafter be officially designated as United Nations treaties. Whether entitled "convention" or "agreement" all these documents are treaties. As L. Oppenheim pointed out, "International compacts which

¹ U.N. General Assembly Resolution 2779 (XXVI), Nov. 29, 1971.

² 18 U.S.T. 2410 T.I.A.S. 6347, 610 U.N.T.S. 205.

³ 19 U.S.T. 7570, T.I.A.S. 6599, 672, U.N.T.S. 119.

⁴ 24 U.S.T. 2389, T.I.A.S. 7762.

⁵ T.I.A.S. 8480.

take the form of written contracts are sometimes termed not only agreements or treaties, but acts, conventions, declarations, protocols, and the like. But there is no essential difference between them, and their binding force upon the contracting parties is the same, whatever be their name."⁶ Thus they come before the Senate for its advice and consent to ratification. The United States is a party to all space treaties now in force as well as to the related Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water which entered into force on October 10, 1963 and was negotiated prior to the series formulated by the Legal Subcommittee, Committee on the Peaceful Uses of Outer Space.

It should be noted in passing that these are not the only international space agreements made by the United States as under the international space program authorized by Congress in Section 205 of the National Aeronautics and Space Act of 1958 (Public Law 85-568, 85th Congress, H.R. 12575, July 29, 1958. 72 Stat. 426), there is a record of hundreds of bilateral and multilateral arrangements. Some of these are agency-to-agency or executive agreements, and although they do not come before the Senate as treaties, they are reviewed by committees of the Senate and House of Representatives in connection with the annual authorization and appropriations process. The International Telecommunications Satellite Organization agreement and the International Communication Convention and Radio Regulations are also among significant space documents.

The 1967 Treaty on Outer Space is composed of general guiding principles which States undertake to observe in conducting their space activities, and it has been the practice to expand one or more of this Treaty's provisions when progress in space science and technology created conditions which appeared to require an extension of space law for their regulation. This pattern was followed in formulating all space treaties, including the Moon Agreement.

The motivation has always been to preserve the outer space environment for peaceful purposes for the benefit of all mankind and to prohibit warfare, hostile and other adverse actions of a destructive character. An additional motive is to keep space law in advance, or at least abreast, of developments in space science and technology. Space activities are inevitably global in their impact and there has been a growing conception of the world as a whole and the necessity for international cooperation to protect the Earth and outer space from any foreseen or unforeseen, and possibly irreversible, harmful influences.

The procedure has been for the Committee on the Peaceful Uses of Outer Space (COPUOS) and its two subcommittees—the Legal Subcommittee and the Scientific and Technical Subcommittee—to make decisions by consensus rather than by voting.⁷ Although the achievement of a consensus takes time, the result provides a firm basis of support for any agreement. The practice, particularly in the Legal Subcommittee, is to appoint Working Groups, each with a chairman for the major subjects on the agenda. The membership of the full

⁶ International Law: A Treatise. Eighth edition edited by H. Lauterpacht, New York, Longmans Green and Co. 1955, p. 898.

⁷ Galloway, Eilene. Consensus Decisionmaking by the United Nations Committee on the Peaceful Uses of Outer Space. *Journal of Space Law*, vol. 7, Spring 1979, No. 1. School of Law, University of Mississippi, University, Miss. 38677.

Committee, its subcommittees and the working groups is the same so that all nations represented on the full Committee are represented on each working group which operates as a committee of the whole. Whenever a technical matter, or a particularly knotty problem arises, an informal mini-working group may be appointed to seek concepts and words to facilitate a continuing discussion by the delegates. This is essentially a legislative process whereby compromises are worked out until a final product can command a consensus. Success in using this method of decisionmaking depends upon the objectivity and sensitivity of the chairman, combined with a will for agreement among the members of the group. COPUOS used this method successfully in negotiating five space treaties between 1966 and 1979.

The membership of COPUOS has expanded since 1959 when it began with 24 members, increased to 28 in 1961 and to 37 in 1974. On December 20, 1977, by resolution 32/196B, the General Assembly decided to add ten new members, bringing the total membership to 47.⁸ This increase was not only to provide equitable geographical distribution but was a response to requests from numerous nations desiring representation as the variety of beneficial space applications developed.

MEMBERSHIP OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

Albania	Japan
Argentina	Kenya
Australia	Lebanon
Austria	Mexico
Belgium	Mongolia
Benin	Morocco
Brazil	Netherlands
Bulgaria	Niger
Canada	Nigeria
Chad	Pakistan
Chile	Philippines
Colombia	Poland
Czechoslovakia	Romania
Ecuador	Sierra Leone
Egypt	Sudan
France	Sweden
German Democratic Republic	Turkey
Germany, Federal Republic of	U.S.S.R.
Hungary	United Kingdom
India	United Republic of
Indonesia	Cameroon
Iran	United States
Iraq	Venezuela
Italy	Yugoslavia

Fascination with the Moon and other celestial bodies can be traced to earliest historical times, but it was not until advances in rocketry in the 1940s that the exploration and use of outer space could be extended

⁸ U.N. General Assembly Resolution A/32/418 (B). Dec. 20, 1977.

by space science and technology. Even before objects could be launched into Earth orbit and beyond, many treatises were written on space law, primarily from the viewpoint of comparing potential legal problems of outer space with those known about the law of the sea with emphasis on how far outwards and upwards a State's sovereignty could extend.

The quick response of nations in beginning the formulation of space law to guide national activities with global significance was made possible by concepts developed for the International Geophysical Year (IGY) in which 67 nations cooperated. The international scientific community conducted worldwide studies of man's environment—the Earth, the oceans, the atmosphere, and outer space between July 1, 1957 and December 31, 1958.⁹ The guidelines for the IGY, including the Rocket and Satellite Program, contained many ideas which were incorporated in the Antarctic Treaty of 1959, and these same basic provisions were carried over into successive treaties, particularly the 1967 Treaty on Outer Space and the newly proposed Moon Agreement. These fundamental concepts in the Antarctic Treaty emphasize that the area shall be used only for peaceful purposes; military measures, including the testing of any type of weapons, are prohibited but military personnel and equipment for scientific research are permitted. Provision is made for freedom of scientific investigation and the promotion of international cooperation as well as the exchange of information and scientific personnel. Cooperation was encouraged with the UN specialized agencies. Nuclear explosions and the disposal of radioactive waste material are prohibited. Observers are permitted with freedom of access to any and all areas of Antarctica, and installations and equipment are open for inspection.

A main difference between the Antarctic Treaty and those which developed later for outer space concerns territorial sovereignty. A number of States had already made claims of sovereignty over parts of Antarctica prior to the beginning of international joint scientific cooperation for scientific research and these claims were essentially "frozen" by the treaty. However, the denial of claims of sovereignty during the time the treaty is in force (Article IV, paragraph 2) was a forerunner of Article II of the 1967 Treaty on Outer Space which was dealing uniquely with unclaimed outer space, the moon and other celestial bodies and could therefore prohibit national appropriation by any means without complications arising from prior claims.

The 1967 Treaty on Outer Space goes far beyond others in providing for international cooperation for peaceful purposes. These activities are to be "carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind." Outer Space, the moon and other celestial bodies are "free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law . . ." Free access and freedom of scientific investigation are provided. Although the Soviet Union and the United States were first to develop capabilities for the exploration and use of outer space, neither adopted a policy of monopoly but in-

⁹ International Cooperation and Organization for Outer Space. Senate Doc. No. 56. Senate Committee on Aeronautical and Space Sciences. 89th Congress, 1st session. Aug. 12, 1965, pp. 353-378.

stead had programs of international cooperation, including launching satellites and outer space experiments for other nations. The United States brought in talented scientists and engineers from many nations, including developing countries; they have had opportunities to participate in specific space projects which have increased knowledge of the universe and also resulted in practical benefits.

The pattern of ideas concerning permitted and prohibited activities was in place at the time the space age began on October 4, 1957. The first memoranda sent in 1957 and 1958 by scientists and engineers to the Congress, which was considering the creation of the National Aeronautics and Space Administration, included recommendations for international cooperation in the exploration of outer space, the Moon and other celestial bodies.¹⁰ The subject was included in a number of United Nations resolutions, particularly in 1963.¹¹ Continued concern that the outer space environment be preserved for peaceful purposes was expressed by the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (October 10, 1963).

Throughout the 1960s the momentum accelerated toward formulating space law to keep pace with the exploration of the moon and outer space.¹² The United States launched Pioneer, Ranger, Surveyor and Lunar Orbiter spacecraft to land on the moon or achieve lunar orbit. The U.S.S.R. launched Luna, Zond and Kosmos space vehicles to explore the Moon. The Soviet Union was successful with automatic unmanned moon exploration and in bringing samples back to Earth. On May 25, 1961, President Kennedy set the objective, supported by the Congress, of landing a man on the Moon and bringing him safely back to earth within the decade, a goal achieved on July 20, 1969. The scientific and technological achievements strengthened the motivation to incorporate the concepts of the UN outer space resolutions into treaty form so that States Parties would have rights and duties under binding international law.

On May 7, 1966, President Johnson stated that—

Just as the United States is striving to help achieve peace on earth, we want to do what we can to insure that exploration of the moon and other celestial bodies will be for peaceful purposes only. We want to be sure that our astronauts and those of other nations can freely conduct scientific investigations of the moon. We want the results of these activities to be available for all mankind.¹³

This statement recommended provisions for the treaty and U.S. Ambassador Goldberg was instructed by the President to seek early dis-

¹⁰ A National Mission to Explore Outer Space (A proposal by the Rocket and Satellite research Panel). James A. Van Allen, Chairman. November 26, 1957. National Space Establishment (The American Rocket Society and the Rocket and Satellite Research Panel dealing with Exploration of Mars, Venus, inhabitable permanent satellites, manned expedition to the moon, etc. Jan. 4, 1958. James VanAllen and George P. Sutton. In *Compilation of Materials on Space and Astronautics*. No. 1. Senate Special Committee on Space and Astronautics. Committee print. 85th Congress, 2d session. Mar. 27, 1958. pp. 14-19.

¹¹ U.N. General Assembly Resolutions: 1348 (XIII), Dec. 13, 1958; 1378 (XIV), Nov. 20, 1959; 1472 (XIV), Dec. 12, 1959; 1721 (XVI), Dec. 20, 1961; 1802 (XVII), Dec. 19, 1962; 1884 (XVIII), Oct. 17, 1963; 1962 (XVIII), Dec. 13, 1963; 1963 (XVIII), Dec. 13, 1963; See also *International Cooperation and Organization for Outer Space*, op. cit., 580 p.

¹² U.N. Committee on the Peaceful Uses of Outer Space. Draft Treaty Governing the Exploration of the Moon and Other Celestial Bodies. A/AC.105/32. June 17, 1966. 7 pp.

¹³ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies: Analysis and Background Data. Senate Committee on Aeronautical and Space Sciences. 90th Congress, 1st session. Committee print. March 1967, pp. 1-8.

cussions in the United Nations on the basis of the following outline of points:

"1. The Moon and other celestial bodies should be free for exploration by all in accordance with international law.

2. Celestial bodies should not be subject to any claim of sovereignty.

3. There should be freedom of scientific investigation, and all countries should cooperate in scientific activities relating to celestial bodies.

4. A state conducting explorations on a celestial body should report on the results of a mission.

5. Open access to all areas of celestial bodies should be assured.

6. Celestial bodies should be used for peaceful purposes only. No country should be permitted to station weapons of mass destruction on a celestial body. Military fortifications, weapons tests, and military maneuvers should be forbidden.

7. A launching state should be entitled to exercise authority over its facilities on a celestial body and persons participating in its activities there.

8. Ownership of objects landed, constructed or used on a celestial body should be retained by the launching state.

9. Astronauts of one country should render assistance to other astronauts as may be required by circumstances.

10. States should pursue studies and take appropriate steps to avoid harmful contamination.

11. Consideration should be given to a provision for the settlement of any disputes that might arise.

12. Final clauses—there should be appropriate provisions on signature, ratification, depositary, entry into force, amendment, duration, and registration with the United Nations."¹⁴

Conferences were held by the U.S. with the Soviet Representative and other members of COPUOS and there was general agreement with the U.S. position as stated by Ambassador Goldberg on September 19, 1966 "that we have, here and now, the opportunity to establish a regime of law in outer space before national interests develop and freeze positions."¹⁵

The outcome of the negotiations was approval of the 1967 Treaty on Outer Space which was opened for signature on January 27, 1967 in Washington, London, and Moscow. President Johnson said at the White House where the representatives of 60 nations signed the treaty, that it "carries forward the thrust of the past decade to enlarge the perimeters of peace by shrinking the arenas of potential conflict."¹⁶

It is against this background that negotiations leading to the proposal in 1979 for a new Moon Agreement can be evaluated. It may be recalled that efforts to expand provisions in the 1967 Treaty on Outer Space had proved successful in 1968, 1973 and 1976 as related to astronauts, liability for damage, and registration of space objects, and the same approach was made toward formulating more specific provisions for the Moon and other celestial bodies.

¹⁴ Ibid., pp. 6-7. See also Department of State Bulletin, July 11, 1966, pp. 60-62.

¹⁵ U.S. Mission to the United Nations. Press release No. 4914, Sept. 19, 1966.

¹⁶ Congressional Record. Feb. 7, 1967, p. S1642.

HISTORY OF NEGOTIATIONS ON THE MOON AGREEMENT

The negotiations which resulted in the Moon Agreement occurred between 1970 and 1979. During nine sessions of the Legal Subcommittee issues were discussed from the different viewpoints of many delegations, and a detailed account of this process could mount to several volumes. It is the purpose of this report to present a succinct account of the main features and controversial issues in order to provide a factual basis for further consideration of the treaty's provisions.

ARGENTINA'S PROPOSAL, 1970

On July 3, 1970, the representative of Argentina, Dr. Aldo Armando Cocca, proposed a "draft agreement on the principles governing activities in the use of the natural resources of the moon and other celestial bodies."¹⁷ Pointing out that the use of the Moon's natural resources had already begun and that the 1967 Treaty on Outer Space did not include specific regulations for this activity, the preamble of the draft agreement called attention to the necessity of completing the legal system by adding to the Treaty's provisions. The following articles were proposed:

Article 1. The natural resources of the Moon and other celestial bodies shall be the common heritage of all mankind.

Article 2. All substances originating in the Moon or other celestial bodies shall be regarded as natural resources.

Article 3. The legal system applicable to natural resources used in their place of origin shall be distinct from that applicable to those brought to the Earth for use.

Article 4. The benefits obtained from the use of the natural resources of the Moon and other celestial bodies shall be made available to all peoples without discrimination of any kind.

Article 5. In distributing such benefits, account shall be taken of the need to promote the attainment of higher standards of living and conditions of economic and social progress and development, pursuant to article 55a of the Charter of the United Nations, in the light of the interests and requirements of the developing countries and the rights of those undertaking these activities. (Followed by the formal provisions or final clauses on the lines of those of the Treaty of 1967 and the Agreement of 1968).

No action resulted at that time in the Outer Space Committee. Within the United Nations discussions were taking place, however, with some of the same concepts applied to the law of the sea. On August 17, 1967, Ambassador Arvid Pardo of Malta, proposed that the ocean's resources be "the common heritage of mankind" and used

¹⁷ Report of the Legal Subcommittee on the Work of the Eleventh Session (Apr. 10-May 5, 1972). A/AC.105/101. May 11, 1972. Annex I, pp. 6-7.

for mankind's benefit.¹⁸ On December 17, 1970, the U.N. General Assembly passed the Declaration of Principles Governing the Seabed Beyond National Jurisdiction¹⁹ which embodied some of the same concepts as the 1967 Treaty on Outer Space concerning activities for peaceful purposes for the benefit of mankind, and prohibitions against claims of sovereignty. Two additional paragraphs are relevant to the ideas that were circulating at that time:

1. The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind....

2. On the basis of the principles of this Declaration, an international regime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon. The regime shall, *inter alia* provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities in the use thereof and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration in the interests and needs of the developing countries, whether land-locked or coastal.

On May 27, 1971, the U.S.S.R. Minister for Foreign Affairs, A. Gromyko, in a letter to the Secretary General of the United Nations, requested that the 26th session of the General Assembly consider the "Preparation of an International Treaty Concerning the Moon." The draft treaty proposal was dated June 4, 1971.²⁰ The response was a resolution (2779, XXVI) which the General Assembly adopted on November 29, 1971 requesting that COPUOS and its Legal Subcommittee give priority to the question of elaborating a draft treaty on the moon and make a report to its 27th session in 1972. Accordingly, this became a priority item on the agenda of the Legal Subcommittee which met in Geneva for its eleventh session from April 10 to May 5, 1972.

Although the U.S.S.R. initiated this action, there were great differences between its 1971 Draft Treaty Concerning the Moon and the final result after consideration by the Legal Subcommittee in 1972. In fact, the draft text which developed during the 1972 and 1973 sessions of the Legal Subcommittee resembles the text ultimately approved by COPUOS and the General Assembly in 1979. Although the main outlines of a draft treaty had been agreed upon by 1973, there were three hard core issues which were debated during the ensuing six years before compromises were worked out and the square brackets removed from the disagreed provisions: (1) the scope of the treaty,

¹⁸ UN Department of Public Information. Reference paper No. 18. A Guide to the New Law of the Sea, pp. 7-8.

¹⁹ General Assembly resolution 2749 (XXV). A/C.1/544. Adopted by a vote of 108 to 0 with 14 abstentions.

²⁰ UN A/8391, June 4, 1971. Letter and annex of Treaty Concerning the Moon. See also Eilene Galloway: The Future of International Space Cooperation in Treaty-making in Proceedings of the 14th Colloquium on the Law of Outer Space. International Institute of Space Law of the International Astronautical Federation. Sept. 20-25, 1978. 1972 Fred B. Rothman & Co., South Hackensack, N.J. 07606, U.S.A. pp. 204-245. This paper contains an analysis of the U.S.S.R. Moon proposal with a comparison of its provisions with the 1967 Treaty on Outer Space.

i.e., whether it should apply only to the moon or also to other celestial bodies; (2) the type of information to be furnished on missions to the moon; and (3) conditions governing the exploitation of natural resources on the moon and other celestial bodies.

In accordance with its usual practice, the Legal Subcommittee placed square brackets around concepts on which no agreement was reached, a method which enables delegates to determine quickly the provisions requiring further discussion before reaching a consensus. Since no votes are taken, any member can block a consensus and ensure continuation of debate on controversial issues. From 1973 to 1979, proposals were made by many delegates in an effort to achieve a common ground on the square-bracketed issues. A Working Group operating as a committee of the whole was established and a chairman appointed for each session to deal with the formulation of space law concerning the moon as one of the priority items.

The history of the negotiations can best be portrayed by presenting at this point the U.S.S.R. Draft Treaty Concerning the Moon which the delegates had before them in 1972, followed by consensus actions taken less than a month later by the Legal Subcommittee during that session.

USSR: DRAFT TREATY CONCERNING THE MOON, 1971 ²¹

The States Parties to this Treaty,
 Noting the gains made by States in the exploration of the Moon,
 Recognizing that the Moon as the only natural satellite of the Earth,
 has an important role to play in the conquest of outer space,
 Desiring to prevent the Moon from becoming a scene of international conflict,
 Determined to promote the further development of co-operation among States in the exploration and use of the Moon and its subsoil and of circumlunar space,
 Recalling the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and the provisions of the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space,
 Taking into account the need to define and develop the provisions of these international instruments in relation to the Moon with a view to further progress in the conquest of outer space,
 Have agreed on the following:

Article I

1. States Parties shall pursue their activities on the Moon and in circumlunar space in accordance with international law, including the Charter of the United Nations.

2. In accordance with the principles of the Charter of the United Nations, the use of force in any form or the threat of force, as well as any other hostile actions or threat of such actions, shall be prohibited on the Moon. The use of the Moon to commit any of the aforementioned actions in relation to the Earth or space objects shall also be prohibited.

²¹ UN A/C.1/L.568, Nov. 5, 1971.

Article II

1. The Moon shall be used by all States Parties exclusively for peaceful purposes.

2. States Parties undertake not to place in orbit around the Moon any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or to install such weapons on the surface of the Moon or in its subsoil.

3. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the Moon shall be prohibited.

Article III

1. States Parties shall strive to co-operate in matters relating to activities on the Moon. Such co-operation may be on either a multilateral or a bilateral basis.

2. Each State Party shall engage in the exploration and use of the Moon with due regard to the interests of present and future generations and with respect for the rights of other States Parties as specified in this Treaty.

3. A State Party which has reason to believe that another State Party is violating its obligations under this Treaty may request consultations between the States Parties concerned.

Article IV

1. States Parties shall explore and use the Moon by reasonable means avoiding the disruption of the existing balance of the lunar environment.

2. States Parties shall explore and use the Moon in such a way as to prevent adverse changes in the lunar environment and its contamination through the introduction of extralunar matter. Where necessary, consultations shall be held between the States Parties concerned.

Article V

1. States Parties may pursue their activities in the exploration and use of the Moon anywhere on the surface of the Moon, in its subsoil or in circumlunar space.

2. For these purposes States Parties may, in particular: land their space objects on the Moon, launch them from the Moon and place them in circumlunar orbit; dispose their vehicles, equipment and personnel anywhere on the surface of the Moon, in its subsoil or in circumlunar space.

Vehicles and personnel of States Parties may move freely over the surface of the Moon, through its subsoil and in circumlunar space.

3. Actions of States Parties in accordance with paragraphs 1 and 2 of this article should not interfere with the activities of other States Parties on the Moon. Where such interference may occur, the States Parties concerned shall undertake consultations.

Article VI

1. States Parties may establish both manned and unmanned stations on the Moon.

2. Stations shall be installed in such a manner that they do not impede the free access of vehicles and personnel of other States Parties pursuing activities on the Moon to all areas of the Moon, as provided for in article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

Article VII

1. States Parties undertake to adopt all practicable measures to safeguard the life and health of men on the Moon. For this purpose they shall regard any person on the Moon as an astronaut within the meaning of the article V of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, irrespective of the duration of the stay of such person on the Moon, the place where he is situated on the Moon, his formal membership of the crew of a spacecraft and other similar circumstances.

2. It shall be the duty of States Parties to offer shelter in their stations, vehicles, installations or other facilities to persons in distress on the Moon who are part of the personnel of other States Parties.

3. In pursuing activities on the Moon, States Parties shall take the necessary steps to exchange information on any phenomena they discover in outer space, including the Moon and other celestial bodies, which could endanger the life or health of men on the Moon, as well as information on any signs of organic life.

Article VIII

1. Neither States, international intergovernmental or non-governmental organizations and national organizations having the status of juridical persons or not, nor natural persons, may claim the surface or subsoil of the Moon as their property. The emplacement of vehicles or equipment on the surface of the Moon or in the subsoil thereof, including the construction of installations integrally connected with the surface or subsoil of the Moon, shall not create a right of ownership over portions of the surface or subsoil of the Moon.

2. Portions of the surface or subsoil of the Moon may not be the object of concession, 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.

Article IX

In accordance with article VIII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer

Space, including the Moon and Other Celestial Bodies, States Parties shall retain ownership of articles of their property delivered to the surface of the Moon or to circumlunar space, including structures, vehicles and equipment.

Article X

A State Party which learns of the crash landing, forced landing or other unintended landing on the Moon of a space object that does not belong to it, or the crash of component parts of such an object shall inform the State Party to which the space object or component parts belong, and the Secretary-General of the United Nations.

Article XI

In addition to the provisions of article VII of the Treaty on Principles Governing the Activities of States in the Exploration and use of Outer Space, including the Moon and Other Celestial Bodies, a State Party shall be liable for damage resulting from its act or omission or from an act or omission of its personnel on the Moon to the property or personnel of other States Parties on the Moon, unless it is established that the damage occurred through no fault of the said State or of its personnel on the Moon.

Article XII

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of , which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Treaty.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XIII

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

Article XIV

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XV

This Treaty, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In Witness Whereof the undersigned, duly authorized, have signed this Treaty.

Done in . . . , at the cities of . . . , the . . . day of . . . one Thousand nine hundred and seventy-

* * * * *

U.S. POLICY PROPOSALS, 1972

The United States began preparations for the Legal Subcommittee session early in 1972. The Department of State coordinated the inter-departmental review of policy which was approved by the National Security Council, and by the White House as was customary during the Nixon Administration. Extensive revisions to the Soviet draft took the form of working papers on specific provisions.²² In opposition to the Soviet draft which applied solely to the Moon, the United States proposed that the treaty must also include "other celestial bodies", a concept already embodied in the 1967 Treaty on Outer Space. U.S. Working paper 1, introduced on April 11, 1972, proposed an Article I providing that "States Parties to the Treaty shall carry out their activities on the Moon and other celestial bodies consistent with international law, including the Charter of the United Nations and other treaties in force." U.S. Working paper 4, introduced on the same day, proposed definitions of a celestial body and provided that the moon and other celestial bodies "includes orbits around or other trajectories to or around celestial bodies."

On the question of the kind of information and the time it should be provided for missions to the Moon, a number of countries made recommendations: Argentina, Bulgaria, Egypt, India, Nigeria, the U.S.S.R. (in Article VII of its draft quoted above), and the United States. The U.S. Working paper 3 proposed that the Secretary General, the public and international scientific community must be informed in advance of a launching of the purposes of the mission, intended locations, orbital parameters, duration, and in due course of the nature, conduct, locations and results of the mission.

²² The 1977 report of the Legal Subcommittee reproduced all drafts and working papers on the three outstanding issues (scope of the treaty, information on missions, and natural resources) from 1972-1977 to assist delegates in making decisions. A/AC.105/196 Apr. 11, 1977, Annex I, pp. 1-62. U.S. working papers are numbered 1 through 9, 12, 14 through 17, 21, 23, and 26, pp. 7-16, 18, 20.

When the U.S. Representative to the Legal Subcommittee, Herbert Reis, reported to the Legal Subcommittee on May 3, 1972 concerning the natural resources of the Moon and celestial bodies, he stated that—

On the broadest level of generality, it seems right to state that such resources are part of 'the common heritage of all mankind'. This would parallel the policy proposed by President Nixon two years ago this month that all nations should regard the resources of the seabed lying beyond the point where the high seas reach a depth of 200 meters as the common heritage of mankind. On the other hand we would not want to preclude in any way the use of natural resources of celestial bodies for scientific investigation; U.S. activities in returning lunar samples and in sharing them with scientific institutions around the world are well known, as are the Soviet Lunokhod returns and exchanges. We would also want to be careful to ensure that celestial body resources may be used where found for supporting life systems as, for example, in uses by astronauts of liquids or gases of a particular celestial body. Finally, we would need to contemplate a special treaty-drafting conference in the event of the discovery of commercially exploitable resources. At such a conference participants would need to bear in mind not only common goals of economic advancement but the need to encourage investment and efficient development as well.²³

The text of U.S. Working Paper 12/Revision 1, introduced on April 17, 1972 proposed Article VIII on Natural Resources:

1. The natural resources of the Moon and other celestial bodies shall be the common heritage of all mankind.
2. States Parties may use appropriate quantities of the resources of the Moon and other celestial bodies in carrying out scientific investigations in furtherance of the provisions of this Treaty, whether for supporting scientific investigation on the Moon or other celestial bodies or by removing such resources to the Earth for analysis or analysing them in space or on the Moon or other celestial bodies.
3. The States Parties to this Treaty, bearing in mind the need for economic advancement and for the encouragement of investment and efficient development if utilization of the resources of the Moon and other celestial bodies becomes a reality, recognize the importance of concluding agreements in this area. To this end, the Depositary Governments shall promptly convene a meeting of all States Parties, with a view to negotiating arrangements for the international sharing of the benefits of such utilization when one third of the States Parties inform the Depositary Governments that they consider that practical utilization of the resources of the Moon or other celestial bodies is likely to begin within two years following or has already begun.²⁴

²³ Statement by U.S. Representative Herbert Reis on the Work of the 1972 Session, United Nations Outer Space Legal Subcommittee. U.S. Mission, Geneva, Switzerland. May 3, 1972. 6 p.

²⁴ U.N. A/AC.105/C.2 (XI), Apr. 14, 1972. Also in A/AC.105/196, Apr. 11, 1977, Annex I, pp. 23-24.

The prevailing opinion among delegates was in favor of the common heritage concept and a number of countries introduced proposals for declaring the Moon and other celestial bodies to be "the common heritage of all mankind." Notably the working paper proposed for discussion by Egypt and India on April 14, 1972, provided an Article VIII as follows:

(i) The Moon [and other celestial bodies] and their natural resources shall be the common heritage of all mankind.

(ii) The exploration and use of the Moon [and other celestial bodies] and their natural resources shall be carried out in the interest of mankind as a whole and the benefits arising therefrom shall be made available to all peoples without discrimination of any kind.

(iii) In the distribution of such benefits account shall be taken of the need to promote the attainment of higher standards of living and conditions of economic and social progress and development, pursuant to Article 55(a) of the Charter of the United Nations, in the interests and requirements of the developing countries.^{24a}

After considerable debate, consensus was reached on 21 articles and the Legal Subcommittee approved on May 4, 1972 the following text which indicates with square brackets those parts "on which work should be pursued as a matter of priority."²⁵

U.N. DRAFT TREATY RELATING TO THE MOON, 1972

The States Parties to this Treaty.

Noting the achievements of States in the exploration and use of the Moon [and other celestial bodies],¹

Recognizing that the Moon, as a natural satellite of the Earth, has an important role to play in the exploration of outer space,

Determined to promote on the basis of equality the further development of co-operation among States in the exploration and use of the Moon [and other celestial bodies],

Desiring to prevent the Moon [and other celestial bodies] from becoming an area of international conflict,

Recalling the Treaty and Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, and the Convention on International Liability for damage caused by space objects,

Taking into account the need to define and develop the provisions of these international instruments in relation to the

^{24a} A/AC.105/196, April 11, 1977, Annex I, p. 24.

²⁵ PUOS/C.2/WG (XI)/15/Rev. 1). Also in 1972 Legal Subcommittee Report A/AC.105/101, May 11, 1972.

¹ A suggestion was made that, with a view to deleting references to "other celestial bodies" the treaty might contain a provision along the following lines:

The provisions of this Treaty shall apply to celestial bodies in addition to the Moon until such time as provision is made by other treaties in relation to specific celestial bodies. To the extent that provision is so made, this Treaty shall then cease to apply to those bodies.

Moon [and other celestial bodies] having regard to further progress in the exploration and use of outer space,
Have agreed on the following:

Article I

1. [As employed in this Treaty :
 - (i) The term "celestial body" includes all natural celestial bodies other than the Earth.
 - (ii) The phrase "the Moon and other celestial bodies" includes orbits around or other trajectories to or around celestial bodies.]
2. This Treaty does not apply to extra-terrestrial materials which reach the surface of the Earth by natural means.

Article II

1. Activities on [in the exploration and use of] the Moon [and in circumlunar space] [and other celestial bodies] shall be carried out in accordance with international law, including the Charter of the United Nations in the interest of maintaining international peace and security and promoting international co-operation and understanding.

2. In accordance with the Charter of the United Nations, the threat or use of force or any other hostile act or threat of hostile act on the Moon [and other celestial bodies] is prohibited. It is likewise prohibited to use the Moon [or other celestial bodies] in order to commit any such act or to engage in any such threat in relation to the Earth, [the Moon] or other celestial bodies, spacecraft, the personnel of spacecraft or man-made space objects.

Article III

1. The Moon [and other celestial bodies] shall be used by all States Parties exclusively for peaceful purposes.

2. States Parties shall not place in orbit around or other trajectory to or around the Moon [or other celestial bodies] objects carrying nuclear weapons or any other kinds of weapons of mass destruction or place or use such weapons on or in the Moon [or other celestial bodies].²

3. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the Moon [and other celestial bodies] shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the Moon [and other celestial bodies] shall also not be prohibited.

² Certain delegations reserved their position on this paragraph.

Article IV

1. The exploration and use of the Moon [and other celestial bodies] shall be the province of all mankind and [the exploitation of their natural resources] shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development. Due regard shall be paid to the interests of present and future generations as well as to the need to promote higher standards of living conditions of economic and social progress and development in accordance with the Charter of the United Nations.³

2. States Parties shall be guided by the principle of co-operation and mutual assistance in all their activities concerning the exploration and use of the Moon [and other celestial bodies]. International co-operation in pursuance of this Treaty should be as wide as possible and may take place on a multilateral basis, on a bilateral basis, or through international intergovernmental organizations.

3. States Parties shall inform the Secretary-General as well as the public and international scientific community, to the greatest extent feasible and practicable, of their activities concerned with the exploration and use of the Moon [and other celestial bodies]. They shall in any case give information on the time, purposes, locations, orbital parameters, duration and results of each [completed] mission to the Moon [and other celestial bodies], in particular on the scientific results arising out of such missions. In case of a mission lasting more than 60 days, information on conduct of the mission shall be given periodically at 30 days' intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter.⁴

4. If a State Party becomes aware that another State Party plans to operate simultaneously in the same area of or in the same orbit around or trajectory to or around the Moon or other celestial body, it shall promptly inform the other State of the timing of and plans for its own operations.

Article V

1. There shall be freedom of scientific investigation on the Moon [and other celestial bodies] by all States Parties without discrimination of any kind, on the basis of equality and in accordance with international law.

2. In carrying out scientific investigations in furtherance of the provisions of this Treaty the States Parties shall have the right to collect on and remove from the Moon [and other celestial bodies] samples of its [their] mineral and other substances. Such samples shall remain at the disposal of those States Parties which caused them to be collected and may be used by them for scientific purposes. States Parties

³ The eventual placement of this paragraph will be decided later.

⁴ Certain delegations reserved their position with respect to the question of advance notification of missions to celestial bodies.

shall have regard to the desirability of making a portion of such samples available to other interested States Parties and the international scientific community for scientific investigation. States Parties may in the course of scientific investigations also use mineral and other substances of the Moon [and other celestial bodies] in quantities appropriate for the support of their missions.

3. States Parties agree on the desirability of exchanging scientific and other personnel on expeditions to or installations on the Moon [or other celestial bodies] to the greatest extent feasible and practicable.

Article VI

1. In exploring and using the Moon [and circumlunar space] [and other celestial bodies] States Parties shall take measures to prevent the disruption of the existing balance of [its] [their] environment[s] whether by introducing adverse changes in such environment[s] [its] [their] harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to prevent harmfully affecting the environment of the Earth through the introduction of extra-terrestrial matter or otherwise.

2. [States Parties planning missions to the Moon [and other celestial bodies] shall notify the Secretary-General of measures being adopted to minimize the disruption of the existing balance of the environment[s] of [those bodies]. Such reports shall include the trajectories to be flown, the distance of closest approach, and specific measures taken to control micro-organisms on and in the spacecraft.]

3. [States Parties shall notify the Secretary-General of plans to place radio-active material on or in orbit or other trajectory around the Moon [or other celestial bodies] and shall give similar notification with regard to the conditions and effects of such placement when it occurs.]

4. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the Moon [and other celestial bodies] having special scientific interest in order that consideration may be given to their designation as international scientific preserves for which special protective arrangements are to be agreed, without prejudice to the rights of other States Parties to this Treaty.

Article VII

1. States Parties may pursue their activities in the exploration and use of the Moon [and other celestial bodies] anywhere on or below its [their] surface, [and in circumlunar space], subject to the other provisions of this Treaty.

2. For these purposes States Parties may, in particular:

(a) land their space objects on the Moon [and other celestial bodies], and launch them from the Moon [such bodies], [and place them in circumlunar orbit];

(b) place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the Moon [and other celestial bodies] [and in circumlunar space].

Personnel, space vehicles, equipment, facilities, stations and installations may move or be moved freely over or below the surface of the Moon [and other celestial bodies] [and in circumlunar space].

3. Activities of States Parties in accordance with paragraphs 1 and 2 of this article shall not interfere with the activities of other States Parties on the Moon [and other celestial bodies]. Where such interference may occur, the States Parties concerned shall undertake consultations in accordance with article XVI.

Article VIII

1. States Parties may establish manned and unmanned stations on the Moon [and other celestial bodies]. A State Party establishing a station shall use only that area which is required for the needs of the station and shall immediately inform the Secretary-General of the location and purposes of that station. Subsequently, at annual intervals that State shall likewise inform the Secretary-General whether the station continues in use and whether its purposes have changed.

2. Stations shall be installed in such a manner that they do not impede the free access to all areas of the Moon of personnel, vehicles and equipment of other States Parties conducting activities on the Moon [and other celestial bodies] in accordance with the provisions of this Treaty or of article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies.

Article IX

1. States Parties shall adopt all practicable measures to safeguard the life and health of persons on the Moon [and other celestial bodies]. For this purpose they shall regard any person on the Moon [or other celestial body] as an astronaut within the meaning of article V of the Treaty on Principles Governing the Activities of States on the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.

2. States Parties shall offer shelter in their stations, installations, vehicles and other facilities to persons in distress on the Moon [or other celestial bodies].

3. States Parties shall inform the Secretary-General, as well as the public and the international scientific community,

of any phenomena they discover in outer space, including the Moon and other celestial bodies, which could endanger human life or health, as well as any indication of organic life.

Article X ⁵

1. [The natural resources of the Moon [and other celestial bodies] shall be the common heritage of all mankind.]

2. Neither States, international intergovernmental or non-governmental organizations, national organizations having the status of juridical persons or not, nor natural persons, may claim the surface or subsurface of the Moon [or other celestial bodies] as their property. 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 connected with its [their] surface or subsurface, shall not create a right of ownership over parts of the surface or subsurface of the Moon [or other celestial bodies.]

3. [Parts of the surface or subsurface of the Moon [or other celestial bodies] may not be the object of grant, exchange, transfer, sale or purchase, lease, hire, gift or any other arrangement 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.]

4. [The States Parties to this Treaty, bearing in mind the need for economic advancement and for the encouragement of investment and efficient development if utilization of the resources of the Moon and other celestial bodies becomes a reality, recognize the importance of concluding agreements in this area. To this end, the Depository Governments shall promptly convene a meeting of all States Parties with a view to negotiating arrangements for the international sharing of the benefits of such utilization when one third of the States Parties inform the Depository Governments that they consider that practical utilization of the resources of the Moon or other celestial bodies is likely to begin within two years following or has already begun.]

Article XI

1. States Parties shall retain jurisdiction and control over their personnel, vehicles, equipment, facilities, stations and installations on the Moon [and other celestial bodies]. The ownership of space vehicles, equipment, facilities, stations and installations shall not be affected by their presence on the Moon [or other celestial bodies].⁶

2. Vehicles, installations and equipment or their component parts found in places other than their intended loca-

⁵ This text may be supplemented later.

⁶ Certain delegations reserved their positions on the reference to property, with regard to facilities, stations and installations.

tion shall be dealt with in accordance with article V of the Agreement on Assistance to Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.

3. In the event of an emergency involving a threat to human life, States Parties may use the equipment, vehicles, installations, facilities or supplies of other States Parties on the Moon [or in circumlunar space] [or other celestial bodies]. Prompt notification of such use shall be made to the Secretary-General or State Party concerned.

Article XII

A State Party which learns of the crash landing, forced landing or other unintended landing on the Moon [or other celestial body] of a space object, or its component parts, that were not launched by it, shall promptly inform the launching State Party and the Secretary-General of the United Nations.

Article XIII

1. States Parties to this Treaty shall bear international responsibility for national activities on the Moon [and other celestial bodies] whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty. States Parties shall ensure that non-governmental entities under their jurisdiction shall engage in activities on the Moon [and other celestial bodies] only under the authority and continuing supervision of the appropriate State Party.

2. [In addition to the provisions of article VII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, a State Party shall be liable for damage resulting from its act or omission or from an act or omission of its personnel on the Moon to the property or personnel of other States Parties on the Moon, unless it is established that the damage occurred through no fault of the said State or of its personnel on the Moon.]

Article XIV

With the exception of articles XVIII to XXI, references in this Treaty to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Treaty and if a majority of the States members of the organization are States Parties to this Treaty and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies. States members of any such organization which

are States Parties to this Treaty shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the foregoing.

Article XV

In the event of any difference arising between States Parties with regard to the interpretation [or application] of the provisions of this Treaty, reference shall be made where appropriate to the provisions of the Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space, and the Convention on International Liability for Damage caused by Space Objects.⁷

Article XVI

1. Each State Party may assure itself that the activities of other States Parties in the exploration and use of the Moon [and other celestial bodies] are compatible with the provisions of this Treaty. To this end, all space vehicles, equipment, facilities, stations and installations on the Moon [and other celestial bodies] shall be open to other States Parties. Such States Parties shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited. In pursuance of this article, any State Party may use its own means, or may act with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with the Charter.

2. A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Treaty or that another State Party is interfering with the rights which the former State has under this Treaty may request consultations with that Party. A State party receiving such a request shall enter into such consultations without delay. Any other State Party which requests to do so shall be entitled to take part in the consultations. Each State Party participating in such consultations shall seek a mutually acceptable resolution of any controversy and shall bear in mind the rights and interests of all States Parties. The Secretary-General shall be informed of the results of the consultations and transmit the information received to all States Parties concerned.

3. If the consultations do not lead to a mutually acceptable settlement which has due regard for the rights and interests of all the States Parties, the parties concerned shall take all

⁷ The delegation of Australia reserved its position on this article.

measures to settle the dispute by other peaceful means of their choice and appropriate to the circumstances and the nature of the dispute. If difficulties arise in connexion with the opening of consultations or if consultations do not lead to mutually acceptable settlement, any State Party may seek the assistance of the Secretary-General without seeking the consent of any other State Party concerned, in order to resolve the controversy. A State Party which does not maintain diplomatic relations with another State Party concerned shall participate in such consultations, at its choice, either itself or through another State Party or the Secretary-General, as intermediary.

Article XVII

At any time after this Treaty has been in force for five years, at the request of one third of the States Parties to the Treaty and with the concurrence of the majority of the States Parties a conference of the States Parties shall be convened to review this Treaty.

Article XVIII

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of . . . , which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Treaty.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XIX

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

Article XX

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XXI

This Treaty, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned duly authorized, have signed this Treaty.

Done in . . . , at the cities of . . . , the . . . day of . . . one thousand nine hundred and seventy . . .

Arnold Frutkin, Director of NASA's international programs, commented on U.S. policy positions on September 7, 1972 when he addressed the Committee on the Peaceful Uses of Outer Space:

A careful reading of the report of the Legal Sub-Committee will reveal the extensive character of the United States proposals. By way of example, we proposed that the treaty should apply not only to the Moon but to activities on other celestial bodies as well; that freedom of scientific investigation should be the guiding principle in the conduct of activities on celestial bodies; that exploring countries should accept binding obligations to report in detail on the conduct and results of their missions and should indicate well in advance of launch the intended purposes, locations and mode of conduct of their prospective missions; that exploring countries should likewise report in advance if their missions would involve the release of radioactive material in space or if their activities might affect the ecological balance of the environment of a celestial body; and that consideration should be given to the establishment of international scientific preserves for areas of celestial bodies having particular ecological and scientific interest.

We also proposed that exchange of personnel from missions launched by different countries should be encouraged; that unimpeded access should be guaranteed as a means of ensuring compliance with agreed limitations on specified military activities; that parties should be obliged to consult with one another in the event of differences between them, with any party entitled to ask the United Nations Secretary-General to lend his good offices in the event of any disagreement that might persist; that natural resources of celestial bodies should be the common heritage of mankind; that their use for scientific purposes should continue to be unimpeded; and that parties should declare their willingness to participate in

a conference on the international sharing of the benefits of utilization of those resources at such time as utilization might appear to become practicable.²⁶

The momentum toward consensus continued into the 1973 session when the texts of six provisions were approved by the Working Group and noted by the Legal Subcommittee. It is necessary to combine the 1972 and 1973 texts because they form the basis for the discussions which took place for six years until final agreement was reached on July 3, 1979 by the Committee on the Peaceful Uses of Outer Space.

U.N. DRAFT TREATY RELATING TO THE MOON, 1973

The following texts were approved by the Working Group and taken note of by the Legal Subcommittee. (A/AC.105/115).

Article II, Paragraph 1

All activities on the Moon including its exploration and use, shall be carried out in accordance with international law, in particular, the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interests of all other States Parties.

Article IV, Paragraph 3

States Parties shall inform the Secretary-General as well as the public and the international scientific community, to the greatest extent feasible and practicable, of their activities concerned with exploration and use of the Moon. Information on the time, purposes, locations, orbital parameters and duration shall be given in respect of each mission to the Moon, while information on the results of each mission, including scientific results, shall be furnished upon completion of the mission. In case of a mission lasting more than 60 days, information on conduct of the mission shall be given periodically at 30 days' intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter (points of time of information to the Secretary-General to be resolved).

Article VI

1. In exploring and using the Moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment whether by introducing adverse

²⁶ U.S. mission to the United Nations Press Release USUN 88(72) September 7, 1972, pp. 4-5.

changes in such environment, its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to prevent harmfully affecting the environment of the Earth through the introduction of extra-terrestrial matter or otherwise.

2. States Parties shall inform the Secretary-General of the measures being adopted by them in accordance with paragraph 1 of this article and shall also notify him of all placements by them of radioactive materials on the moon and of the purposes of such placements. (Points of time of information and notification to the Secretary-General to be resolved.)

* * * * *

4. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the moon having special scientific interests in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed in consultation with the competent organs of the United Nations.

Article IX, paragraph 3

States Parties shall immediately inform the Secretary-General, as well as the public and the international scientific community, of any phenomena they discover in outer space, including the moon and other celestial bodies, which could endanger human life or health, as well as any indication of organic life.

Article XIII, paragraph 2

States Parties recognize that detailed arrangements concerning liability for damage sustained on the moon, in addition to the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and the Convention on International Liability for Damage Caused by Space Objects, may become necessary as a result of more extensive activities on the moon, and agree that a conference of States Parties to this Treaty for the purpose of elaborating such arrangements shall be convened by the Depositary Governments when one third of the States Parties so request.

The Working Group also agreed to delete article XV of the text approved by the Legal Sub-Committee in 1972.

Throughout this period great attention was given by many countries to the preparation of working papers which might lead to agreement. Proposals were made by Argentina, Australia, Brazil, Bulgaria, Canada, Chile, Egypt, Indonesia, India, Iran, Italy, Mexico, Mongolia, Nigeria, Romania, Sierra Leone, Sweden, the United States

U.S.S.R., United Kingdom and Venezuela. In view of the provisions finally approved and recommended by the UN General Assembly for adoption by States as a treaty, the following working paper proposed by India on March 27, 1973 is of interest as part of the negotiating history:

Article X (1973 proposal by India)

1. The moon and other celestial bodies, their subsoil as well as their resources, are the common heritage of mankind.

2. States parties undertake to establish an international regime for the orderly and safe development and rational management of the resources of the moon and other celestial bodies and their subsoil, and for expanding opportunities in the use thereof, and to ensure the equitable sharing by all States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries.

3. Exploitation of the resources of the moon and other celestial bodies and their subsoil shall not be done except in accordance with the international regime to be established. For this purpose, the depositary Governments shall convene a conference of all States parties at the request of one third of such States. . . .²⁷

This position, which was supported by many other delegates, was not satisfactory to the U.S.S.R. because of the common heritage of mankind concept, and it was not satisfactory to the United States because it provided a moratorium on the exploitation of the resources of the moon and other celestial bodies pending the establishment of an international regime.

Until July 1979, the Soviet Union opposed the common heritage of mankind principle. The basic differences on this point, which were primarily responsible for the length of time it took to negotiate the draft text of a moon treaty, can best be explained by working papers submitted by the U.S.S.R. and Argentina.

U.S.S.R. ON COMMON HERITAGE OF ALL MANKIND, 1973

The U.S.S.R. working paper of March 28, 1973, addressed the question of the "common heritage of all mankind" as follows:

One of the questions that still remains unresolved in the consideration of the draft treaty relating to the moon is the problem of the use of the concept of the "common heritage of all mankind."

We shall try to determine the legal content of that formula. In the legal sense we are familiar with such civil law terms as "inheritance" and "succession". We do not use the term "heritage" in civil law. We use this word in the philosophical, rather than the legal sense.

Nevertheless, what is involved is not so much the terminology as the essence of the problem. Nobody is likely to put

²⁷ UN A/AC.105/196, Apr. 11, 1977, pp. 11-12.

forward any telling arguments to support the extension of the constructions and categories of civil jurisprudence to space law, which is a part of international public law.

What is "inheritance" in the civil law sense? This concept is inseparably bound up with the right of ownership, the possession of a thing and the use of it.

The recognition of inheritance and the right to succession is bound up with the concept of property and property rights. Without the concept of property, the concept of succession also becomes meaningless.

How does international space law resolve the question of property rights? The right of ownership over space objects and their parts is recognized (article VIII of the Treaty on Outer Space). And this is fully justified, since such objects are property belonging to a State or specific persons. That is a matter of civil law. International law, in this case, has merely confirmed the universal recognition of the corresponding parts over specific things.

In the case of celestial bodies, the Treaty on Outer Space has established definitely and unequivocally that the moon and other celestial bodies are not subject to national appropriation (article II): they may not become any person's thing or any person's property. Developing this generally recognized approach logically, the Soviet draft treaty concerning the moon provides that no person may claim the surface or subsurface of the moon as their property (article VIII of the draft). Consequently, portions of the surface or subsurface of the moon cannot be the object of civil law transactions—grant, exchange, transfer, sale or purchase, lease, hire and so forth. Nor can they, quite naturally, be the object of succession. A thing that belongs to nobody cannot pass into any person's possession by succession.

According to the 1967 Treaty on Outer Space, celestial bodies are the province of all mankind. They are available for the undivided and common use of all States on earth, but are not jointly owned by them. This is the essential feature of international law.

Based on these scientific and legal premises, the Soviet delegation would be able to consider the question of the use in the draft treaty relating to the moon of the concept of the "common province of all mankind". It would seem that by taking this line a satisfactory compromise might also be found on this matter.^{27a}

Argentina replied to the U.S.S.R. on April 17, 1973 concerning the draft Treaty Relating to the Moon and the Question of "the common heritage of all mankind":

^{27a} A/AC.105/115 April 27, 1973, Annex I, pp. 24–25.

ARGENTINA'S REPLY ON COMMON HERITAGE, 1973

Working paper (17 April 1973)

DRAFT TREATY RELATING TO THE MOON

(Question of the "common heritage of all mankind")

The Soviet delegation submitted, on 28 March 1973, a working paper in which it tries to determine the legal content of the expression "common heritage of all mankind".

According to that paper, the term "heritage" is not used in a civil law in the Soviet Union, where it has a philosophical rather than a legal sense. It does not appear that this can carry over into international law, where formulae and principles of general law are employed in the structure of many of its institutions. The word "succession", for instance, has been used in classical international law when speaking of succession of States, and it has not lost its validity—so much so that it is among the topics for priority treatment in the International Law Commission. The Spanish term "heritage" ("*patrimonio*") is also used by modern international law in referring, for instance, to the "patrimonial sea" ("*mar patrimonial*").

The working paper in question states that, without the concept of property, the concept of succession also becomes meaningless. It is relevant to point out that there are two classes of domain; one is direct domain, which traditionally was known as "eminent domain" or, in short, ownership. This type of domain has not been recognized as being applicable to the moon in any of its forms. On the other hand, however, we must not forget that there has also existed since the most ancient times—and this has carried over into modern legal systems, particularly since the Second World War—a domain known as beneficial ownership (*dominio útil*), which comprises enjoyment, receipt of the fruits, profit. There undoubtedly exists on the moon beneficial ownership, pertaining to its utilization and to the possible exploitation of its natural resources. What is one to call this community of ownership—this conjunction of profits, this joint receipt of fruits and products—in a word, this common property of the moon? There is no need to create anything new. The idea of heritage—which can even be intangible—has existed since olden times, and it resolves the issue without any major difficulty. Moreover, international law has always recognized, in addition to sovereignty, a right of ownership on the part of States, which is no different from the concept of ownership under general law.

The Soviet working paper states that the concept of inheritance is inseparably bound up with the right of ownership, the possession of a thing and the use of it. This is obvious and is demonstrated by the fact, among others, that on the occasion of its lunar missions the Soviet Union took possession of things (rocks and other samples from the moon)

and made use of them. Thus, it operated within a concept of inheritance.

As applied to outer space and celestial bodies, the concept is not philosophical but legal, because the question hinges not on terminology but on the essence of the problem and on the prevailing rules. Consequently, there is little point in making a philosophical or philological analysis of the expression "common heritage of all mankind". It is, however, essential to note that the substance of the question is normative; it has to do with the norms and principles of international law.

The formulae thus far employed in the international instruments that have been elaborated in outer space law reflect the general interests of States, which have been increasingly identified as the exploration and use of space progress. When the aspirations and needs of the peoples of the world arrive at a way of expressing themselves—in other words, when the point is reached where it is possible to establish what is desired—the matter enters into the legal sphere. What is desired necessarily tends to find expression in a principle or a norm which, on this issue, is always international.

The 1967 Space Treaty has resolved part of the question when it lays down that outer space, including the Moon and other celestial bodies, is not subject to national appropriation (article II), and deviates from the principle which international law would have recognized by the fact of conquest or occupation if this exception had not been established. This deviation, or the negative aspect of the question, only affects States which have the capacity to reach outer space and other celestial bodies. The positive aspect, which begins with the entry into force of the Treaty, covers or binds all States, including those affected by the negative aspect.

But what is the positive aspect of these negations in the 1967 Treaty, which are taken to their final consequences in the draft treaty on the moon?

For the present, without any claim to exhaust other inherent points of substance, the following may be enunciated:

A realization on the part of all States and peoples that they are entitled to the benefits derived from the principles and norms established for outer space and celestial bodies;

The need to link to the exploration and use of space and celestial bodies the exploitation thereof;

The search for profit, with an attempt to ensure its results;

Equitable sharing of the profits derived;

Consideration of the needs and interests of developing countries;

Supervision of this activity with a view to equitable distribution;

The institution of an international régime;

The establishment of appropriate procedures for such a régime.

The existence of international machinery or an international authority to give effect to all the expectations that have been voiced.

The major merit of replacing the vague expression "province of all mankind" by the more meaningful expression "common heritage of all mankind" is that in so doing one has specified the commencement of an action, replacing an abstract statement by a means of operating, within a specified legal framework.

The fact that General Assembly resolution 2749 (XXV) on the sea-bed was adopted without any dissenting vote is definite proof of the existence of this legal viewpoint common to all States, entirely irrespective of their special internal features, their philosophical ideas or their policies.²⁸

There was substantial support for the Argentine viewpoint. On September 6, 1972 Mr. Rydeck, representing Sweden, spoke to the Committee on the Peaceful Uses of Outer Space, saying that the 1967 Treaty on Outer Space provision on "the province of mankind" while "probably not primarily aimed at creating a property title for mankind as far as resource utilization is concerned, . . . seems to point clearly to the related concept of the 'common heritage of mankind', later accepted in relation to the sea-bed and its resources. . . . Once we accept this concept, the question of a proper international administration for the exploration of the moon and other celestial bodies arises. . . . the idea of such machinery should be recognized, since without it expressions such as 'common province' and 'common heritage' will be of limited value to the majority of nations. This is, of course, just part of the much larger problem of turning the exploration and exploitation of outer space from its present unilateral or bilateral course into an international undertaking with tangible United Nations involvement."²⁹

On June 28, 1973, Mr. Tuerk, representing Austria, which made substantial contributions to the consensus process through the years, addressed the Committee on the Peaceful Uses of Outer Space to express satisfaction that so much had been accomplished. He thought it should not be too difficult to resolve the issues on the scope of the treaty and the information on missions, and explained that ". . . article X of the draft treaty, referring to the exploitation of the natural resources of the moon, has proved to be the most important stumbling-block" but pointed out that "agreement on substantial areas of this question, *inter alia* the establishment of an international regime governing the exploitation of these resources, when such exploitation becomes feasible, by a conference of States parties to the treaty . . . has been reached. The main unresolved issue is obviously the question of the exploitation of the natural resources of the moon pending the establishment of such an international regime."³⁰

U.S.S.R. POSITION 1972-78

The U.S.S.R. frequently spoke out against the common heritage idea. On July 12, 1972, the head of their delegation, Ambassador Piradov, stated to the Legal Subcommittee:

So far as concerned Article VIII of the draft treaty, the Soviet delegation preferred the original text; it seemed pre-

²⁸ UN A/AC.105/115, Apr. 27, 1973, Annex I, pp. 29-31.

²⁹ Committee on the Peaceful Uses of Outer Space, A/AC.105/PV.111, Sept. 6, 1972, p. 42.

³⁰ UN A/AC.105/PV.123, June 28, 1973, p. 41.

mature to seek to regulate the use of the natural resources of the moon before the problem [of economically feasible exploitation] arose.³¹

Speaking to the Outer Space Committee on July 1, 1974, Ambassador Piradov again expressed disapproval:

The most promising solution to the problem, however, was to be found in the original text of the draft treaty that was submitted by the Soviet Union. Its basic purpose was that there should not be included in the draft moon treaty a provision concerning the regime for the use and exploitation of the moon's natural resources. . . .³²

Two years later, on July 22, 1976, Ambassador Piradov again addressed the Committee on the Peaceful Uses of Outer Space:

At the same time we have frequently had occasion to explain in some detail that at the present stage of space activity we cannot agree with the proposal that the concept of 'the common heritage of mankind' should be immediately applicable to the Moon and other celestial bodies and their natural resources.

First, we are genuinely convinced that such a proposal is premature in the absence of the necessary objective foundations and factual material for it. Secondly, we have referred to the juridical and political vagueness and lack of specificity in the concept which has been put forward. . . .³³

Another delegate from the U.S.S.R., Mr. Maiorski, expressed the Soviet viewpoint when speaking before the Outer Space Committee on June 28, 1977:

We consider that the simple inclusion in a treaty of 'the term common heritage of mankind' solves no problems. . . . In this connection I should like to remind you, Mr. Chairman, of the proposal discussed informally among delegations at the session of the Legal Subcommittee—that is the proposal [by the U.S.S.R.] that, on the question of the status of the natural resources of the moon and possibly of other celestial bodies, there should be prepared a separate legal document, let us say in the form of an additional protocol to the draft treaty relating to the moon. Of course, this should be an optional protocol at first. In other words, it would . . . have binding only on those States which signed and ratified it.³⁴

The following year, on July 11, 1978, Mr. Kolossov, an alternate delegate of the Soviet Union, explained to the Outer Space Committee:

In our respective [U.S.S.R. governmental] organizations in particular doubts do arise with regard to the inclusion in the text of the draft treaty of wording that proclaims the moon and its natural resources as the common heritage of man-

³¹ UN A/AC.105/C.2/SR.187, July 12, 1972, p. 8.

³² UN A/AC.105/PV.131, July 1, 1974, p. 66.

³³ UN A/AC.105/PV.158, June 22, 1976, pp. 8-10.

³⁴ UN A/AC.105/PV.175, June 28, 1977, pp. 37-40.

kind, and especially with regard to the close link which, according to this text, exists between the proclamation of this principle and the need to create a special international regime. I say that is very doubtful....³⁵

Thus far we have seen that the major provisions in the draft text of the Moon Agreement were outlined by the Legal Subcommittee by 1973 with the texts marked according to agreed and disagreed wording. The nature of the negotiations for the following six years is found in the records of the Legal Subcommittee and the Committee on the Peaceful Uses of Outer Space.

When the Legal Subcommittee met from May 6 to 31, 1974, the Draft Treaty on the Moon was given highest priority in accordance with the General Assembly's resolution of December 18, 1973 (3182, XXVIII). Although this seemed to give an appearance of urgency in relation to other agenda items, actually a number of subjects were given a high priority. Working Group I was reestablished to consider the Moon Treaty and working papers were introduced by the United States, Bulgaria, India, Egypt, Nigeria and Mongolia. The Working Group decided to give their greatest attention to the three most controversial issues: Article I on the scope of the treaty; Article IV on information to be furnished on moon missions; and Article X on the natural resources of the Moon. Bulgaria's Working Paper consisted of a complete draft of the treaty with alternatives offered for Article X. The first option was concerned with prohibitions against claims of sovereignty and property while the second proposed an international regime to govern the exploitation of the moon's natural resources when this activity became feasible. A conference was suggested to implement the regime on the basis that "the natural resources of the moon are the object of common use of all States..."

Mongolia proposed that the moon be the province of all mankind and attention be given to helping all States to enjoy the benefits resulting from exploiting the moon's natural resources. Egypt, India and Nigeria wanted property rights in moon samples to be vested in the United Nations. The U.S. Working paper simply proposed a rearrangement of the articles. The Working Group decided to concentrate on the natural resources issue because its solution would make it easier to agree on the other two. The delegates were divided, however, over including a natural resources provision in the draft moon treaty or excluding it with the idea of dealing with the matter in a separate international agreement. The differences could not be reconciled and the subject was retained on the agenda for 1975.³⁶ The Legal Subcommittee had a sense of accomplishment, however, because of completing in May 1974 the Convention on Registration of Objects Launched into Outer Space which was endorsed by COPUOS and adopted by the General Assembly on November 12, 1974.

When the Legal Subcommittee convened for its fourteenth session, February 10 to March 7, 1975, Working Group I was established again to deal with the accumulated proposals concerning the Moon Treaty. The issue of natural resources was presented in two drafts of Article

³⁵ UN A/AC.105/PV.185, July 11, 1978, p. 21.

³⁶ Report of the Legal Subcommittee on the Work of its Thirteenth Session, May 6-31, 1974. A/AC.105/133. June 6, 1974, pp. 2, 5, Annex I: 1-14.

X which were labelled Article X and Article X *bis*. Both, included the common heritage of mankind and Article X *bis* provided for an international regime, and both were studded with square brackets to indicate disagreement. The idea that special consideration must be given to space powers in the international regime was proposed and the wording was suggested for the requirement to inform the UN Secretary General, the public and international scientific community, to the extent feasible and practicable, of natural resources discovered on the Moon.³⁷

The full Committee considered the report of its Legal Subcommittee during its 18th session from June 9 to 20, 1975 and the Chairman suggested that consultations among delegates might be held to narrow the gap between viewpoints on the scope of the treaty and the legal status of natural resources on the Moon. The Chairman said that "as in the past, I shall hold myself available for any action, formal or informal, the Committee might wish to take in this matter."³⁸ The delegates were far from a consensus and the matter was carried over to 1976.

By 1976 there were signs of frustration over the inability of the Legal Subcommittee to report a consensus-agreed text of a Moon Treaty. When the Subcommittee met for its 15th session from May 3 to 28, 1976, the Chairman, Dr. Eugeniusz Wysner (Poland), reminded the delegates that the General Assembly in resolution 3388 (XXX) on November 18, 1975 had again recommended a high priority for the draft treaty relating to the Moon. The Working Group I was again appointed and considered all the past documents as well as new working papers proposed during 1976. Italy offered a proposal for the legal regime to govern the natural resources of the Moon, including the concept of the common heritage of mankind. Paragraph 3 provided:

The natural resources of the moon cannot be transferred on to the earth by any country for its own exclusive economic profit; those resources shall be transferred on to the earth only under the provisions of an international regime as specified by the following article. [which provided for the common heritage of mankind].

Proposals for Article IX and Article X were introduced by Argentina, Brazil, Chile, Indonesia, Mexico, Nigeria, Romania, Sierra Leone, and Venezuela. These provided that the Moon and its natural resources are a common heritage of all mankind and that an international regime must be established with objectives of orderly and safe development, rational management, expansion of opportunities for use and exploitation of resources, and "equitable sharing in the benefits derived from those resources." No agreement could be reported by the Legal Subcommittee.³⁹

The frustration was expressed by Ambassador Cocca during a discussion at the full Committee on June 25, 1976 when he pointed out that it had been impossible to achieve results in seven years and if a draft treaty on the Moon could not be concluded during the current

³⁷ Report of the Legal Subcommittee on the Work of its Fourteenth Session Feb. 10-Mar. 7, 1975). A/AC.105/147. Mar. 11, 1975, p. 5 and Annex I.

³⁸ Report of the Committee on the Peaceful Uses of Outer Space. General Assembly Official Records: 30th session, supplement No. 20 (A/10020) 1975. pp. 4, 14-15.

³⁹ Report of the Legal Subcommittee on the work of its Fifteenth Session (May 3-28, 1976). A/AC.105/171. May 28, 1976, pp. 5-6 and Annex I.

COPUOS session, "we would prefer that this matter be relegated to a secondary position or not considered further" so that other matters could be taken up. Ambassador Cocca said that the proposal made by the nine countries to the Legal Subcommittee "represents the maximum concession that can be made by a considerable group of representatives of legal systems" . . . "we have reached the outer limit of the concessions that we can make, [and] it would be senseless to keep the item on the agenda either at our present meeting or in future meetings." The Argentine delegate continued:

. . . if the Committee should decide, despite our repeated failures, to continue consideration of a draft treaty relating to the Moon, then, we who represent countries which have a very firm position on this item would feel in duty bound to expand articles IX *bis* and X *bis* considerably. The reason . . . is linked to the fact that the Conference on the Law of the Sea will be convening exactly one month after we conclude our deliberations. It would be right if a consensus is reached . . . that it should be our Committee, the pioneer in this matter, the body which elaborated the concept of 'the common heritage of mankind' and which incorporated it in the first text of an international instrument known to the United Nations, that develops this concept.

Ambassador Cocca referred to the progress made by the Third Conference of the Law of the Sea which distributed on May 6, 1976 the "Revised Single Negotiating Text, Note by the President of the Conference" (A/CONF.62/WP.8/Rev.1/Part I) with special provisions for an Authority, pointing out the "yawning chasm" between the accomplishments of the Sea conference and those of COPUOS, and noting "with desolation that this discrepancy should be so damaging precisely to our Committee which was the author and originator of these debates on the concept of the common heritage of mankind."⁴⁰

Ambassador Piradov, head of the U.S.S.R. delegation, expressed the Soviet viewpoint:

The discussion at the fifteenth session of the Legal Subcommittee, as we see it, clearly showed that among those delegates which spoke in favour of the concept of the common heritage of mankind there was no common view as to what it meant. In certain arguments that were put forward to support that idea, the idea in fact emerged that space activities should be internationalized and a supra-State nature should be given to whatever body guides those activities. Such legal arguments can obviously not be accepted by us as the proper way to proceed with respect to the gradual development of international space law. Therefore, the search for a compromise in this matter should obviously be pursued by means of a very accurate interpretation of the concepts used in the draft treaty, on the basis of due respect for the sovereign rights of States participating in space activities.⁴¹

It was not possible for the Committee on the Peaceful Uses of Outer Space to resolve issues that were still so controversial in the Legal

⁴⁰ UN Committee on the Peaceful Uses of Outer Space. A/AC.105/PV.164, pp. 30-35.

⁴¹ *Ibid.*, pp. 8-11.

Subcommittee. Neither was there a disposition to withdraw the draft Moon Treaty from the agenda nor give it a second place. On November 12, 1976 the General Assembly passed resolution 31/8 recommending that the Legal Subcommittee should give high priority to completing the draft treaty relating to the Moon.

In 1977, the Legal Subcommittee met from March 14 to April 8 and re-established Working Group I to continue work on the draft Moon Treaty. The UN Secretariat had prepared three reference papers containing all proposals which had previously been made on the three unresolved issues: the scope of the treaty, information to be furnished on missions to the Moon, and natural resources of the Moon. In addition, the 1972 and 1973 texts were included as well as a working paper by Australia and Canada to assist in informal consultations hoped to lead to formal agreements. As before, the delegates, meeting in what is essentially a committee of the whole for one week, were unable to come to agreement on the natural resources issue. It was still the prevailing opinion that if this issue could be settled, it would not be difficult to come to terms on the other two. The result was much the same as a year before when a consensus could not be achieved and again the full Committee decided to carry the matter over to the 1978 session of the Legal Subcommittee.⁴²

This recommendation was approved by the General Assembly on December 20, 1977 in passing resolution 32/196 giving continued high priority to the Moon Treaty.

When the Legal Subcommittee met for its seventeenth session, March 13 to April 7, 1978, ten new members had been added: Benin, Colombia, Ecuador, Iraq, The Netherlands, Niger, Philippines, Turkey, United Republic of Cameroon and Yugoslavia.⁴³

The Subcommittee was unable to reach consensus on the draft text, but there was a slight, an almost imperceptible movement, toward compromises which indeed were ultimately worked out in 1979. A number of working papers were presented in "a spirit of compromise". The Austrian delegation had formulated a working paper which consisted of a tentative but complete draft treaty text. Their efforts, which had begun in 1973, were not reflected in the Subcommittee's 1977 report, but their draft proposal had been circulated among delegates. The Austrian text was based on 1972 and 1973 decisions made by the Subcommittee, texts which included proposals for the common heritage of mankind, an international regime, different details about moon missions, and brackets around "and other celestial bodies."

A number of delegates stated that they would need to consult with their governments before deciding on provisions in the Austrian draft. The Working Group finally decided that "time did not permit the consideration of this working paper in the Working Group." They thought the matter could be taken up by the full Committee in June 1978 but if the Committee could not bring about a consensus then the draft Moon Treaty could again be placed on the agenda of the Legal Subcommittee for its 1979 session. It was significant, however, that

⁴² Report of the Legal Subcommittee on the Work of its Sixteenth Session (Mar. 14-Apr. 8, 1977). A/AC.105/196. Apr. 11, 1977, p. 7 and Annex I, pp. 1-62. This report contains all proposals on three issues made between 1970 and 1978. Report of the Committee on the Peaceful Uses of Outer Space. General Assembly, Official Records, 32d session. Supplement No. 20 (A/32/20).

⁴³ Report of the Legal Subcommittee on the Work of its Seventeenth Session Mar. 13-Apr. 7, 1978). A/AC.105/218. Apr. 13, 1978.

the complete Austrian text was annexed to the 1978 report of the Working Group, thus giving it a status it had not had before.⁴⁴

The Committee on the Peaceful Uses of Outer Space gave attention to the Moon Treaty during its 21st session, June 26 to July 7, 1978, and the Chairman, Dr. Peter Jankowitsch (Austria), noted the report of the Legal Subcommittee, particularly the recommendation that the Committee could deal with the matter. The Committee "agreed to establish an informal working group of the whole to review the outstanding matters."⁴⁵ Mr. Gyula K. Szelei (Hungary) was appointed chairman of the informal working group. Mr. Jankowitsch explained in his opening statement that the Austrian draft had attracted agreement from many delegations and that "as a result of informal negotiations on this proposal as well as on various others, the gap between the views held by member States on the main outstanding issues could be narrowed considerably." He hoped that "we shall be able to agree on the final text at the current session of this Committee, as was envisaged by Working Group I of the Legal Subcommittee." Continuing, he said that "I shall, of course, make myself available for any formal or informal action that the Committee might wish to take with a view to facilitating such an agreement."⁴⁶

From 1972 to 1979 the U.S.S.R. expressed strong disapproval of including in the draft moon treaty the common heritage of all mankind concept and the international regime. There seemed to be a very slight change of attitude in 1978. On April 5, 1978, Mr. Kolossov (U.S.S.R.) "commended the Chairman of Working Group I on the manner in which he had fulfilled his complex task and also congratulated the Austrian representative on his contribution. While the results achieved by Working Group I had not been spectacular, his delegation considered that an important step forward had been taken."⁴⁷ On June 30, 1978, Mr. Kolossov again expressed doubts about the common heritage of mankind and the international regime, but said with regard to the Moon Treaty, "we were very close to the completion of that work, and my delegation feels that the working document presented by the Austrian delegation is, in principle, not a bad basis for a compromise solution of this question. But, like a number of other delegations, we too think that this text does need further study by our competent bodies."⁴⁸

Speaking for the United States, Mr. Helman on June 27, 1978, said the Austrian text was presented to facilitate reaching a consensus. "The United States believes that this Committee owes the Austrian Government and its representatives its gratitude for their efforts. The text advances our work substantially, and my delegation looks forward to hearing the views of others on its contents."⁴⁹

By the conclusion of the Committee session in 1978, the delegates from 47 countries had before them for study a draft moon treaty text with disagreed portions in square brackets, and a clean text without brackets which had been worked out by the Austrian delegation and was included in the Report of the Committee. There were also other proposals on various provisions. Some of the developing countries were

⁴⁴ Ibid., Annex I, pp. 2-10.

⁴⁵ UN Committee on the Peaceful Uses of Outer Space. General Assembly Official Records, 33rd session, supplement No. 20, 1978, (A/33/20), p. 11.

⁴⁶ Ibid., pp. 19-20.

⁴⁷ UN A/AC.105/C.2/SR.290. Apr. 5, 1978, p. 3.

⁴⁸ UN A/AC.105/PV.185. July 11, 1978, pp. 18-20, 21.

⁴⁹ UN A/AC.105/PV.180. June 27, 1978, p. 22.

insisting upon a moratorium on the exploitation of the Moon and other celestial bodies prior to the establishment of an international regime, and to this the United States, among others, would not agree.

LEGAL SUBCOMMITTEE RESULTS, 1979

The Legal Subcommittee met for its 18th session (March 12 to April 6, 1979) at the United Nations in New York under the chairmanship of Ambassador Eugeniusz Wyzner who pointed out that the General Assembly had passed resolution 33/16 on November 10, 1978 recommending that the Subcommittee give priority to completing the draft treaty on the Moon. Two other subjects were also given high priority: direct television broadcasting by satellite and the legal implications of remote sensing of the Earth from outer space. In addition, the Subcommittee planned to continue discussions concerning the definition and/or delimitation of outer space and outer space activities (including the geostationary orbit) as well as "other matters." The Subcommittee established separate working groups for each of the three priority subjects, working as a committee of the whole during the first week of its session on remote sensing, devoting the second week to direct television satellite broadcasting, and allocating the third week to the Moon Treaty.

The Chairman said he did not underestimate the difficulties of resolving issues but felt that the delegates could find "the highest common denomination of agreement and then record that level of agreement in acceptable language. It was true, as it was indeed true of most, if not all, multilateral treaties and other multilateral instruments, that each delegation might not have its own point of view reflected in the treaty or other instrument as fully as it may have wished. Yet such was the essence and nature of international cooperation, compromise and accord."⁵⁰

Mr. Haraszti (Hungary) was again appointed chairman of Working Group I on the draft treaty relating to the Moon. The Subcommittee, meeting as a Working Group, held five meetings between March 26 and April 2, 1979 during which a review was made of each article of the Austrian draft. Some delegates had wanted the compromise text to be considered only as a whole, but others had insisted on examining each provision. The result was the expression of disagreements by placing square brackets around many provisions, particularly those dealing with the hard core issues. It was not decided whether the draft treaty should relate only to the Moon or also to "other celestial bodies".

Square brackets were inserted around the entire text of Article 11 which deals with the concepts of "the common heritage of mankind" linked to considering the establishment of an international regime when exploitation of natural resources is about to become feasible. Even within Article 11, there were disagreed portions. Paragraph 1 was replaced by a proposal made by Brazil: "The moon and its natural resources *are* the common heritage of mankind, which finds its expression in the provisions of this [Agreement] [Treaty] and in particular

⁵⁰ Report of the Legal Subcommittee on the Work of its Eighteenth Session Mar. 12-Apr. 6, 1979) A/AC.105/240, Apr. 10, 1979. pp. 2-3.

in paragraph 5 of this article." In the provision concerning equitable sharing of benefits derived from resources, the Working Group added that such privileges shall be extended to countries which have contributed "either directly or indirectly" to the activity.⁵¹

Square brackets enclosed Article 18 which dealt with conditions for implementing Article 11, paragraph 5 on convening a conference to consider establishing an international regime. In addition to the square-bracketed Austrian text, working papers were proposed by Belgium and the Netherlands, and all were reproduced in the Legal Subcommittee's report. Unable to find compromises, the Subcommittee recommended that the full Committee on the Peaceful Uses of Outer Space, which was to meet in June, "consider whether the elaboration of a draft treaty could be concluded, or whether further progress could be achieved during that session."⁵²

ACTION BY U.N. COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE, 1979

When the Committee on the Peaceful Uses of Outer Space met in New York on June 18, 1979, the Chairman, Ambassador Peter Jankowitsch, expressed the discouragement of many delegates over inability to reach a consensus and complete the text of the draft treaty on the Moon. Pointing out that the unresolved issues were essentially the same as in previous years, Ambassador Jankowitsch said that not only did the article-by-article review by the Legal Subcommittee fail to remove the square brackets, but that "what we in fact did was even take some steps backwards." He analyzed the situation—

Although a number of factors contributed to this lack of progress, one problem remains central: the positions of various members on key issues remain virtually the same as the positions taken by them in previous years. . . . The natural consequence of this is that progress by the Subcommittee on the outstanding issues will take place only as Member States display an active desire and, let me say, a somewhat stronger political will to achieve the necessary compromises. . . . we should not fail to seek acceptable compromises . . . In this connexion, the time might even have come for us to reassess our respective positions in order to see whether we cannot really bridge this gap. And if in all honesty we find ourselves unable to do so, the time might also have come to devote our energies—at least for the time being—to other important areas of concern which deserve our attention.⁵³

The psychological attitude of delegates was that enough time had been spent trying to formulate the text of a draft moon treaty and either a consensus should be reached or the subject should lose its priority or even be dropped from the agenda. Since it had been some years before a consensus had been attained on the Registration Convention, there was real concern that this working procedure could be

⁵¹ Ibid., Annex III, p. 2.

⁵² Ibid., p. 3.

⁵³ Report of the Committee on the Peaceful Uses of Outer Space. General Assembly Official Records, 34th session, supplement No. 20 (A/34/20). United Nations 1979. p. 26. See also COPUOS A/AC.105/PV.190, June 18, 1979, pp. 7-8.

endangered if agreements could not be reached over extended periods of time.

Mr. Zachmann, speaking for the German Democratic Republic, said "We should like to suggest that it might be advisable, in view of the quite divergent positions, no longer to give high priority to this issue and think the question over for a while."⁵⁴

Mr. Nolan of Australia said his delegation "wonders whether serious consideration should not be given to leaving aside for the moment those items upon which progress clearly has faltered. In this way the valuable time of the Committee and its Subcommittees could more fruitfully be spent in areas, perhaps new areas, on which agreement, could more readily be reached."⁵⁵

The French delegate, Mr. Richer, said "The points of divergence are well known and specific. Will a new discussion bring in new elements? It is doubtful. But the French delegation will spare no effort if other delegations deem it useful to resume discussion on it. We feel that this is a political problem, which must be settled in political terms and perhaps in a larger body than the one to which it is at present limited."⁵⁶

The momentum to go forward was generated by the reaction of other delegates. Mr. Carazo (Venezuela) stated "... we are not pessimistic and we think it is worthwhile continuing to strive to reconcile points of view in these two areas and, therefore, we do not share the view of some delegations that for the time being at least we should set aside those items which offer only slight prospects of progress. Because if we were to file those papers they would lose currency and we would be declaring ourselves incapable of reconciling our positions."⁵⁷

Mr. Vukovic (Yugoslavia) expressed surprise that difficulties in reaching agreement arose from the concept of "the common heritage of mankind, as we believed that that principle had been endorsed by all countries. The postponement of agreement owing to differences concerning this question does not seem to us to be justified. We are therefore in favor of the Working Group's continuing its work on this question during the Committee's current session."⁵⁸

Mr. Yash Pal, speaking for India, said "We had decided, after a lot of thinking, that we would go along with it [the Austrian text]. But something seems to have happened. I do not know what. I do hope the draft treaty will be resurrected, that we shall move back a year in time and again look at that draft with great favor and approve it as soon as possible."⁵⁹

Mr. Neil Hosenball, head of the U.S. Delegation, pointed out that there were few outstanding issues and "The Austrian compromise draft text, with perhaps certain minor modifications, could still facilitate a successful conclusion to our work. My delegation stands ready to work with all delegations in the effort to achieve such an end."⁶⁰

That the U.S.S.R. was finally willing to consider withdrawing its opposition to the common heritage of mankind principle was evident

⁵⁴ COPUOS report, A/AC.105/PV.195, June 25, 1979, pp. 18-20.

⁵⁵ Ibid., p. 69.

⁵⁶ COPUOS report A/AC.105/PV.193, June 20, 1979, pp. 18-20.

⁵⁷ COPUOS report A/AC.105/PV.198, July 10, 1979, p. 12.

⁵⁸ COPUOS report A/AC.105/PV.199, July 11, 1979, p. 22.

⁵⁹ COPUOS report A/AC.105/PV.192, June 19, 1979, p. 18.

⁶⁰ COPUOS report A/AC.105/PV.193, June 20, 1979, pp. 18-20.

from the statement of the Soviet representative, Mr. Troyanovsky: "If all States represented here show a spirit of goodwill, clearly it will be possible to find compromise wording acceptable to all with regard to the legal status of the moon and its natural resources. In this connexion I should like to say a few words about the need constantly to search for compromise in our Committee. The fact that we are working on a basis of consensus forces each of us to seek, in an especially intensive way, generally acceptable compromises. Otherwise the results of the work of the Committee will not be very good."⁶¹

In the same vein, Mr. Kolossov (U.S.S.R.) said that his delegation would be willing to form a working group on the Moon Treaty or direct television broadcasting by satellites in order to complete the work and that "... it is desirable to accomplish both these things, but the Soviet delegation is prepared to participate and try, in a spirit of compromise, to come up with generally accepted decisions, to reach a consensus on one or the other question at this session."⁶²

The result of these and many similar statements was that the Committee established an informal working group of the whole and appointed as chairman Mr. Gyula K. Szelei (Hungary). Four meetings were held between June 26 and July 3, 1979.

During this time the Committee reached agreement on the three issues which had been under consideration since 1972-73.⁶³ On the scope of the treaty, it was decided that "other celestial bodies" should be added. Without re-drafting the text which had been generally worked out with the Moon in mind, consensus was found by providing in Article 1 that provisions relating to the Moon also apply to other celestial bodies within the solar system and the possibility is left open for specific legal norms to enter into force on any celestial body. The Earth itself is not covered by the Agreement's provisions.

The title of the document as recommended in the Austrian text was adopted so that it became an "agreement" rather than being called a "treaty". This reserved the special designation of a "treaty" to the 1967 Treaty on Outer Space while subsequent space law documents have been entitled "agreement" or "convention".

The issue of the type of information to be furnished on moon missions was settled in Article 5 which provides that the UN Secretary General, the public and the international scientific community shall be informed by States to the greatest extent feasible and practicable of their activities concerning the use and exploration of the Moon. The information is to include the time, purposes, locations, orbital parameters, duration of each mission, etc., as soon as possible after launching. Most of the detailed provisions in the proposal were made by the United States on April 11, 1972, the major difference being that the U.S. recommended that information be given "well in advance of launching."⁶⁴

The consensus reached on the issue concerning natural resources of the Moon and other celestial bodies in Article 11 of the Agreement developed from the U.S. proposal of April 17, 1972. At that time the

⁶¹ COPUOS report A/AC.105/PV.194, June 20, 1979, p. 8.

⁶² COPUOS report A/AC.105/PV.196, July 3, 1979, pp. 48-50.

⁶³ Op. cit., footnote 53.

⁶⁴ U.S. Working paper No. 3: A/AC.105/C.2 (XI), Apr. 11, 1972. Also in Report of the Legal Subcommittee on the Work of its Eleventh Session (Apr. 10-May 5, 1972), A/AC.105/101. May 11, 1972, pp. 8-9.

recommendation provided in paragraph 1 that "the natural resources of the moon and other celestial bodies shall be the common heritage of all mankind." Paragraph 2 guaranteed the right of States Parties to use the resources of the moon and other celestial bodies for scientific investigations or by "removing such resources to the earth for analysis or analyzing them in space or on the moon or other celestial bodies." Paragraph 3 of the 1972 U.S. working paper recognized the importance of a future agreement and proposed a conference of all States Parties to negotiate arrangements "for the international sharing of the benefits of such utilization" when they consider that practical use "is likely to begin within two years following or has already begun."⁶⁵

The U.S.S.R. was willing to go along with the amendment to the Austrian draft suggested by Brazil so that Article 11, paragraph 1 reads that "The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this agreement and, in particular, in paragraph 5 of this article."

Some delegates wished to amend Article 1, paragraph 1 of the Austrian draft text, but there was uneasiness lest opening the text for many amendments would jeopardize the emerging consensus. Therefore, a decision was made to clarify certain parts of the Agreement's text by stating the Committee's understandings in its report. There are three Committee understandings which need to be taken into account when interpreting relevant provisions.

The first understanding (paragraph 62 of the Committee's report) concerned the meaning of Article 1, paragraph 1 on which "The Committee agreed that by virtue of article 1, paragraph 1, the principle contained in article 11, paragraph 1, would also apply to celestial bodies in the solar system other than the earth and to its natural resources."

The purpose of the second understanding (paragraph 63 of the Committee's report) was to clarify article 1, paragraph 2, on which "the Committee agreed that the trajectories and orbits mentioned in article 1, paragraph 2, do not include trajectories and orbits of space objects in earth orbits only and trajectories of space objects between the earth and such orbits."

The third understanding concerned article 7 which the Committee agreed (paragraph 65 of the Committee's report) "is not intended to result in prohibiting the exploitation of natural resources which may be found on celestial bodies other than the earth but, rather, that such exploitation will be carried out in such a manner as to minimize any disruption or adverse effects to the existing balance of the environment."⁶⁶

In speaking before the Committee on July 3, 1979, the U.S. representative, Mr. Neil Hosenball, reiterated the firm understanding by the United States of these Committee interpretations of the Agreement. Mr. Hosenball stated—

There has been considerable discussion of article I of the draft agreement. We accept the Committee's conclusions as to this article—namely, first, that references to the Moon are intended to be references also to other celestial bodies, other than the earth; secondly, that references to the Moon's natural resources are intended to comprehend those natural resources to be found on these celestial bodies; and, thirdly, that the tra-

⁶⁵ Ibid., U.S. Working Paper 12/Rev. 1, p. 14.

⁶⁶ Op. cit., footnote 53, pp. 10–11.

jectories and orbits referred to in article I, paragraph 2 do not include trajectories and orbits of space objects in earth orbit only, or trajectories of space objects between the Earth and Earth orbit.

In regard to the phrase "earth orbit only", the fact that a space object in earth orbit also is in orbit around the sun does not bring the space objects which are only in earth orbit within the scope of this treaty; and a space object orbiting the Moon, while the moon orbits the Earth as well as the Sun, is in fact within the scope of this treaty.⁶⁷

Consensus was not blocked either by the U.S.S.R. or the developing countries. The Soviet Union accepted the concept of the common heritage of mankind as tied specifically to this Agreement and its exact provision concerning an international regime. Mr. Kolossov (U.S.S.R.) speaking on the last day of the Committee's session, said that "Our delegation will make no hasty interpretation of the meaning behind each article of the new draft agreement, its possible impact on further developments in international cooperation in outer space, or its potential impact on the further development of international space law. We are sure that much effort will be devoted to this in articles, studies and monographs."⁶⁸

Mr. Dayrell de Lima (Brazil) spoke on behalf of all the Latin American delegations, expressing pride in reaching a consensus after so many years of work and adding that "Of course, the negotiation of texts of this nature, like any diplomatic negotiations, is an effort of compromise, and some of the provisions in this text reflect that fact. It is obvious, for example, that my delegation, along with other delegations, would have preferred firmer and more positive discussion on the contents of article XI, and particularly paragraph 5. This applies also to article XVIII."⁶⁹

U.N. SPECIAL POLITICAL COMMITTEE ACTION, 1979

The next step in the United Nations decisionmaking process was referral of the draft text to the Special Political Committee. Between October 29 and November 1, 1979, this Committee considered the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies which came before it as draft resolution A/SPC/34/L.12 and Corr. 1, sponsored by 38 nations including the United States and the U.S.S.R.⁷⁰

U.S. Ambassador Richard W. Petree, Deputy Representative to the UN Security Council, addressed the Special Political Committee on November 1, 1979 and analyzed the provisions of the Moon Agreement. He pointed out that the meaning of the common heritage concept, "for purposes of the Moon Treaty, is to be found within the Moon Treaty itself," and that meaning is "without prejudice to its

⁶⁷ UN A/AC.105/PV.203, July 16, 1979, pp. 21-26. See also testimony of Neil Hosenball in Hearings on International Space Activities, 1979 before the Subcommittee on Space Science and Applications of the Committee on Science and Technology. House of Representatives, 96th Congress, 1st session, Sept. 6, 1979, pp. 82-100.

⁶⁸ UN A/AC.105/PV.203, July 3, 1979, p. 43-45.

⁶⁹ Ibid., p. 31.

⁷⁰ UN A/34/664, Nov. 12, 1979, pp. 2, 9-18.

use or meaning in any other treaty." Turning to Article XI and the international regime, Ambassador Petree said—

My Government will, when and if negotiations for such a regime are called for under Articles XI and XVIII, make a good faith effort to see that such negotiations are successfully concluded. Each of the participants in a regime conference will, of course, have to evaluate any treaty that emerges from the conference in the light of its own national interests. For the United States, this would require a conclusion that the treaty is balanced and reasonable and would then, as a constitutional matter, require submission to the Senate for its advice and consent just as we have sought and obtained advice and consent to United States ratification of the four outer space treaties now in force.⁷¹

On November 2, 1979 the Special Political Committee adopted without a vote the resolution providing for the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.⁷²

U.N. GENERAL ASSEMBLY ADOPTED MOON AGREEMENT, 1979

The General Assembly adopted the report of the Special Political Committee, also without a vote, on December 5, 1979. It is important to note that the General Assembly specifically considered the understandings in the report of the Committee on the Peaceful Uses of Outer Space, particularly noting paragraphs 62, 63, and 65 which clarified articles on celestial bodies, trajectories and orbits, and the intention not to prohibit exploitation of natural resources but to protect the existing balance of the environment.⁷³ The Agreement was opened for signature on December 18, 1979 at United Nations headquarters in New York. By April 17, 1980 the Agreement had been signed by three nations: Chile on January 3, 1980; France on January 29, 1980; and Romania on April 17, 1980. In signing the Agreement, France reported the following clarification to the United Nations:

"France is of the view that the provisions of article 3, paragraph 2, of the Agreement relating to the use or threat of force cannot be construed as anything other than a reaffirmation, for the purposes of the field of endeavour covered by the Agreement, of the principle of the prohibition of the threat or use of force, which States are obliged to observe in their international relations, as set forth in the United Nations Charter."

The Agreement will enter into force thirty days after ratification by five nations.

⁷¹ Statement by U.S. Ambassador Richard W. Petree. U.S. Mission to the United Nations. Press release USUN-197 (79), Nov. 1, 1979.

⁷² International Cooperation in the Peaceful Uses of Outer Space. Report of the Special Political Committee. A/34/664. Nov. 12, 1979.

⁷³ Resolution adopted by the General Assembly on the report of the Special Political Committee (A/34/664). 34/68 on Agreement Governing the Activities of States on the Moon and Other Celestial Bodies. A/RES/34/68. Dec. 14, 1979. pp. 1-2, Annex pp. 3-12.

COMPARISON OF THE MOON AGREEMENT WITH OTHER INTERNATIONAL DOCUMENTS

The purpose of these comparisons is to determine provisions already in force and applicable to the Moon and other celestial bodies or, as in the case of the law of the sea, are under negotiation. By adding new provisions in the proposed Moon Agreement, it will be possible to estimate the total body of space law formulated to guide States in space activities involving the Moon and other celestial bodies. The major comparison is necessarily with the original charter 1967 Treaty on Outer Space:

TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN THE EXPLORATION AND USE OF OUTER SPACE, INCLUDING THE MOON AND OTHER CELESTIAL BODIES (OCTOBER 10, 1967)

The first 13 articles of this Treaty are space law guidelines for the Moon and other celestial bodies as well as the area of outer space; the last four articles deal with customary treaty arrangements for ratification, amendment, withdrawal and official languages. The Moon Agreement is intended to expand the coverage of this 1967 Treaty on Outer Space as well as the other international agreements which follow. The full texts of all documents used for comparative purposes appear in Part 2 of this committee print. The preamble and each article of the Moon Agreement are reproduced in the first comparative analysis and followed by comments.

TEXT OF THE PREAMBLE

Agreement Governing the Activities of States on the Moon and Other Celestial Bodies

The States Parties to this Agreement,

Noting the achievements of States in the exploration and use of the moon and other celestial bodies,

Recognizing that the moon, as a natural satellite of the earth, has an important role to play in the exploration of outer space,

Determined to promote on the basis of equality the further development of co-operation among States in the exploration and use of the moon and other celestial bodies,

Desiring to prevent the moon from becoming an area of international conflict,

Bearing in mind the benefits which may be derived from the exploitation of the natural resources of the moon and other celestial bodies,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space,

including the Moon and Other Celestial Bodies,² the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,³ the Convention on International Liability for Damage Caused by Space Objects,⁴ and the Convention on Registration of Objects Launched into Outer Space,⁵

Taking into account the need to define and develop the provisions of these international instruments in relation to the moon and other celestial bodies, having regard to further progress in the exploration and use of outer space,

Have agreed on the following:

COMMENTS ON PREAMBLE

The 1967 Outer Space Treaty (OST) recalls UN General Assembly resolutions designed for the future conduct of space activities, whereas the 1979 Moon Agreement notes achievements that have subsequently occurred. Both are concerned with the uses of outer space as well as exploration, the promotion of international cooperation and avoidance of international conflict, the equality of States, and expected benefits. OST deals with benefits in general, which would include various types of services such as communications, meteorology, etc., whereas the Agreement stresses the exploitation of natural resources of the Moon and other celestial bodies. OST preamble recognizes "the common interest of all mankind" in using and exploring outer space for peaceful purposes, a concept which is further developed in its articles and those of the Agreement. OST includes furtherance of the purposes of the UN Charter, which is not mentioned in the preamble of the Agreement but is included in its Article II. The Agreement recalls the four space treaties now in force. It should be noted that States that become Parties to the Moon Agreement would not necessarily also be Parties to the 1967 OST or the other space treaties which went into force in 1968, 1973 and 1976.

TEXT OF ARTICLE 1

1. The provisions of this Agreement relating to the Moon shall also apply to other celestial bodies within the solar system, other than the earth, except in so far as specific legal norms enter into force with respect to any of these celestial bodies.

2. For the purposes of this Agreement reference to the moon shall include orbits around or other trajectories to or around it.

3. This Agreement does not apply to extraterrestrial materials which reach the surface of the earth by natural means.

COMMENTS ON ARTICLE 1

Paragraph 1

The fact that the Agreement applies to celestial bodies as well as the Moon is true also of the OST whose Articles I through XIII deal with "outer space, including the Moon and other celestial bodies", thus cov-

² General Assembly resolution 2222 (XXI), annex.

³ General Assembly resolution 2345 (XXII), annex.

⁴ General Assembly resolution 277 (XXVI), annex.

⁵ General Assembly resolution 3235 (XXIX), annex.

ering the spatial area in which celestial bodies orbit. This Agreement paragraph may have been added to cover subsequent articles whose wording appears to apply only to the Moon, a situation which probably resulted when consensus was reached by the Legal Subcommittee only on the Moon and at a time when adding "other celestial bodies" was an unresolved issue. The Agreement adds the concept that legal norms may be developed in the future for specific celestial bodies. This would permit, for example, different legal arrangements to be made for asteroids than those for the Moon. When the Committee on the Peaceful Uses of Outer Space was considering this paragraph in July 1979, some delegates wanted to amend it, but "after an extensive discussion of the matter, it was agreed not to amend the Austrian text but to include in the report of the Committee a statement reflecting the Committee's understanding of the interpretation that should be given to article 1, paragraph 1. That understanding is as follows:

The Committee agreed that by virtue of article 1, paragraph 1, the principle contained in article 11, paragraph 1, would also apply to celestial bodies in the solar system other than the earth and to its natural resources."⁷⁴

Paragraph 2

The Agreement specifically covers orbits around or other trajectories to the Moon or around it, a provision not detailed in OST. Trajectories *from* the Moon are not mentioned. Any reference to the Moon in the Agreement is held to include orbits and other trajectories and when it is considered that Article XI (1) declares the Moon to be "the common heritage of mankind", a question arises concerning the status of space vehicles in these orbits and trajectories: are they also to become the common heritage by reason of their flight paths? When this paragraph is combined with Article 15 (1), what is the implication of the provision that States shall open space vehicles to other States Parties?

In considering this paragraph, delegates suggested that clarification was needed and "the Committee agreed that the trajectories and orbits mentioned in article 1, paragraph 2, do not include trajectories and orbits of space objects in earth orbits only and trajectories of space objects between the earth and such orbits."⁷⁵

Paragraph 3

The Agreement specifies that it does not apply to extraterrestrial materials which reach the earth by natural means, a provision which is absent from OST. A question could be raised as to whether asteroids and other materials brought from deep space into earth orbit or to the earth would be subject to the terms of this Agreement.

TEXT OF ARTICLE 2

All activities on the Moon, including its exploration and use, shall be carried out in accordance with international law, in particular the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,⁶

⁷⁴ Op. cit., (footnote 53), p. 11.

⁷⁵ Ibid.

⁶ General Assembly resolution 2625 (XXV), annex.

adopted by the General Assembly on 24 October 1970, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interest of all other States Parties.

COMMENTS OF ARTICLE 2

This provision is similar to Article III of the OST, requiring that activities be carried out in accordance with international law, but adds that there shall be taken into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970. This Declaration contains "The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations." Additional principles provide for the settlement of international disputes by peaceful means, non-intervention in domestic jurisdictions, international cooperation in accordance with the UN Charter, equal rights and self-determination of peoples, and the sovereign equality of States. The continuing phrase "in the interests of maintaining international peace and security and promoting international co-operation mutual understanding, and with due regard to the corresponding interests of all other States Parties" is similar to Article IX of OST. Since the Agreement does not have a specific provision on the settlement of disputes, the principle in the Declaration applies:

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute. . . . International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means . . .⁷⁶

TEXT OF ARTICLE 3

1. The moon shall be used by all States Parties exclusively for peaceful purposes.

2. Any threat or use of force or any other hostile act or threat of hostile act on the moon is prohibited. It is likewise prohibited to use the moon in order to commit any such act or to engage in any such threat in relation to the earth, the moon, spacecraft, the personnel of spacecraft or man-made space objects.

3. States Parties shall not place in orbit around or other trajectory to or around the moon objects carrying nuclear weap-

⁷⁶ Declaration of Principles . . . see text in this report.

ons or any other kind of weapons of mass destruction or place or use such weapons on or in the moon.

4. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military maneuvers on the moon shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the moon shall also not be prohibited.

COMMENTS ON ARTICLE 3

Paragraph 1

This paragraph is identical to Article IV, paragraph 2, of OST when it is considered that the Agreement provides in Article 1 that provisions relating to the Moon shall also apply to other celestial bodies.

Paragraph 2

This paragraph expands OST provisions by specifying actions that are not permitted, not only threats or use of force but also any other type of hostile act or threat of hostile act which could cover environmental hazards. There is also added to the OST a prohibition against using the Moon for hostile acts or threats against the earth, Moon, space craft and personnel. It should be noted that when France signed the Moon Agreement on January 29, 1980 it reported a clarification to the United Nations as follows: "France is of the view that the provisions of article 3, paragraph 2, of the Agreement relating to the use or threat of force cannot be construed as anything other than a reaffirmation, for the purposes of the field of endeavour covered by the Agreement of the principle of the prohibition of the threat or use of force, which States are obliged to observe in their international relations, as set forth in the United Nations Charter."

Paragraph 3

This paragraph has practically the same meaning as OST Article IV (1) except that the OST prohibits orbiting of nuclear and other kinds of mass destructive weapons around the Earth, whereas the Agreement's prohibition covers orbits around the Moon and other trajectory to or around the Moon. This wording would, therefore, prohibit a fractional orbital mass destructive weapon from being used in connection with the Moon or any other celestial body. The OST does not prohibit use of a fractional orbital bombardment system (FOBS), *i.e.*, a spacecraft that does not complete a full orbit of the Earth. OST prohibits installing such weapons on celestial bodies (which would include the Moon) but the Agreement also denies use of such weapons on the Moon. Conventional weapons would be permitted by the Agreement (the assumption being that they are for self-defense) because only weapons of mass destruction are prohibited; even they would be subject to paragraphs 1, 2, and 4.

Paragraph 4

This paragraph forbids the testing of any type of weapon and is similar in wording to Article IV (2) of OST except that the Agreement adds *use* of the Moon to exploration for equipment or facility

necessary for peaceful activities. Again, it should be noted that the Agreement is brought in line with the OST by providing that wherever the Moon is mentioned, celestial bodies are also included. Military personnel are permitted for scientific purposes as previously provided in OST.

TEXT OF ARTICLE 4

1. The exploration and use of the Moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development. Due regard shall be paid to the interests of present and future generations as well as to the need to promote higher standards of living and conditions of economic and social progress and development in accordance with the Charter of the United Nations.

2. States Parties shall be guided by the principle of cooperation and mutual assistance in all their activities concerning the exploration and use of the Moon. International cooperation in pursuance of this Agreement should be as wide as possible and may take place on a multilateral basis, on a bilateral basis or through international intergovernmental organizations.

COMMENTS ON ARTICLE 4

Paragraph 1

This paragraph deals with the same subject as Article I of OST but has a more limited application because it omits "outer space" as a spatial area and covers only the Moon (and other celestial bodies as provided in Article I of the Agreement). The principle is expanded, however, by the Agreement in including regard for interests of present and future generations in terms of promoting higher living standards, economic and social progress and development according to the UN Charter.

Paragraph 2

This provision parallels part of the beginning sentence of Article IX of OST but confines application to the Moon (and other celestial bodies) and omits mention of outer space. An addition is the provision for international cooperation on the widest possible basis through multilateral, bilateral, or international intergovernmental arrangements which can be interpreted to mean the potential involvement of those States which are not parties to the Agreement. This is a significant point to be kept in mind because membership varies for each space treaty.

TEXT OF ARTICLE 5

1. 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 feasible and practicable, of their activities concerned with the exploration and use of the Moon. Information on the time, purposes, locations, orbital parameters and duration shall be given in respect of each mission to the Moon as soon as possible after launching, while information on the results of each mission, including scientific results, shall be furnished upon com-

pletion of the mission. In the case of a mission lasting more than sixty days, information on conduct of the mission, including any scientific results, shall be given periodically, at thirty-day intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter.

2. If a State Party becomes aware that another State Party plans to operate simultaneously in the same area of or in the same orbit around or trajectory to or around the Moon, it shall promptly inform the other State of the timing of and plans for its own operations.

3. In carrying out activities under this Agreement, States Parties shall promptly inform the Secretary-General, as well as the public and the international scientific community, of any phenomena they discover in outer space, including the Moon, which could endanger human life or health, as well as of any indication of organic life.

COMMENTS ON ARTICLE 5

Paragraph 1

This provision expands on Article XI of OST with regard to the type of information to be reported to the UN General Assembly as far as exploration and use of the Moon is concerned, but omits activities conducted in outer space as an area. Whereas OST requires informing the Secretary General "to the greatest extent feasible and practicable, of the nature, conduct, locations and results" of activities in outer space, including the Moon and other celestial bodies, the Agreement requires results, including scientific, concerning the Moon and other celestial bodies to be reported according to specified periodic intervals. OST states the Secretary General should "be prepared to disseminate it immediately and effectively" but Article 5 of the Agreement does not include a directive to the Secretary General on dissemination of information on missions, etc.

Paragraph 2

Provisions for informing other States Parties of their plans in order to prevent interference is covered by this paragraph and by Article IX of OST. The Agreement provides that if a State becomes aware that another State is planning to operate simultaneously in the same area, it shall inform the other of the time for its plans of operation. Article IV of OST provides for international consultations before a State proceeds in cases of potential harmful interference. If, however, the other State considered there might be harmful interference, it could request consultations. If a State were Party to both OST and the Agreement, it would evidently have a choice of procedure in cases involving the Moon and other celestial bodies.

Paragraph 3

This paragraph combines provisions in Article V (a) and Article XI of OST, adding that evidence of organic life shall be reported to the UN Secretary General. It does not, however, require the Secretary General to be prepared to disseminate the requested information "immediately and effectively", nor does it cover outer space as an area as does OST. Some understanding may be needed in cases where States are Parties to both treaties.

TEXT OF ARTICLE 6

1. There shall be freedom of scientific investigation on the moon by all States Parties without discrimination of any kind, on the basis of equality and in accordance with international law.

2. In carrying out scientific investigations and in furtherance of the provisions of this Agreement, the States Parties shall have the right to collect on and remove from the moon samples of its mineral and other substances. Such samples shall remain at the disposal of those States Parties which caused them to be collected and may be used by them for scientific purposes. States Parties shall have regard to the desirability of making a portion of such samples available to other interested States Parties and the international scientific community for scientific investigation. States Parties may in the course of scientific investigations also use mineral and other substances of the moon in quantities appropriate for the support of their missions.

3. States Parties agree on the desirability of exchanging scientific and other personnel on expeditions to or installations on the moon to the greatest extent feasible and practicable.

COMMENTS ON ARTICLE 6

Paragraph 1

This provision whereby States Parties enjoy freedom for scientific investigation without discrimination parallels Article I of the Treaty on Outer Space except that the OST also applies to the exploration and use of outer space and is not confined to the Moon and other celestial bodies, nor is it confined to States Parties.

Paragraph 2

This paragraph expands OST by defining types of activity permitted in scientific investigations: the right of collecting States to remove mineral and other substances from the Moon and other celestial bodies; States which collect samples may use them for scientific purposes, consider making portions available for scientific investigation, and use Moon substances to support their mission. The U.S. and U.S.S.R. have distributed moon samples for scientific analysis as part of their respective explorations and the Agreement formulates in legal terms permission for a practice which has already proved successful in terms of international cooperation.

This paragraph is specifically included also in the Agreement's Article 11 (8) concerning attainment of the treaty's purposes on scientific investigations. It is clear that a State Party may remove natural resources from the Moon (and other celestial bodies) and have authority over their disposal. However, Article 11 (7) is also applicable and it is probably intended to be controlling when exploitation becomes feasible.

Paragraph 3

Recognizing the desirability of exchanging scientific and other personnel on Moon expeditions and installations expands Article XII of OST which deals with reasonable advance notice and appropriate con-

sultations about proposed visits. This provision of the Agreement makes possible international scientific teams, thus following the concept in Article III of the Antarctic Treaty which provides in 1 (b) that "scientific personnel shall be exchanged and made freely available."

TEXT OF ARTICLE 7

1. In exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment, whether by introducing adverse changes in that environment, by its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to avoid harmfully affecting the environment of the earth through the introduction of extraterrestrial matter or otherwise.

2. States Parties shall inform the Secretary-General of the United Nations of the measures being adopted by them in accordance with paragraph 1 of this article and shall also, to the maximum extent feasible, notify him in advance of all placements by them of radio-active materials on the moon and of the purposes of such placements.

3. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the moon having special scientific interest in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed upon in consultation with the competent bodies of the United Nations.

COMMENTS ON ARTICLE 7

Paragraph 1

This paragraph is similar to Article IX of OST which seeks to avoid harmful contamination of the Moon, other celestial bodies and the Earth. The Agreement stresses prevention of contamination in using as well as exploring the Moon and other celestial bodies. It adds to OST by prohibiting disruption of the existing environmental balances.

When this article was discussed by the delegates at the July 1979 session of the Committee on the Peaceful Uses of Outer Space, it was suggested that further clarification was needed. Consequently, in paragraph 65 of its report, "the Committee agreed that article 7 is not intended to result in prohibiting the exploitation of natural resources which may be found on celestial bodies other than the earth, but, rather, that such exploitation will be carried out in such a manner as to minimize any disruption or adverse effects to the existing balance of the environment."⁷⁷ Attention is called again to the fact that the General Assembly in adopting the Moon Agreement on December 5, 1979, specifically called attention to its consideration of the Committee's paragraphs 62, 63 and 65.

Paragraph 2

Article XI of OST prescribes that the UN Secretary General shall be informed of the nature, conduct, locations and results of outer space activities including the Moon and other celestial bodies, while the

⁷⁷ Op. cit., (footnote 53). Paragraph 64, p. 11.

Agreement defines in more detail that he should be informed of steps taken in effectuating Paragraph 1 of Article VII. Also added by the Agreement is the requirement that the Secretary General be given advance information of placements and purposes of radioactive materials on the Moon (and other celestial bodies). Situations that might arise from using nuclear power for satellites are not included. Paragraph 64 of the Committee's report is relevant:

64. With respect to article 7 of the Austrian text which refers to the avoidance of harmful contamination of the moon and its environment, it was suggested to introduce a reference to 'especially nuclear material'. After an extensive discussion, it was agreed that the Austrian text should remain as drafted.

Paragraph 3

A new requirement provided by the Agreement is the obligation to report to other States Parties, as well as the Secretary General, information concerning special scientific areas so that they might become international scientific preserves especially protected by arrangements agreed upon by consulting with UN competent bodies. This extends the role of the United Nations to its specialized agencies and other entities, which already perform functions using space science and technology, *e.g.*, the International Telecommunication Union, UNESCO, the World Meteorological Organization, etc. Presumably there might develop a coordinating institution within the United Nations to act upon such information reported to the Secretary General. Such procedures are already in existence. Although States Parties are required to report to the Secretary General "without prejudice to the rights of other States Parties", use of the word *may* thereafter suggests that designation of international scientific preserves is a proposal to be considered at a later time and is not mandatory.

TEXT OF ARTICLE 8

1. States Parties may pursue their activities in the exploration and use of the moon anywhere on or below its surface, subject to the provisions of this Agreement.

2. For these purposes States Parties may, in particular:

(a) Land their space objects on the moon and launch them from the moon;

(b) Place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the moon.

Personnel, space vehicles, equipment, facilities, stations and installations may move or be moved freely over or below the surface of the moon.

3. Activities of States Parties in accordance with paragraphs 1 and 2 of this article shall not interfere with the activities of other States Parties on the moon. Where such interference may occur, the States Parties concerned shall undertake consultations in accordance with articles 15, paragraphs 2 and 3, of this Agreement.

COMMENTS ON ARTICLE 8

Paragraphs 1 and 2

These provisions develop specific freedoms which States Parties may undertake in pursuing activities on or below the surface of the Moon. They are not required to do so. For the first time, launching *from* the Moon is included among permitted activities but orbits to and around the Moon, and other trajectories, are not enumerated, having been provided for in Article 1 of the Agreement. Freedom of movement of personnel and necessary accessories and equipment are permitted.

Paragraph 3

However, in carrying on such activities, States are obligated not to interfere with each other, but in cases of interference, consultations shall be undertaken in accordance with Article 15(2)(3) of the Agreement, an elaboration stemming from Article IX and Article XIII of OST. This could imply a dispute and in such case if consultations did not lead to a satisfactory result, presumably the variety of provisions in the Declaration Concerning Friendly Relations (contained in Article 3 of the Agreement) could apply.

TEXT OF ARTICLE 9

1. States Parties may establish manned and unmanned stations on the moon. A State Party establishing a station shall use only that area which is required for the needs of the station and shall immediately inform the Secretary-General of the United Nations of the location and purposes of that station. Subsequently, at annual intervals that State shall likewise inform the Secretary-General whether the station continues in use and whether its purposes have changed.

2. Stations shall be installed in such a manner that they do not impede the free access to all areas of the moon of personnel, vehicles and equipment of other States Parties conducting activities on the moon in accordance with the provisions of this Agreement or of article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.² (See footnote at end of preamble.)

COMMENTS ON ARTICLE 9

Paragraph 1

This Article develops newly detailed permissions and restraints. In paragraph 1, States are free to establish manned and unmanned stations on the Moon provided they use only an area that meets their needs, but they must inform the UN Secretary General of the location and purposes of their station. This is an extension not only of Articles I and XI of OST but also of Article IV of the Registration Convention.

Paragraph 2

States Parties are obligated not to impede free access to all Moon areas in accordance with the Agreement *or* Article I of OST. Hitherto the Agreement had only recalled OST in its preamble, but this pro-

vision gives States Parties a choice between complying with the Agreement *or* Article I of OST. For certain situations the choice would be between including outer space as a spatial area as provided by OST or excluding it in accordance with the Agreement. This alternative would be open to all States Parties of the Agreement whether or not they are Parties to OST. Provision for a choice may be based on the assumption that the installation of stations does not involve outer space as an area. This creates an anomalous situation; however, the intention may have been to use "and" instead of "or" so that States Parties to the Agreement would also observe the OST provision.

TEXT OF ARTICLE 10

1. States Parties shall adopt all practicable measures to safeguard the life and health of persons on the moon. For this purpose they shall regard any person on the moon as an astronaut within the meaning of article V of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies² and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.³ (See footnote at end of preamble)

2. States Parties shall offer shelter in their stations, installations, vehicles and other facilities to persons in distress on the moon.

COMMENTS ON ARTICLE 10

Paragraph 1

States Parties are obligated to safeguard the life and health of persons on the Moon and are obligated to conform to Article V of OST and also regard such persons as being on a spacecraft as delineated in the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. Thus, States that ratify the Moon Agreement will undertake also to honor provisions in previous space treaties dealing with the protection of astronauts.

Paragraph 2

That States are obligated to shelter persons in distress on the Moon is a development from Article V of OST which covers only astronauts and not all persons.

TEXT OF ARTICLE 11

1. The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement, in particular in paragraph 5 of this article.

2. The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means.

3. Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or

non-governmental organization, national organization or non-governmental entity or of any natural person. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon, including structures connected with its surface or subsurface, shall not create a right of ownership over the surface or the subsurface of the moon or any areas thereof. The foregoing provisions are without prejudice to the international régime referred to in paragraph 5 of this article.

4. States Parties have the right to exploration and use of the moon without discrimination of any kind, on the basis of equality and in accordance with international law and the provisions of this Agreement.

5. States Parties to this Agreement hereby undertake to establish an international régime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible. This provision shall be implemented in accordance with article 18 of this Agreement.

6. In order to facilitate the establishment of the international régime referred to in paragraph 5 of this article, 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 feasible and practicable, of any natural resources they may discover on the moon.

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

(a) The orderly and safe development of the natural resources of the moon;

(b) The rational management of those resources;

(c) The expansion of opportunities in the use of those resources;

(d) An equitable sharing by all States Parties in the benefits derived from those resources, whereby the interests and needs of the developing countries, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration.

8. All the activities with respect to the natural resources of the moon shall be carried out in a manner compatible with the purposes specified in paragraph 7 of this article and the provisions of article 6, paragraph 2, of this Agreement.

COMMENTS ON ARTICLE 11

Paragraph 1

This paragraph breaks new ground in proposed space law. The Moon as well as its natural resources are "the common heritage of mankind" and this concept is to be regarded in terms of the entire Agreement as well as paragraph 5 which provides conditions for the establishment of an international regime to govern the exploitation of the Moon's natural resources as it becomes feasible. Common heritage is not defined and is added to "the province of all mankind" which is

in Article I of OST and Article 4 of the Moon Agreement, but presumably common heritage is an extension of province because it is connected with the possible establishment of an international regime concerned with natural resources but not otherwise with the Moon; that is, it appears that not all activities connected with the Moon are potentially to come under the jurisdiction of an organized international regime even though the Moon itself is declared a common heritage of mankind. It should also be noted that *province* applies to *all* mankind whereas *all* is omitted in connection with common heritage, but this omission may be of questionable significance.

January 31, 1980, Ambassador Cocca (Argentina) commented: "As you know, it is rather dangerous to crystallize in a definition the principle involved in a concept which is just being born in the new domain of Space Law, such as the 'common heritage of all mankind', as it was established in the Moon Agreement. As the 'international regime' is concerned, I dare say it is not a matter of definition; I feel it must be the outcome of the implementation of the guidelines set forth in the agreement." (Letter written to Eilene Galloway)

Paragraph 2

The Agreement has identical wording with Article II of OST except that "any" has been added before "claim."

Paragraph 3

The prohibition against claims of sovereignty on the Moon (and other celestial bodies) is further strengthened by application to the Moon's surface, subsurface, other parts and natural resources *in place*, as well as by listing types of organizations that might claim ownership. Various anticipated activities "shall not create a right of ownership." These impermissible actions are "without prejudice to the international regime" projected later on. The prohibition against property applies to natural resources in place on the Moon but not to those which have been removed, a provision related to Article 6(2) concerning scientific investigation.

Paragraph 4

The Agreement repeats the provision of the OST Article I(2) and adds that the rights are also in "the terms of this Agreement."

Paragraph 5

The Agreement provides for an international regime to govern the exploitation of the natural resources of the Moon. This regime, with "appropriate procedures", is to be established about the time exploitation becomes feasible and with implementation in accordance with the Agreement's Article 18 which sets forth the terms of the Agreement's review in five or ten years time. That the international regime is to be concerned with natural resources and not other moon-related activities is clear. Although the focus is primarily on the Moon's natural resources, the Agreement would also cover all celestial bodies including the sun, asteroids, etc. Natural resources are not defined but often assumed to be minerals and unknown substances which may be discovered. It is not intended that there should be a moratorium on lunar exploitation prior to establishment of an international regime as is clear from the history of negotiations where no consensus was

reached on such delay; nevertheless, this point has been raised as an issue for discussion in terms of creating such uncertainty for industry as to cause an "implied" or "de facto" moratorium. No legal moratorium is created by this Agreement.

Paragraph 6

If natural resources are discovered on the Moon, the UN Secretary General is to be informed so that creation of the international regime can be facilitated. If only other celestial bodies were initially involved, and not the Moon, a question could arise concerning the time when the proposed international regime might come up for discussion. Some natural resources have already been discovered on the Moon so the Agreement must refer to future discoveries.

Paragraph 7

The main purposes of the international regime are evident in subparagraphs (a), (b) and (c)—that it should be orderly, safe, rational and afford expansion in the use of natural resources. Paragraph (d) requires equitable sharing of benefits, which is in harmony with the spirit of Article I of OST, but adds that special consideration shall be given developing countries (which are not defined) and countries contributing "directly or indirectly to the exploration of the Moon." Direct contributions presumably include launchings; indirect contributions are not enumerated. The word "use" is omitted at this point. In figuring out what is equitable, it is clear that a scale could be established so that sharing would be in accordance with the degree of a State Party's contribution to a project. This equitable sharing is not to be of the natural resources alone but of the benefits derived from the resources which appears to indicate sharing in some final usable stage of production. It should be noted that the Senate Foreign Relations Committee, in reporting on the 1967 OST, stated the Committee's understanding—

It is the understanding of the Committee on Foreign Relations that nothing in article I, paragraph 1 of the treaty diminishes or alters the right of the United States to determine how it shares the benefits and results of the space activities. Senate Executive Report No. 8, 90th Congress, 1st session. April 18, 1967, p. 4. "Treaty on Outer Space."

Paragraph 8

The purposes of Article 7 and Article 6(2) of the Agreement are to govern all activities concerned with the natural resources of the Moon and other celestial bodies. This includes criteria for the international regime: that States Parties which collect samples may use them for scientific purposes, for support of their missions, and, finally, may dispose of them. This paragraph is cited as evidence that pending the creation of an international regime various activities are permitted in exploring and using the natural resources of the Moon. Here, again, it is well to remember that other celestial bodies are also covered by this provision.

TEXT OF ARTICLE 12

1. States Parties shall retain jurisdiction and control over their personnel, space vehicles, equipment, facilities, stations

and installations on the moon. The ownership of space vehicles, equipment, facilities, stations and installations shall not be affected by their presence on the moon.

2. Vehicles, installations and equipment or their component parts found in places other than their intended location shall be dealt with in accordance with article 5 of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.³ (See footnote at end of preamble)

3. In the event of an emergency involving a threat to human life, States Parties may use the equipment, vehicles, installations, facilities or supplies of other States Parties on the moon. Prompt notification of such use shall be made to the Secretary-General of the United Nations or the State Party concerned.

COMMENTS ON ARTICLE 12

Paragraph 1

This paragraph is related to Article VIII of OST which provides for ownership and jurisdiction over personnel and spacecraft not only for celestial bodies but also while in outer space or upon their return to Earth. The Agreement does not depend upon registration of its space object for jurisdiction and it covers all personnel on the Moon and not merely personnel connected with a spacecraft as is the case in the OST provision.

Paragraph 2

This provision obligates States Parties to observe Article 5 of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space which sets forth the obligations to be followed in returning space objects and component parts. Thus a State becoming Party to the Moon Agreement would also undertake to observe part of the Astronaut Agreement even if it were not a Party to that previous treaty.

Paragraph 3

The Moon Agreement is specific regarding emergencies threatening human life, providing that States Parties can use the equipment, facilities, etc., of other States Parties. This permissible action is akin to Articles 1, 2, 3, and 4 of the Agreement on the Rescue of Astronauts . . . whose provisions cover the Moon and other celestial bodies in the words describing emergencies "in any other place not under the jurisdiction of any State." The Moon Agreement is more specific than Article V of OST because those experiencing an emergency can take the initiative in using life-saving equipment as necessary without waiting for assistance from other astronauts. The idea is further developed by providing for prompt notification of the UN Secretary General *or* the State Party whose facilities are used.

TEXT OF ARTICLE 13

A State Party which learns of the crash landing, forced landing or other unintended landing on the moon of a space object, or its component parts, that were not launched by it, shall promptly inform the launching State Party and the Secretary-General of the United Nations.

COMMENTS ON ARTICLE 13

This provision goes beyond the OST and is similar to Article 5 of the Agreement on the Rescue of Astronauts . . . , but covers the Moon and other celestial bodies specifically, and does not deal with the return of a space object or its component parts, but only of the obligation to inform the launching State and the UN Secretary General of crash or unintended landings on the Moon. The intent is to provide assistance to anyone in distress in an hostile environment.

TEXT OF ARTICLE 14

1. States Parties to this Agreement shall bear international responsibility for national activities on the moon, whether such activities are carried out by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions of this Agreement. States Parties shall ensure that non-governmental entities under their jurisdiction shall engage in activities on the moon only under the authority and continuing supervision of the appropriate State Party.

2. States Parties recognize that detailed arrangements concerning liability for damage caused on the moon, in addition to the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies² and the Convention on International Liability for Damage Caused by Space Objects,⁴ may become necessary as a result of more extensive activities on the moon. Any such arrangements shall be elaborated in accordance with the procedure provided for in article 18 of this Agreement. [See footnotes at end of preamble.]

COMMENTS ON ARTICLE 14

Paragraph 1

This paragraph reaffirms Article VI of OST. The Agreement calls for activities to be carried out in conformity with its provisions whereas OST provides for conformity to its own provisions. OST covers outer space as well as the moon and other celestial bodies whereas the Agreement omits outer space as an area. This same point applies to the required authorization and continuing supervision by States Parties of non-governmental entities.

Paragraph 2

This provision recognizes that in the future liability for damage caused on the Moon—and other celestial bodies—might need more detailed arrangements than those provided in Article VII of OST and the Convention on International Liability for Damage Caused by Space Objects. In such case, the elaboration shall be made when the Agreement is reviewed in accordance with the Agreement's Article 18. There is the possibility that some States might become Party only to the Moon Agreement and not to OST or the Liability Convention and such a circumstance might create an ambiguous situation.

TEXT OF ARTICLE 15

1. Each State Party may assure itself that the activities of other States Parties in the exploration and use of the moon are compatible with the provisions of this Agreement. To this end, all space vehicles, equipment, facilities, stations and installations on the moon shall be open to other States Parties. Such States Parties shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited. In pursuance of this article, any State Party may act on its own behalf or with the full or partial assistance of any other State Party or through appropriate international procedures within the framework of the United Nations and in accordance with the Charter.

2. A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Agreement or that another State Party is interfering with the rights which the former State has under this Agreement may request consultations with that State Party. A State Party receiving such a request shall enter into such consultations without delay. Any other State Party which requests to do so shall be entitled to take part in the consultations. Each State Party participating in such consultations shall seek a mutually acceptable resolution of any controversy and shall bear in mind the rights and interests of all States Parties. The Secretary-General of the United Nations shall be informed of the results of the consultations and shall transmit the information received to all States Parties concerned.

3. If the consultations do not lead to a mutually acceptable settlement which has due regard for the rights and interests of all States Parties, the parties concerned shall take all measures to settle the dispute by other peaceful means of their choice appropriate to the circumstances and the nature of the dispute. If difficulties arise in connection with the opening of consultations or if consultations do not lead to a mutually acceptable settlement, any State Party may seek the assistance of the Secretary-General, without seeking the consent of any other State Party concerned, in order to resolve the controversy. A State Party which does not maintain diplomatic relations with another State Party concerned shall participate in such consultations, at its choice, either itself or through another State Party or the Secretary-General as intermediary.

COMMENTS ON ARTICLE 15

Paragraph 1

This paragraph parallels Article XII of the OST and adds that States Parties may act alone, with other States Parties, through international procedures within the United Nations framework and in accordance with the UN Charter. But the OST and the Agreement

being concerned with access to stations, installations, etc., do not mention outer space as an area. The Agreement refers specifically to "the exploration and use of the moon" whereas this phrase is omitted in the OST. Article XII of OST provides that stations, equipment, space vehicles shall be open to other States Parties "on a basis of reciprocity" which is omitted in the Moon Agreement. Each State evidently may use its own methods for assuring itself that other States' activities are compatible with the Agreement which raises the question of whether some form of force might be used to accompany on-site verification. Here is another instance of where the handling of events could vary according to whether a State were Party to both treaties or only OST or the Agreement.

Paragraph 2

This provision covers in detail broad circumstances under which States may seek consultations and represents an expansion of Article IX of OST which specifies consultations for harmful interference. Non-fulfillment of Agreement obligations would be sufficient cause for requesting consultations. Notification of consultation results shall also be given to the UN Secretary General for transmittal to all concerned States Parties.

Paragraph 3

The Agreement adds procedures whereby peaceful settlement of disputes can be accomplished but these are not mandatory. The assistance of the UN Secretary General may be sought in case of difficulties in negotiating settlement of a dispute, and again, the Declaration on Friendly Relations in Article 2 may be cited for the variety of ways for settling international disputes.

TEXT OF ARTICLE 16

With the exception of articles 17 to 21, references in this Agreement to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Agreement and if a majority of the States members of the organization are States Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.² States members of any such organization which are States Parties to this Agreement shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the provisions of this article. [See footnote at end of preamble.]

COMMENTS ON ARTICLE 16

This provision on international intergovernmental organizations represents an extension of space law to govern their activities. The development, beyond Articles VI and VIII of OST, whereby such organizations are bound by the Agreement, rests on the requirement that a majority of States members be parties both to the OST and the

Agreement. Such a provision would be applicable, for example, to the European Space Agency if action were taken for ESA to be bound. The excepted articles, 17 to 21, are applicable only to States as they deal with amendments, review, signing, ratification, withdrawal, and authentic texts.

This article is the most complete in coordinating OST and the Moon Agreement. The framers of the Agreement were not concerned about repeating identical language taken from treaties already in force, and when the point was raised the answer was that the Moon Agreement "reaffirmed" the 1967 Treaty on Outer Space.

TEXT OF ARTICLE 17

Any State Party to this Agreement may propose amendments to the Agreement. Amendments shall enter into force for each State Party to the Agreement accepting the amendments upon their acceptance by the majority of the States Parties to the Agreement and thereafter for each remaining State Party to the Agreement on the date of acceptance by it.

COMMENTS ON ARTICLE 17

The provision for amending the Agreement is identical to that provided in the 1967 Treaty on Outer Space (OST) for its amendment.

TEXT OF ARTICLE 18

Ten years after the entry into force of this Agreement, the question of the review of the Agreement shall be included in the provisional agenda of the General Assembly of the United Nations in order to consider, in the light of past application of the Agreement, whether it requires revision. However, at any time after the Agreement has been in force for five years, the Secretary-General of the United Nations, as depository, shall, at the request of one third of the States Parties to the Agreement and with the concurrence of the majority of the States Parties, convene a conference of the States Parties to review this Agreement. A review conference shall also consider the question of the implementation of the provisions of article 11, paragraph 5, on the basis of the principle referred to in paragraph 1 of that article and taking into account in particular any relevant technological developments.

COMMENTS ON ARTICLE 18

The procedures prescribed for the review of the Agreement in ten years (or in five years if one-third of the States Parties so request and there is concurrence by a majority of member States) are not in OST but similar arrangements are provided in Article XXVI of the Convention on International Liability for Damage Caused by Space Objects and in Article X of the Convention on Registration of Objects Launched into Outer Space. In addition, the Agreement requires a

review conference to consider implementing Article 11, paragraph 5 on establishing an international regime on the basis of paragraph 1 which provides that the Moon and its natural resources are the common heritage of mankind. It is the implementation of this provision, rather than philosophical speculations, which will ultimately give form and substance to the concept of the common heritage of mankind. If such a definition finally emerges, it is the intention that it should exist only for this Moon Agreement and not in any other context.

TEXT OF ARTICLE 19

1. This Agreement shall be open for signature by all States at United Nations Headquarters in New York.

2. This Agreement shall be subject to ratification by signatory States. Any State which does not sign this Agreement before its entry into force in accordance with paragraph 3 of this article may accede to it at any time. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. This Agreement shall enter into force on the thirtieth day following the date of deposit of the fifth instrument of ratification.

4. For each State depositing its instrument of ratification or accession after the entry into force of this Agreement, it shall enter into force on the thirtieth day following the date of deposit of any such instrument.

5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

COMMENTS ON ARTICLE 19

This article parallels Article XIV of the OST in subject matter but differs in some details. The OST (as well as the Astronaut and Liability treaties) required ratification by five States, including the depositary governments—the United States, U.S.S.R., and United Kingdom—whereas the Agreement can go into force 30 days after any five States deposit their ratifications with the UN Secretary General. These Moon Agreement provisions are similar to those provided in Article VIII of the Registration Convention.

TEXT OF ARTICLES 20 AND 21

Article 20

Any State Party to this Agreement may give notice of its withdrawal from the Agreement one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article 21

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all signatory and acceding States.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement, opened for signature at New York on December 18, 1979.

COMMENTS ON ARTICLES 20 AND 21

Notice of withdrawal from the Agreement may be made to the UN Secretary General whereas the OST requires notice to the three depositary governments. In each case the effective date is one year after written notice. Article 21 is similar to OST but adds Arabic to the authentic language texts.

AGREEMENT ON THE RESCUE OF ASTRONAUTS, THE RETURN OF ASTRONAUTS AND THE RETURN OF OBJECTS LAUNCHED INTO OUTER SPACE
(DECEMBER 3, 1968).

This Agreement was the first to be developed by expanding an article in the 1967 Treaty on Outer Space (Article V) which provided some assistance to astronauts in emergencies but not additionally perceived situations, nor did the Treaty's Article VIII give detailed guidance on the return of objects launched into outer space. In its preamble the Astronaut Agreement expressed the desire "to develop and give further concrete expression to these duties."

The proposed Moon Agreement in Article 10 repeats the concept that all practicable measures should be taken to safeguard life and health but extends this to all persons on the Moon and not only to astronauts or "personnel of a spacecraft." A State which becomes Party to the Moon Agreement would be required to observe the definitions for astronauts and spacecraft personnel already provided in the 1967 Treaty on Outer Space and the 1968 Astronaut Agreement. The Moon Agreement also specifies that shelter shall be offered to any person in distress on the Moon.

The proposed new Agreement is specifically applied to the Moon (and other celestial bodies) whereas the Treaty on Outer Space in Article V extends to outer space as an area as well as to activities on celestial bodies which, of course, include the Moon. The Astronaut Agreement covers outer space, the Moon and other celestial bodies but in terms of "in any other place not under the jurisdiction of any State" (Article 1).

The Moon Agreement further develops the Astronaut Agreement by guiding principles on manned and unmanned Moon stations (Article 9); free access to Moon areas where States Parties are given a choice between complying with the Agreement or Article I of the Treaty on Outer Space (Article 9); freedom of scientific investigations (Article 6); the nature of information to be given to the UN Secretary General (Articles 5, 7, 9, 11, 13); the handling of natural resources (Articles 6, 11, 18); arms control (Article 3); environmental protection (Article 7); conditions for establishing stations (Article 9); and consultations to settle disputes (Articles 8, 15).

Article 5 of the Astronaut Agreement has been made a part of the proposed Moon Agreement concerning the return of objects launched into outer space and their component parts, and the concept of objects has been extended to include "vehicles, installations and equipment or their component parts." Thus, if a State Party finds such objects, it is obligated to notify the launching authority and the UN Secretary General and if the launching authority requests, the objects are to be returned or held for disposal by the launching authority. If the object is likely to be hazardous, the launching authority is obligated to eliminate possible dangers. The launching authority has the duty of paying the expenses for recovery and return of objects.

Evidently, paragraph 2 of Article 5 of the Astronaut Agreement could not apply to the Moon Agreement because it is based on "jurisdiction over the territory on which a space object or its component parts has been discovered" and the Moon Agreement prohibits national appropriation and property rights to any State. (Article 11, paragraphs 2, 3.)

The Moon Agreement is a considerable advance in detail when compared only with the Astronaut Agreement; if, however, a State were Party both to the 1967 Treaty on Outer Space and the 1968 Astronaut Agreement, its obligations would be more complete and well-rounded in meeting contingencies involved in assistance to and return of astronauts and space objects. The major provisions added by the Moon Agreement are that the Moon is "the common heritage of mankind" and when it becomes feasible to exploit its natural resources, a conference will be planned to consider establishing an international regime according to some criteria specified in the Moon Agreement.

CONVENTION ON INTERNATIONAL LIABILITY FOR DAMAGE CAUSED BY
SPACE OBJECTS (OCTOBER 9, 1973.)

The preamble of the Liability Convention recognizes "the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes" whereas Article 4 of the Agreement applies only to the Moon and other celestial bodies the concept of "the province of all mankind." "The common heritage of mankind" applies to the Moon and its natural resources (Article 11(1)) and, by reason of Article 1, to other celestial bodies within the solar system, other than the earth.

The Moon agreement, which was negotiated primarily with the Moon in mind, rather than additionally and simultaneously concerning the celestial bodies, has numerous provisions designed to ward off situations that might result in damage, but recognizes that if damage occurs on the Moon, it must be established. Article 14 provides that States Parties "shall bear international responsibility for national activities . . ." and recognizes the relevance of the 1967 Treaty on Outer Space as well as the 1973 Liability Convention. However, States that become Parties to the Moon Agreement do not thereby become parties to the previous 1967 and 1973 treaties. This is a different treatment from Article 10 whereby ratification of the Moon Agreement obligates a State to accept Article V of the Treaty on Outer Space as well as the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. A State could ratify the Moon Agreement and not the previous space treaties and thus not be bound by them.

If a State is Party to the Treaty on Outer Space and the Liability Convention, however, there are provisions which would apply to damage caused on the Moon. The Liability Convention defines "damage" as "loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international intergovernmental organizations." (Article I(a)). When the Liability Convention refers to damage "caused elsewhere than on the surface of the earth", the Moon and other celestial bodies are included in "elsewhere". Article III provides that—

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

It would undoubtedly be difficult to establish responsibility for fault in cases involving the hostile environment of celestial bodies, but such problems are left for the future formulation of space law. A major problem is how to bring about the adherence of all States in the whole

body of space law. The provisions in the Liability Convention for the settlement of disputes go beyond the consultations procedures in the Moon Agreement.

The Moon Agreement recognizes that additional space law may be required when there is more extensive activity on the Moon. In that case, the procedure for elaborating additional law covering liability for damage is set forth in Article 18 where review of the Agreement for possible revision is provided in five or ten years after its entry into force.

CONVENTION ON THE REGISTRATION OF OBJECTS LAUNCHED INTO
OUTER SPACE (SEPTEMBER 15, 1976).

The Moon Agreement recalls the Registration Convention in its preamble. The Convention is a considerable expansion of Article VIII of the Treaty on Outer Space where the registry of space objects is mentioned in connection with jurisdiction and control by a State Party. The Assistance and Return of Astronauts and Space Objects requires in Article 5(3) that a State Party furnish identifying data prior to the return of objects and component parts that have returned to Earth, a provision that implies the maintenance of records on launched objects. Similarly, Article X(3) of the Liability Convention implies that a launching State would have documentation to submit in support of a claim.

While these treaties were being negotiated, it was the practice of launching States to register launched space objects with the United Nations because the science and technology of the venture dictated the necessity for orderly, accurate records of launchings.

The Moon Agreement does not deal specifically with the registration of space objects, although such record keeping could be considered a specific example of implementation of its Article 4(2) which requires States Parties to be "guided by the principle of co-operation and mutual assistance in all their activities concerning the exploration and use of the Moon." This is not necessarily the case, however, and the pattern of international cooperation contemplated by the Moon Agreement would require the kind of records provided for in the Registration Convention. This again raises uncertainties about how situations would be handled if a State becomes Party to the Moon Agreement and not to one or more of other space treaties in force.

LAW OF THE SEA DRAFT TREATY

Comparisons between the Moon Agreement and the draft text of a law of the sea treaty are being drawn because both include the concept of "the common heritage of mankind" accompanied by provisions for a future international authority to manage the exploitation of natural resources. The law of the sea treaty has not been concluded and negotiations are continuing in 1980 on the basis of a partially agreed "Informal Composite Negotiating Text, Rev. 1, 1979."⁷⁸

Although the problems of the sea and outer space have different characteristics and each requires handling in accordance with its unique elements, both have been under negotiation during approximately the same period of time and were influenced by events during the 1960s. Great strides were made in the successful exploration of the Moon. The United States goal of landing a man on the Moon and bringing him safely back to Earth was achieved in 1969. Moon samples were shared by the United States with other nations for scientific research purposes. The U.S.S.R. had a successful unmanned moon program, returning samples to Earth by mechanical means and exchanging some with the United States. Some nations wanted to expand the 1967 Treaty on Outer Space to cover future developments in the exploration and use of the Moon and other celestial bodies. There continued to be strong motivation for formulating space law to keep abreast, and preferably ahead, of progress in science and technology, and there was consensus on peaceful purposes for the benefit of all mankind. The developing nations were organized to articulate their desires. The United Nations had organized bodies within its structure where all viewpoints could be expressed and the General Assembly requested its sea and outer space committees to formulate documents to strengthen international cooperation.

On August 17, 1967, Ambassador Arvid Pardo, who represented the Permanent Mission of Malta to the United Nations, proposed that the resources of the oceans be "the common heritage of mankind" and used for the benefit of mankind. By the end of 1967 the United Nations established an Ad hoc Committee to Study the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction, and a year later, on December 21, 1968, made this a permanent committee. On December 17, 1970 the General Assembly adopted the "Declaration of Principles Governing the Seabed Beyond National Jurisdiction".⁷⁹ This Declaration provided that—

The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind.

⁷⁸ Informal Composite Negotiating Text/Revision 1. United Nations Third Conference on the Law of the Sea. Eighth session, Geneva, Mar. 19 to Apr. 27, 1979. A/CONF.62/WP.10/Rev.1. Apr. 28, 1979. 140 pp. 7 annexes.

⁷⁹ UN General Assembly Resolution 2749 (XXV), A/C.1/544, adopted by a vote of 108 to 0 with 14 abstentions.

Activities were to be reserved exclusively for peaceful purposes and carried out for the benefit of mankind as a whole. The Declaration also called for establishing an international regime "including appropriate international machinery," and "ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal."

On July 3, 1970, Ambassador A. A. Cocca, representing Argentina in the UN Committee on the Peaceful Uses of Outer Space, proposed a Draft Agreement on the Principles Governing Activities in the Use of the Natural Resources of the Moon and Other Celestial Bodies in which Article 1 provided that "the natural resources of the Moon and other celestial bodies shall be the common heritage of all mankind."⁸⁰ Article 4 provided that "The benefits obtained from the use of the natural resources of the Moon and other celestial bodies shall be made available to all peoples without discrimination of any kind." Article 5 provided that "in distributing such benefits, account shall be taken of the need to promote the attainment of higher standards of living and conditions of economic and social progress and development, pursuant to article 55a of the Charter of the United Nations, in the light of the interests and requirements of the developing countries and the rights of those undertaking these activities."

The delegates to COPUOS were aware of the relationship between concepts being developed for the sea as well as outer space. On September 3, 1971, Mr. Vallata, representing Mexico, said that—

If the sea-bed and the ocean floor beyond limits of national jurisdiction have been recognized as the common heritage of mankind, we can find much logic in the statement that all areas outside the limits of State jurisdiction by their very nature also constitute the common heritage of mankind and are subject therefore, to an equitable and binding distribution of their benefits.⁸¹

Mr. Rydbeck, representing Sweden, stated on September 6, 1972 that

... only a few nations can expect to reap any direct economic benefits from the use of the moon within the foreseeable future. So much the more important, therefor, that we try to implement in some way the wording of the outer space treaty that the 'moon is the province of mankind'. Even if this concept is probably not primarily aimed at creating a property title for mankind as far as resource utilization is concerned, it seems to point clearly to the related concept of the 'common heritage of mankind', later accepted in relation to the sea-bed and its resources ... Once we accept this concept, the question of a proper international administration for the exploration of the moon and other celestial bodies arises. It may, indeed, be early to settle now on the proper type of in-

⁸⁰ UN A/AC.105/C.2/L.71 and Corr: 1 initially presented to the Legal Subcommittee, 1970. See also A/AC.105/196, Annex I, Report of the Chairman of the Working Group I, pp. 21-22.

⁸¹ UN Committee on the Peaceful Uses of Outer Space A/AC.105/PV.101. Sept. 3, 1971, p. 26.

ternational machinery. It seems clear, however, that the idea of such machinery should be recognized, since without it, expressions such as 'common province' and 'common heritage' will be of limited value to the majority of nations. This is, of course, just part of the much larger problem of turning the exploration and exploitation of outer space from its present unilateral or bilateral course into an international undertaking with tangible United Nations involvement.⁸²

The only purpose here is to cover briefly the interaction between United Nations consideration of law for the sea and the separate law for outer space as related to the common heritage of mankind and an international regime to manage the exploitation of natural resources.

The Informal Composite Negotiating Text, Rev. 1, 1979 resulting from the Third Conference of the Law of the Sea contains the following principles upon which agreement has been reached:

Article 136. Common heritage of mankind. The Area and its resources are the common heritage of mankind.

Article 137. Legal Status of the Area and its Resources.

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or person, natural or juridical, appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights, nor such appropriation shall be recognized.

2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals derived from the Area, however, may only be alienated in accordance with this Part and the rules and regulations adopted thereunder.

3. No State or person, natural or juridical, shall claim, acquire or exercise rights with respect to the minerals of the Area except in accordance with the Provisions of this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Section 5 of the Informal Text deals with the future establishment of the International Sea-Bed Authority with functions assigned to an Assembly, a Council and a secretariat to be located in Jamaica (or Malta or Fiji). The provisions regarding composition, procedure, voting, budget and powers are worked out in much greater detail than in the Moon Agreement.

Although the United States has agreed to the principle of "the common heritage of mankind" in the negotiations on the seabed and the Moon Agreement, the thinking and planning for the interim period of scientific research prior to commercial exploitation has progressed much further on the deep seabed and its minerals than is the case with the natural resources of the Moon and other celestial bodies. This is reflected in the Deep Seabed Mineral Resources Act (S. 493,

⁸² UN A/AC.105/PV.111 Committee on the Peaceful Uses of Outer Space, Sept. 6, 1972, p. 42.

96th Congress, 1st session) which passed the Senate on December 14, 1979 and was referred to the House. The Senate report stated that—

This bill provides an orderly transition from the present situation of no regulation of ocean mining, to United States' regulation of its nationals who conduct ocean mining and then to a new international system which could result if a Law of the Sea treaty is agreed upon, ratified and enters into force for the United States.

One purpose is to stabilize "the presently uncertain investment climate in the ocean mining industry caused by the fact that the United States has indicated its willingness to agree to change the present international law which permits unrestricted seabed mineral development." Title II provides for "a fair and just transition from the regulatory regime established under the act to a form of international control emerging from a duly ratified international treaty."⁸³

The idea has not yet emerged of protecting U.S. industry engaged in space industrialization during an uncertain interim period prior to the establishment of an international authority to manage the exploitation of natural resources on the Moon and other celestial bodies.

Since approval of the Moon Agreement by the United Nations, the issue has been raised of whether there is a moratorium, or an implied moratorium, on U.S. industry investing in space activities involving the Moon and other celestial bodies during the interim period prior to the possible establishment of an operating international authority. The Moon Agreement does not provide for a moratorium, but if it is estimated that there is such uncertainty that it constitutes a deterrent to economic investment, consideration could be given to handling the situation along lines similar to those being considered by the Congress for the deep seabed minerals.

The Senate report stated that the meaning of "the common heritage of mankind" is a matter of "serious legislative interest" and expects a treaty on the law of the sea to establish a legal definition "as it applies to the resources of the deep seabed." The Moon Agreement does not define "the common heritage of mankind" and the term could be given various meanings in different documents. This is not unusual as we have seen in the case of the Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques where there is a definite understanding that certain definitions are "intended exclusively for this Convention." Whether or not such a practice could cause difficulties in the future with regard to the Moon Agreement would seem to depend upon the width of the gap between extremely limited or unlimited interpretations.

⁸³ Deep Seabed Mineral Resources Act. Senate Report No. 96-307. 96th Congress, 1st session. Aug. 9, 1979, pp. 2, 31.

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

This Convention, which was ratified by the United States on January 17, 1980, is relevant to the Moon Agreement because of the capability of space science and technology for use in environmental modification either for peaceful or hostile purposes, the motivation of both treaties to ensure only peaceful purposes and halt an arms race by controls to prevent new means of warfare. The accompanying "understandings" with regard to certain articles are also of interest as a method of facilitating agreement among States Parties in dealing with contingencies which may develop from future scientific and technological advances but cannot be entirely identified at this time.

Concern about protecting the environment from harmful influences has been continuous and mounting since the discovery of atomic energy and radioactivity, leading to the exercise of foresight in all areas in order to ward off dangerous and possibly irreversible developments. This trend can be traced in numerous national and international documents but is particularly evident, beginning with the Antarctic Treaty of 1959, in treaties applicable to worldwide conditions affecting mankind as a whole.

Article I (1) of this Convention prohibits "military or other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party." Article II states that "the term 'environmental modification techniques' refers to any technique for changing—through the deliberate manipulation of natural processes—the dynamics, composition or structure of the earth, including its biotas, lithosphere, hydrosphere and atmosphere, *or of outer space*." (italics added). At the same time, Article III makes clear that such techniques for peaceful purposes are not to be hindered. For example, solar power satellites could be used for peaceful purposes but would require any controls necessary for avoiding harmful consequences. Nuclear power satellites could be used for missions where alternative power sources were unavailable, but technical and legal controls would be needed to avoid danger.

Although the Moon and other celestial bodies are not mentioned specifically, they would be covered because they are located in outer space and should not have their dynamics changed and also they can only be used for peaceful purposes in accordance with the 1967 Treaty on Outer Space. This provision is greatly strengthened by Article 3 of the proposed Moon Agreement which, in paragraph 2, prohibits hostile acts on the Moon as well as use of the Moon to commit such acts in relation to the Earth, Moon, spacecraft, personnel of a spacecraft or a man-made space object.

The manner in which the Environmental Modification Convention handles understandings of general terms in order to avoid future con-

troversty may be useful as a model. The Conference of the Committee on Disarmament sent the text of the Convention with a set of Understandings relating to Articles I, II, III and VIII to the United Nations General Assembly on September 2, 1976 and on December 10, 1976 the resolution was adopted whereby the Convention could be referred to all States to consider signing and ratification.⁸⁴

The Understanding relating to Article I defines some general terms used in the Convention. "Widespread" refers to an area of several hundred square kilometers; "long-lasting" is a period of months or approximately a season; "severe" involves "serious or significant disruption or harm to human life, natural and economic resources or other assets." The Convention concludes this understanding with the point that—

It is further understood that the interpretation set forth above is intended exclusively for this Convention and is not intended to prejudice the interpretation of the same or similar terms if used in connexion with any other international agreement.⁸⁵

This point is pertinent to the discussion that has arisen concerning the meaning of the "common heritage of mankind" which the Moon Agreement intends to confine solely to its document.

The understanding on Article II lists all the specific possibilities that can be foreseen in order to prohibit dangerous practices, recognizes that the list is not exhaustive and that absence therefrom does not imply that a dangerous activity is uncovered.

⁸⁴ See complete text on page 253.

⁸⁵ Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques. Senate Foreign Relations Committee, Senate Executive K, 95th Congress, 2d session, Sept. 22, 1978. p. 12.

ISSUES

It is necessary to examine the Moon Agreement to determine what advice should be given in accordance with our Constitutional process on treaties. The issues that arose during the negotiation of the treaty by the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space were resolved and some of them are different from those expressed after the UN completed its work on this proposal on December 5, 1979. Two of the hard core UN issues were resolved by the COPOUS and have not excited opposition: expanding coverage to include "other celestial bodies" as well as the Moon, and the explicit nature of the information to be furnished on missions to the Moon. However, the manner in which the UN resolved the issue of the common heritage of mankind, and its possible future institutional arrangement, has become a highly controversial issue. There are additional issues and questions which require examination in this latest effort to deal with a specific application of space science and technology and its impact on society.

It is the purpose of this report to provide an agenda as the basis for the analysis of the probable impact of the Moon Agreement on the future progress of space science and technology. Hitherto space law has been formulated in tandem, or only slightly ahead, of space applications, but in the case of the Moon Agreement there is a general assumption that it will be many years before we can expect exploitation of the natural resources of the Moon and other celestial bodies. This assumption also needs to be questioned or at least some time table offered by scientists and engineers comparable to those proposed to the Congress in 1957 when the space age started.

To some degree, we are dealing with speculations about probable consequences of certain legal provisions and often these speculations have not been based upon an accurate concept of the facts as revealed by U.S. policy and the history of the Moon treaty negotiations.

The following issues will require indepth analysis:

1. Do we need the proposed Moon Agreement, considering the total body of space law that already applies to the Moon and other celestial bodies in the four space treaties already in force?
2. Why are so many provisions already in force repeated in identical language in the Moon Agreement or with only slightly different wording?
3. What are the provisions in the Moon Agreement which go beyond the space treaties already in force? Do they appreciably offer positive guidelines for the future development of space industrialization? How do they affect space colonies? Is there any way in which they might hinder the progress of space science and technology in this area?
4. Is it absolutely clear and definite that another treaty dealing with an international regime must come before the Senate for separate

consideration and that giving any advice and consent to the Moon Agreement does not permit the Executive Branch at some future time to conclude an Executive Agreement concerning an international regime?

5. Is it legally certain that the Moon Agreement does not apply to space activities in earth orbit?

6. What is the legal status of the understandings by COPUOS, later noted by the General Assembly when it passed the resolution approving the Moon Agreement? (*Note:* these three understandings are in paragraphs 62, 63, and 65 of the COPUOS 1979 report and concern orbits of the Earth only, and the intention not to prohibit exploitation of natural resources on celestial bodies but rather to minimize adverse effects to the environmental balance.)

7. *Definitions.* Are definitions needed, in order to prevent or minimize future disputes, for the following concepts?—

(a). *Common heritage of mankind.* What does this term add to “the province of all mankind” provided in Article 4 of the Agreement? Can this concept be confined to the Moon Agreement as intended or is it likely to provide a precedent for other subjects such as the law of the sea?

(b). *International regime.* What models of international institutional arrangements can be analyzed for possible application to the future organization envisaged by the Moon Agreement? What are the options?

(c). *Developing countries.* If the assumption is correct that it will be many years before exploitation is undertaken on the Moon and other celestial bodies, some countries now referred to as “developing” will have become developed. What provision is made for defining the developing countries in a list and for removing them from the list once they have become developed?

(d). *Equitable sharing.* Can it be established that such sharing permits portions according to the degree of contribution by different nations? Is it absolutely clear that “equitable sharing” is not the same as “equal sharing” with nations that have not contributed to the effort, even indirectly?

(e). *Benefits derived from exploitation of natural resources.* What are likely to be some of the benefits to be derived from this effort? Since provision is not for equitable sharing of the natural resources but for the benefits derived therefrom, how will the final point in the production process be determined for obligatory sharing?

(f). *Celestial bodies.* If asteroids are defined as celestial bodies and they are towed into Earth orbit, will the Moon Agreement apply to their exploitation for minerals? Since the sun is a celestial body, do benefits derived from solar power come under this agreement?

8. Is there anything in the Moon Agreement which would prevent the development of solar power satellites?

9. Even if the Moon Agreement does not create a legal moratorium on the exploitation of the natural resources of the Moon and other celestial bodies, is it likely to create a period of such uncertainty for private enterprise as to deter investment by industry and/or a com-

bination of industry and government? If so, would a policy such as that in the Deep Seabed Mineral Resources Act be applicable? (See "Deep Seabed Mineral Resources Act" to accompany S. 493, Senate report No. 96-307, 96th Congress, 1st session.)

10. Are advances over other space treaties in the arms control provisions reason enough to accept the Moon Agreement?

11. Is there an overemphasis on natural resources and their exploitation as compared to other ways in which the Moon and other celestial bodies might be used?

12. Should the Senate have understandings or reservations about this agreement?

13. What is the legal status of understandings as opposed to reservations and what effect do they have on other nations?

14. What can be done about the uneven membership of States in the total body of space law that has been developed? For example, of the 47 nations represented on the UN Committee on the Peaceful Uses of Outer Space, only 14 have thus far become parties to all four space treaties now in force. There are 76 members of the 1967 Treaty; 71 of the 1968 Astronaut Agreement; 58 of the Liability Convention; 26 of the Registration Convention; plus the Ukrainian S.S.R. and the Byelorussian S. S. R. for all four treaties.

15. Is the common heritage of mankind in the natural resources of the Moon and other celestial bodies to be available only to States Parties to the Moon Agreement?

16. To what extent has customary international law been established for nations regardless of whether or not they have ratified space treaties?

PART 2

Texts of Documents

INTRODUCTION

Part 2 of this document consists of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, and other international documents important to an understanding of the agreement. The additional texts consist of all the documents mentioned in the Agreement, plus others which it is believed will be helpful to understanding the agreement. For each of these documents, except the new agreement on celestial bodies and the Declaration on the Principles of International Law, which is a United Nations resolution, there is printed a list of the signatures and ratification to that treaty. These lists are up to date as of March 11, 1980.

As of May 21, 1980, five countries, France, Chile, Romania, Philippines, and Austria, had signed the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.

When the Committee on the Peaceful Uses of Outer Space reached a consensus on the Draft Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, it did so on the basis of three understandings. These understandings are contained in paragraphs 62, 63, and 65 of the committee's report on its 22d session. That part of the committee's report which deals with the new agreement entitled: Draft Treaty Relating to the Moon follows:

REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

GENERAL ASSEMBLY

(Official Records: Thirty-Fourth Session, Supplement No. 20
(A/34/20))

UNITED NATIONS—NEW YORK, 1979

* * * * *

7. DRAFT TREATY RELATING TO THE MOON

55. The committee took note of the work done by the legal subcommittee in accordance with General Assembly resolution 33/16 in its effort to complete the examination of the text of the draft treaty relating to the moon. The committee also noted that working group I of the subcommittee had based its discussions on the text of a tentative draft agreement elaborated through informal consultations by the delegation of Austria and that at its 18th session an article-by-article reading of this text had taken place.

56. The committee further noted the recommendation of the legal subcommittee that its parent body, while considering the question of the draft treaty relating to the moon at its current session, should also

consider whether the elaboration of a draft treaty could be concluded, or whether progress could be achieved during that session.

57. The committee established an informal working group of the whole under the chairmanship of Mr. Gyula K. Szelei (Hungary) to consider the matter. The working group held four meetings between 26 June and 3 July 1979.

58. The committee, through the working group, considered the compromise text proposed by Austria, which was annexed to the last report of the committee,² with a view to finding a consensus on that text. The working group also had before it the text reflecting the outcome of the review at the 18th session of the legal subcommittee (A/AC.105/240, annex II, appendix A).

59. During the course of the discussions, several proposals were made to amend the Austrian text.

60. After informal consultations among members on the main outstanding issue, a suggestion was made that article XI, paragraph 1, in the Austrian text should be amended to read:

The Moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this agreement and, in particular, in paragraph 5 of this article.

This proposal was adopted and article XI, paragraph 1, was amended accordingly.

61. Several further suggestions were made and amendments were agreed upon to article XI, paragraph 7; article XV, paragraph 1; and article XIX. It was also agreed that the title should remain as proposed in the Austrian text.

62. Several suggestions were made to amend article I, paragraph 1. However, after an extensive discussion of the matter, it was agreed not to amend the Austrian text but to include in the report of the committee a statement reflecting the committee's understanding of the interpretation that should be given to article I, paragraph 1. That understanding is as follows:

The committee agreed that by virtue of article I, paragraph 1, the principle contained in article XI, paragraph 1, would also apply to celestial bodies in the solar system other than the Earth and to its natural resources.

63. Following a suggestion for clarification of article I, paragraph 2, the committee agreed that the trajectories and orbits mentioned in article I, paragraph 2, do not include trajectories and orbits of space objects in Earth orbits only and trajectories of space objects between the Earth and such orbits.

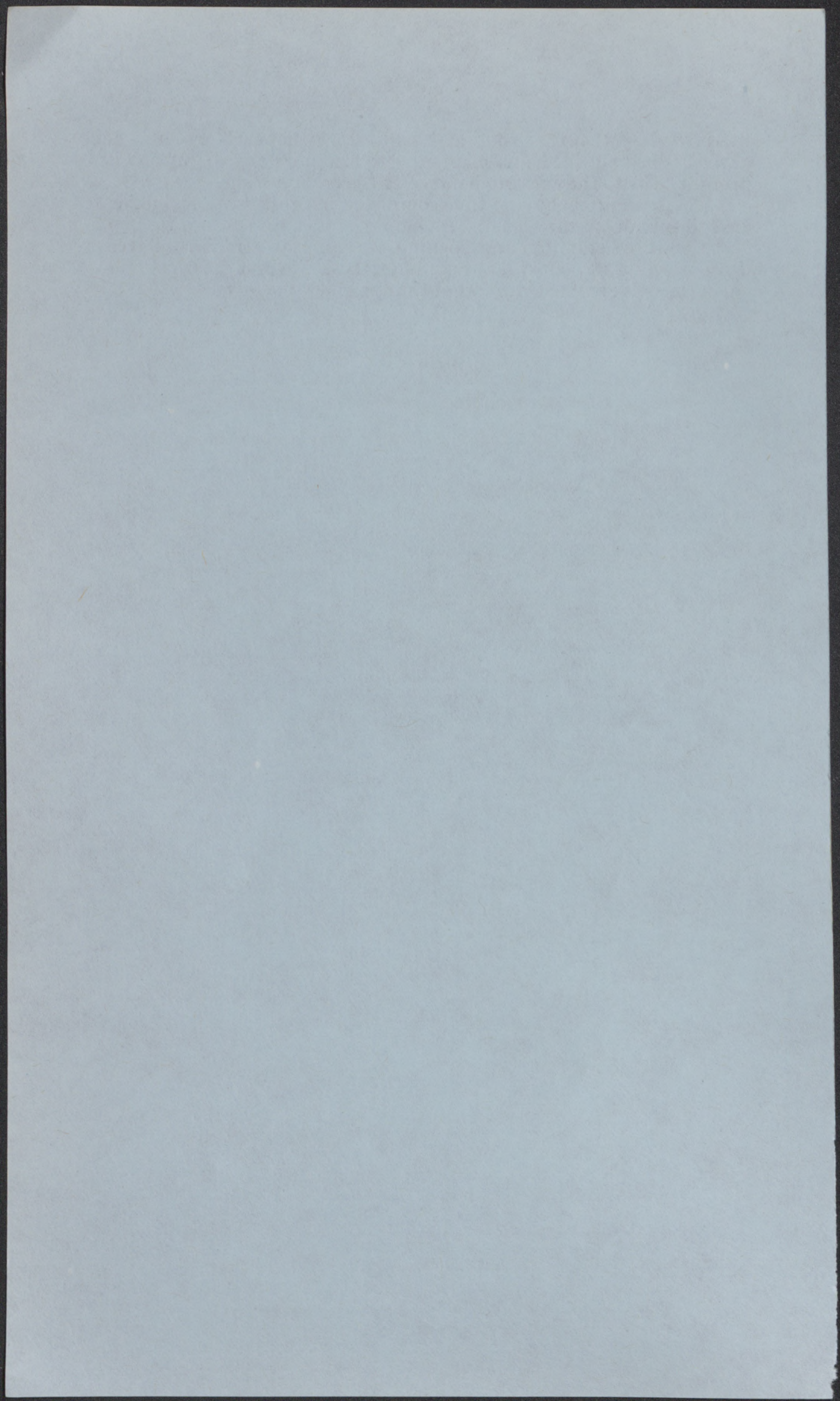
64. With respect to article VII of the Austrian text which refers to the avoidance of harmful contamination of the Moon and its environment, it was suggested to introduce a reference to "especially nuclear material." After an extensive discussion, it was agreed that the Austrian text should remain as drafted.

65. Following a suggestion for further clarification of article VII, the committee agreed that article VII is not intended to result in prohibiting the exploitation of natural resources which may be found on

² Official Records of the General Assembly, Thirty-third Session, Supplement No. 20 (A/33/20), annex II.

celestial bodies other than the Earth but, rather, that such exploitation will be carried out in such a manner as to minimize any disruption or adverse effects to the existing balance of the environment.

66. The committee, having thus completed its work on this item, decided to submit, to the General Assembly at its 34th session, for consideration, final adoption and opening for signature, the draft agreement governing the activities of states on the Moon and other celestial bodies, the text of which is annexed (annex II).





UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/RES/34/68
14 December 1979

Thirty-fourth session
Agenda items 48 and 49

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

/on the report of the Special Political Committee (A/34/664)/

34/68. Agreement Governing the Activities of States on the
Moon and Other Celestial Bodies

The General Assembly,

Reaffirming the importance of international co-operation in the field of the exploration and peaceful uses of outer space, including the moon and other celestial bodies, and of promoting the rule of law in this field of human endeavour,

Recalling its resolution 2779 (XXVI) of 29 November 1971, in which it requested the Committee on the Peaceful Uses of Outer Space and its Legal Sub-Committee to consider the question of the elaboration of a draft international treaty concerning the moon, as well as its resolutions 2915 (XXVII) of 9 November 1972, 3182 (XXVIII) of 18 December 1973, 3234 (XXIX) of 12 November 1974, 3388 (XXX) of 18 November 1975, 31/8 of 8 November 1976, 32/196 A of 20 December 1977 and 33/16 of 10 November 1978, in which it, inter alia, encouraged the elaboration of the draft treaty relating to the moon,

Recalling, in particular, that in resolution 33/16 it endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Sub-Committee at its eighteenth session should continue as a matter of priority its efforts to complete the draft treaty relating to the moon,

Having considered the relevant section of the report of the Committee on the Peaceful Uses of Outer Space on its twenty-second session, 1/ in particular paragraphs 62, 63 and 65,

1/ Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 20 (A/34/20).

79-38340

/...

Noting with satisfaction that the Committee on the Peaceful Uses of Outer Space, on the basis of the deliberations and recommendations of the Legal Sub-Committee, has completed the text of the draft Agreement Governing the Activities of States on the Moon and Other Celestial Bodies,

Having considered the text of the draft Agreement Governing the Activities of States on the Moon and Other Celestial Bodies,

1. Commends the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, the text of which is annexed to the present resolution;
2. Requests the Secretary-General to open the Agreement for signature and ratification at the earliest possible date;
3. Expresses its hope for the widest possible adherence to this Agreement.

89th plenary meeting
5 December 1979

ANNEX

Agreement Governing the Activities of States on the Moon
and Other Celestial Bodies

The States Parties to this Agreement,

Noting the achievements of States in the exploration and use of the moon and other celestial bodies,

Recognizing that the moon, as a natural satellite of the earth, has an important role to play in the exploration of outer space,

Determined to promote on the basis of equality the further development of co-operation among States in the exploration and use of the moon and other celestial bodies,

Desiring to prevent the moon from becoming an area of international conflict,

Bearing in mind the benefits which may be derived from the exploitation of the natural resources of the moon and other celestial bodies,

Recalling the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 2/ the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 3/ the Convention on International Liability for Damage Caused by Space Objects, 4/ and the Convention on Registration of Objects Launched into Outer Space, 5/

Taking into account the need to define and develop the provisions of these international instruments in relation to the moon and other celestial bodies, having regard to further progress in the exploration and use of outer space,

Have agreed on the following:

Article 1

1. The provisions of this Agreement relating to the moon shall also apply to other celestial bodies within the solar system, other than the earth, except

2/ General Assembly resolution 2222 (XXI), annex.

3/ General Assembly resolution 2345 (XXII), annex.

4/ General Assembly resolution 2777 (XXVI), annex.

5/ General Assembly resolution 3235 (XXIX), annex.

/...

in so far as specific legal norms enter into force with respect to any of these celestial bodies.

2. For the purposes of this Agreement reference to the moon shall include orbits around or other trajectories to or around it.

3. This Agreement does not apply to extraterrestrial materials which reach the surface of the earth by natural means.

Article 2

All activities on the moon, including its exploration and use, shall be carried out in accordance with international law, in particular the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 6/ adopted by the General Assembly on 24 October 1970, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interests of all other States Parties.

Article 3

1. The moon shall be used by all States Parties exclusively for peaceful purposes.

2. Any threat or use of force or any other hostile act or threat of hostile act on the moon is prohibited. It is likewise prohibited to use the moon in order to commit any such act or to engage in any such threat in relation to the earth, the moon, spacecraft, the personnel of spacecraft or man-made space objects.

3. States Parties shall not place in orbit around or other trajectory to or around the moon objects carrying nuclear weapons or any other kinds of weapons of mass destruction or place or use such weapons on or in the moon.

4. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the moon shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the moon shall also not be prohibited.

Article 4

1. The exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all

6/ General Assembly resolution 2625 (XXV), annex.

countries, irrespective of their degree of economic or scientific development. Due regard shall be paid to the interests of present and future generations as well as to the need to promote higher standards of living and conditions of economic and social progress and development in accordance with the Charter of the United Nations.

2. States Parties shall be guided by the principle of co-operation and mutual assistance in all their activities concerning the exploration and use of the moon. International co-operation in pursuance of this Agreement should be as wide as possible and may take place on a multilateral basis, on a bilateral basis or through international intergovernmental organizations.

Article 5

1. 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 feasible and practicable, of their activities concerned with the exploration and use of the moon. Information on the time, purposes, locations, orbital parameters and duration shall be given in respect of each mission to the moon as soon as possible after launching, while information on the results of each mission, including scientific results, shall be furnished upon completion of the mission. In the case of a mission lasting more than sixty days, information on conduct of the mission, including any scientific results, shall be given periodically, at thirty-day intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter.

2. If a State Party becomes aware that another State Party plans to operate simultaneously in the same area of or in the same orbit around or trajectory to or around the moon, it shall promptly inform the other State of the timing of and plans for its own operations.

3. In carrying out activities under this Agreement, States Parties shall promptly inform the Secretary-General, as well as the public and the international scientific community, of any phenomena they discover in outer space, including the moon, which could endanger human life or health, as well as of any indication of organic life.

Article 6

1. There shall be freedom of scientific investigation on the moon by all States Parties without discrimination of any kind, on the basis of equality and in accordance with international law.

2. In carrying out scientific investigations and in furtherance of the provisions of this Agreement, the States Parties shall have the right to collect on and remove from the moon samples of its mineral and other substances.

/...

Such samples shall remain at the disposal of those States Parties which caused them to be collected and may be used by them for scientific purposes. States Parties shall have regard to the desirability of making a portion of such samples available to other interested States Parties and the international scientific community for scientific investigation. States Parties may in the course of scientific investigations also use mineral and other substances of the moon in quantities appropriate for the support of their missions.

3. States Parties agree on the desirability of exchanging scientific and other personnel on expeditions to or installations on the moon to the greatest extent feasible and practicable.

Article 7

1. In exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment, whether by introducing adverse changes in that environment, by its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to avoid harmfully affecting the environment of the earth through the introduction of extraterrestrial matter or otherwise.

2. States Parties shall inform the Secretary-General of the United Nations of the measures being adopted by them in accordance with paragraph 1 of this article and shall also, to the maximum extent feasible, notify him in advance of all placements by them of radio-active materials on the moon and of the purposes of such placements.

3. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the moon having special scientific interest in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed upon in consultation with the competent bodies of the United Nations.

Article 8

1. States Parties may pursue their activities in the exploration and use of the moon anywhere on or below its surface, subject to the provisions of this Agreement.

2. For these purposes States Parties may, in particular:

- (a) Land their space objects on the moon and launch them from the moon;
- (b) Place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the moon.

/...

Personnel, space vehicles, equipment, facilities, stations and installations may move or be moved freely over or below the surface of the moon.

3. Activities of States Parties in accordance with paragraphs 1 and 2 of this article shall not interfere with the activities of other States Parties on the moon. Where such interference may occur, the States Parties concerned shall undertake consultations in accordance with article 15, paragraphs 2 and 3, of this Agreement.

Article 9

1. States Parties may establish manned and unmanned stations on the moon. A State Party establishing a station shall use only that area which is required for the needs of the station and shall immediately inform the Secretary-General of the United Nations of the location and purposes of that station. Subsequently, at annual intervals that State shall likewise inform the Secretary-General whether the station continues in use and whether its purposes have changed.

2. Stations shall be installed in such a manner that they do not impede the free access to all areas of the moon of personnel, vehicles and equipment of other States Parties conducting activities on the moon in accordance with the provisions of this Agreement or of article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. 2/

Article 10

1. States Parties shall adopt all practicable measures to safeguard the life and health of persons on the moon. For this purpose they shall regard any person on the moon as an astronaut within the meaning of article V of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies 2/ and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. 3/

2. States Parties shall offer shelter in their stations, installations, vehicles and other facilities to persons in distress on the moon.

Article 11

1. The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement, in particular in paragraph 5 of this article.

/...

2. The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means.

3. Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become property of any State, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon, including structures connected with its surface or subsurface, shall not create a right of ownership over the surface or the subsurface of the moon or any areas thereof. The foregoing provisions are without prejudice to the international régime referred to in paragraph 5 of this article.

4. States Parties have the right to exploration and use of the moon without discrimination of any kind, on the basis of equality and in accordance with international law and the provisions of this Agreement.

5. States Parties to this Agreement hereby undertake to establish an international régime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible. This provision shall be implemented in accordance with article 18 of this Agreement.

6. In order to facilitate the establishment of the international régime referred to in paragraph 5 of this article, 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 feasible and practicable, of any natural resources they may discover on the moon.

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

- (a) The orderly and safe development of the natural resources of the moon;
- (b) The rational management of those resources;
- (c) The expansion of opportunities in the use of those resources;
- (d) An equitable sharing by all States Parties in the benefits derived from those resources, whereby the interests and needs of the developing countries, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration.

8. All the activities with respect to the natural resources of the moon shall be carried out in a manner compatible with the purposes specified in paragraph 7 of this article and the provisions of article 6, paragraph 2, of this Agreement.

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Article 12

1. States Parties shall retain jurisdiction and control over their personnel, space vehicles, equipment, facilities, stations and installations on the moon. The ownership of space vehicles, equipment, facilities, stations and installations shall not be affected by their presence on the moon.

2. Vehicles, installations and equipment or their component parts found in places other than their intended location shall be dealt with in accordance with article 5 of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. 3/

3. In the event of an emergency involving a threat to human life, States Parties may use the equipment, vehicles, installations, facilities or supplies of other States Parties on the moon. Prompt notification of such use shall be made to the Secretary-General of the United Nations or the State Party concerned.

Article 13

A State Party which learns of the crash landing, forced landing or other unintended landing on the moon of a space object, or its component parts, that were not launched by it, shall promptly inform the launching State Party and the Secretary-General of the United Nations.

Article 14

1. States Parties to this Agreement shall bear international responsibility for national activities on the moon, whether such activities are carried out by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions of this Agreement. States Parties shall ensure that non-governmental entities under their jurisdiction shall engage in activities on the moon only under the authority and continuing supervision of the appropriate State Party.

2. States Parties recognize that detailed arrangements concerning liability for damage caused on the moon, in addition to the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies 2/ and the Convention on International Liability for Damage Caused by Space Objects, 4/ may become necessary as a result of more extensive activities on the moon. Any such arrangements shall be elaborated in accordance with the procedure provided for in article 18 of this Agreement.

/...

Article 15

1. Each State Party may assure itself that the activities of other States Parties in the exploration and use of the moon are compatible with the provisions of this Agreement. To this end, all space vehicles, equipment, facilities, stations and installations on the moon shall be open to other States Parties. Such States Parties shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited. In pursuance of this article, any State Party may act on its own behalf or with the full or partial assistance of any other State Party or through appropriate international procedures within the framework of the United Nations and in accordance with the Charter.

2. A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Agreement or that another State Party is interfering with the rights which the former State has under this Agreement may request consultations with that State Party. A State Party receiving such a request shall enter into such consultations without delay. Any other State Party which requests to do so shall be entitled to take part in the consultations. Each State Party participating in such consultations shall seek a mutually acceptable resolution of any controversy and shall bear in mind the rights and interests of all States Parties. The Secretary-General of the United Nations shall be informed of the results of the consultations and shall transmit the information received to all States Parties concerned.

3. If the consultations do not lead to a mutually acceptable settlement which has due regard for the rights and interests of all States Parties, the parties concerned shall take all measures to settle the dispute by other peaceful means of their choice appropriate to the circumstances and the nature of the dispute. If difficulties arise in connexion with the opening of consultations or if consultations do not lead to a mutually acceptable settlement, any State Party may seek the assistance of the Secretary-General, without seeking the consent of any other State Party concerned, in order to resolve the controversy. A State Party which does not maintain diplomatic relations with another State Party concerned shall participate in such consultations, at its choice, either itself or through another State Party or the Secretary-General as intermediary.

Article 16

With the exception of articles 17 to 21, references in this Agreement to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Agreement and if a majority of the States members of the organization are States Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in

/...

the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. 2/ States members of any such organization which are States Parties to this Agreement shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the provisions of this article.

Article 17

Any State Party to this Agreement may propose amendments to the Agreement. Amendments shall enter into force for each State Party to the Agreement accepting the amendments upon their acceptance by a majority of the States Parties to the Agreement and thereafter for each remaining State Party to the Agreement on the date of acceptance by it.

Article 18

Ten years after the entry into force of this Agreement, the question of the review of the Agreement shall be included in the provisional agenda of the General Assembly of the United Nations in order to consider, in the light of past application of the Agreement, whether it requires revision. However, at any time after the Agreement has been in force for five years, the Secretary-General of the United Nations, as depositary, shall, at the request of one third of the States Parties to the Agreement and with the concurrence of the majority of the States Parties, convene a conference of the States Parties to review this Agreement. A review conference shall also consider the question of the implementation of the provisions of article 11, paragraph 5, on the basis of the principle referred to in paragraph 1 of that article and taking into account in particular any relevant technological developments.

Article 19

1. This Agreement shall be open for signature by all States at United Nations Headquarters in New York.

2. This Agreement shall be subject to ratification by signatory States. Any State which does not sign this Agreement before its entry into force in accordance with paragraph 3 of this article may accede to it at any time. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. This Agreement shall enter into force on the thirtieth day following the date of deposit of the fifth instrument of ratification.

4. For each State depositing its instrument of ratification or accession after the entry into force of this Agreement, it shall enter into force on the thirtieth day following the date of deposit of any such instrument.

/...

5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

Article 20

Any State Party to this Agreement may give notice of its withdrawal from the Agreement one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article 21

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all signatory and acceding States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement, opened for signature at New York on

**TREATY ON PRINCIPLES GOVERNING THE
ACTIVITIES OF STATES IN THE EXPLORATION AND
USE OF OUTER SPACE, INCLUDING THE MOON AND
OTHER CELESTIAL BODIES**

**Between the
UNITED STATES OF AMERICA
and OTHER GOVERNMENTS**

**Done at Washington, London, and
Moscow January 27, 1967**



MULTILATERAL

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies

Done at Washington, London, and Moscow January 27, 1967;

Ratification advised by the Senate of the United States of America April 25, 1967;

Ratified by the President of the United States of America May 24, 1967;

Ratification of the United States of America deposited at Washington, London, and Moscow October 10, 1967;

Proclaimed by the President of the United States of America October 10, 1967;

Entered into force October 10, 1967.

TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES
IN THE EXPLORATION AND USE OF OUTER SPACE,
INCLUDING THE MOON AND OTHER CELESTIAL BODIES

The States Parties to this Treaty,

Inspired by the great prospects opening up before mankind
as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress
of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should
be carried on for the benefit of all peoples irrespective of the
degree of their economic or scientific development,

Desiring to contribute to broad international co-operation in
the scientific as well as the legal aspects of the exploration and
use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the
development of mutual understanding and to the strengthening of
friendly relations between States and peoples,

Recalling resolution 1962 (XVIII), entitled "Declaration of
Legal Principles Governing the Activities of States in the
Exploration and Use of Outer Space", which was adopted unanimously
by the United Nations General Assembly on 13 December 1963,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Taking account of United Nations General Assembly resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

Convinced that a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, will further the Purposes and Principles of the Charter of the United Nations, [1]

Have agreed on the following:

Article I

The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States without

¹ TS 003, 50 Stat. 1031.

discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the moon and other celestial bodies, and States shall facilitate and encourage international co-operation in such investigation.

Article II

Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

Article III

States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.

Article IV

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner.

The moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military maneuvers on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the moon and other celestial bodies shall also not be prohibited.

Article V

States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of another State Party or on the high seas. When astronauts make such a landing, they shall be safely and promptly returned to the State of registry of their space vehicle.

In carrying on activities in outer space and on celestial bodies, the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties.

States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in outer space, including the moon and other celestial bodies, which could constitute a danger to the life or health of astronauts.

Article VI

States Parties to the Treaty shall bear international responsibility for national activities in outer space, including the moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty. The activities of non-governmental entities in outer space, including the moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty. When activities are carried on in outer space, including the moon and other celestial bodies, by an international organization, responsibility for compliance with this Treaty shall be borne both by the international organization and by the States Parties to the Treaty participating in such organization.

Article VII

Each State Party to the Treaty that launches or procures the launching of an object into outer space, including the moon and other celestial bodies, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or to its natural or juridical persons by such object or its component parts on the Earth, in air space or in outer space, including the moon and other celestial bodies.

Article VIII

A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return.

Article IX

In the exploration and use of outer space, including the moon and other celestial bodies, 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 the moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty. States Parties to the Treaty shall pursue studies of outer space, including the moon and other celestial bodies, and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose. If a State Party to the Treaty has

reason to believe that an activity or experiment planned by it or its nationals in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the moon and other celestial bodies, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the moon and other celestial bodies, may request consultation concerning the activity or experiment.

Article X

In order to promote international co-operation in the exploration and use of outer space, including the moon and other celestial bodies, in conformity with the purposes of this Treaty, the States Parties to the Treaty shall consider on a basis of equality any requests by other States Parties to the Treaty to be afforded an opportunity to observe the flight of space objects launched by those States.

The nature of such an opportunity for observation and the conditions under which it could be afforded shall be determined by agreement between the States concerned.

Article XI

In order to promote international co-operation in the peaceful exploration and use of outer space, States Parties to the Treaty conducting activities in outer space, including the moon and other celestial bodies, agree to inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of the nature, conduct, locations and results of such activities. On receiving the said information, the Secretary-General of the United Nations should be prepared to disseminate it immediately and effectively.

Article XII

All stations, installations, equipment and space vehicles on the moon and other celestial bodies shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity. Such representatives shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.

Article XIII

The provisions of this Treaty shall apply to the activities of States Parties to the Treaty in the exploration and use of outer space, including the moon and other celestial bodies, whether such

activities are carried on by a single State Party to the Treaty or jointly with other States, including cases where they are carried on within the framework of international inter-governmental organizations.

Any practical questions arising in connection with activities carried on by international inter-governmental organizations in the exploration and use of outer space, including the moon and other celestial bodies, shall be resolved by the States Parties to the Treaty either with the appropriate international organization or with one or more States members of that international organization, which are Parties to this Treaty.

Article XIV

1. This Treaty shall be open to all States for signature.

Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Treaty.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

Article XVI

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XVII

This Treaty, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

Status of

Signatures Affixed and Instruments Deposited in Washington
with respect to
The Treaty on Principles Governing the Activities of States
in the Exploration and Use of Outer Space
Including the Moon and Other Celestial Bodies
Opened for signature on January 27, 1967
at Washington, London, and Moscow*

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession or of notification of succession
Afghanistan	Jan. 27, 1967		
Argentina	Jan. 27, 1967	Mar. 26, 1969	
Australia	Jan. 27, 1967	Oct. 10, 1967	
Austria	Feb. 20, 1967	Feb. 26, 1968	
Bahamas			Aug. 13, 1976 ¹
Barbados			Sept. 12, 1968
Belgium	Feb. 2, 1967	Mar. 30, 1973	
Bolivia	Jan. 27, 1967		
Botswana	Jan. 27, 1967		
Brazil	Feb. 2, 1967	Mar. 5, 1969 ²	
Bulgaria	Jan. 27, 1967	Apr. 11, 1967	
Burma	May 22, 1967	Mar. 18, 1970	
Burundi	Jan. 27, 1967		
Cameroon	Jan. 27, 1967		
Canada	Jan. 27, 1967	Oct. 10, 1967	
Central African Rep.	Jan. 27, 1967		
Chile	Jan. 27, 1967		
China	Jan. 27, 1967	July 24, 1970 ¹³	
Colombia	Jan. 27, 1967		
Cyprus	Jan. 27, 1967	July 5, 1972	
Czechoslovakia	Jan. 27, 1967	May 22, 1967	

* The Treaty entered into force on October 10, 1967, in accordance with the provisions of Article XIV, paragraph 3 thereof, with respect to States which deposited ratification on or before that date.

Article XIV, paragraph 4, of the Treaty provides: "For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession."

Status of
Outer Space Treaty

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession or of notification of succession
Denmark	Jan. 27, 1967	Oct. 10, 1967	
Dominican Rep.	Jan. 27, 1967	Nov. 21, 1968	
Ecuador	Jan. 27, 1967	Mar. 7, 1969	
Egypt	Jan. 27, 1967	Oct. 10, 1967	
El Salvador	Jan. 27, 1967	Jan. 15, 1969	
Ethiopia	Jan. 27, 1967		
Fiji			July 18, 1972 ³
Finland	Jan. 27, 1967	July 12, 1967	
France	Sept. 25, 1967	Aug. 5, 1970	
Germany, Fed. Rep. of	Jan. 27, 1967	Feb. 10, 1971 ⁴	
Ghana	Jan. 27, 1967		
Greece	Jan. 27, 1967		
Guyana	Feb. 3, 1967		
Haiti	Jan. 27, 1967		
Honduras	Jan. 27, 1967		
Hungary	Jan. 27, 1967	June 26, 1967	
Iceland	Jan. 27, 1967	Feb. 5, 1968	
India	Mar. 3, 1967		
Indonesia	Jan. 27, 1967		
Iraq	Feb. 27, 1967		
Ireland	Jan. 27, 1967	July 17, 1968	
Israel	Jan. 27, 1967	Feb. 18, 1977	
Italy	Jan. 27, 1967	May 4, 1972	
Jamaica	June 29, 1967	Aug. 6, 1970	
Japan	Jan. 27, 1967	Oct. 10, 1967	
Jordan	Feb. 2, 1967		
Korea, Rep. of	Jan. 27, 1967 ⁵	Oct. 13, 1967	
Kuwait			June 7, 1972 ⁶
Laos	Jan. 27, 1967	Nov. 29, 1972	
Lebanon	Feb. 23, 1967	June 30, 1969	
Lesotho	Jan. 27, 1967		

Status of
Outer Space Treaty

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession or of notification of succession
Libya			July 3, 1968
Luxembourg	Jan. 27, 1967		
Madagascar			Aug. 22, 1968 ⁷
Malaysia	Feb. 20, 1967		
Mauritius			Apr. 7, 1969 ⁸
Mexico	Jan. 27, 1967	Jan. 31, 1968	
Morocco			Dec. 22, 1967
Nepal	Feb. 3, 1967	Nov. 22, 1967	
Netherlands	Feb. 10, 1967	Oct. 10, 1969 ⁹	
New Zealand	Jan. 27, 1967	May 31, 1968	
Nicaragua	Jan. 27, 1967		
Niger	Feb. 1, 1967	May 3, 1967	
Norway	Feb. 3, 1967	July 1, 1969	
Pakistan	Sept. 12, 1967	Apr. 8, 1968	
Panama	Jan. 27, 1967		
Peru	June 30, 1967	Mar. 21, 1979	
Philippines	Jan. 27, 1967		
Poland	Jan. 27, 1967	Jan. 30, 1968	
Romania	Jan. 27, 1967	Apr. 9, 1968	
Rwanda	Jan. 27, 1967		
San Marino	Apr. 21, 1967	Oct. 29, 1968	
Saudi Arabia			Dec. 17, 1976
Sierra Leone	May 16, 1967	July 14, 1967	
Singapore			Sept. 10, 1976
Somalia	Feb. 2, 1967		
South Africa	Mar. 1, 1967	Sept. 30, 1968	
Spain			Dec. 7, 1968
Sweden	Jan. 27, 1967	Oct. 11, 1967	
Switzerland	Jan. 27, 1967	Dec. 18, 1969	
Thailand	Jan. 27, 1967	Sept. 10, 1968	
Togo	Jan. 27, 1967		
Tonga			July 7, 1971 ¹⁰
Trinidad and Tobago	Sept. 28, 1967		
Tunisia	Jan. 27, 1967	Apr. 17, 1968	

Status of
Outer Space Treaty

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession or of notification of succession
Turkey	Jan. 27, 1967	Mar. 27, 1968	
Uganda			Apr. 24, 1968
Union of Soviet Socialist Reps.	Jan. 27, 1967	Oct. 10, 1967	
United Kingdom of Great Britain and Northern Ireland	Jan. 27, 1967	Oct. 10, 1967 ^{11,12}	
United States of America	Jan. 27, 1967	Oct. 10, 1967	
Upper Volta	Mar. 3, 1967	June 18, 1968	
Uruguay	Jan. 27, 1967	Aug. 31, 1970	
Venezuela	Jan. 27, 1967	Mar. 3, 1970	
Viet-Nam, Rep. of	Jan. 27, 1967		
Yugoslavia	Jan. 27, 1967		
Zaire	Jan. 27, 1967		
Zambia			Aug. 20, 1973

Status of
Outer Space Treaty

1 The Embassy of The Commonwealth of The Bahamas transmitted to the Department of State by a note dated August 13, 1976 a note of the Minister of External Affairs of The Commonwealth of The Bahamas dated July 16, 1976, stating that the Government of The Commonwealth of The Bahamas has examined the Treaty and "declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law. I would therefore request you to consider listing The Commonwealth of The Bahamas as a party" to this instrument.

2 The instrument of ratification by Brazil was transmitted with a note of the Embassy of Brazil dated March 5, 1969 reading, in part, as follows:

"2. In depositing the aforesaid instrument, the Embassy of Brazil requests the Department of State to note and communicate to the other governments signatory to the Treaty the following declaration by the Brazilian Government:

'The Brazilian Government interprets Article 10 of the Treaty as a specific recognition that the granting of tracking facilities by the parties to the Treaty shall be subject to agreement between the States concerned.'" [translation]

3 The Charge d'Affaires ad interim of Fiji transmitted to the Secretary of State by note dated July 18, 1972 a note of the Prime Minister and Minister for Foreign Affairs of Fiji, dated July 14, 1972, stating that the Government of Fiji has examined the Treaty "and declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law." The Prime Minister's note further states "I would therefore request you to consider listing Fiji as a party" to this instrument.

4 The instrument of ratification by the Federal Republic of Germany includes the statement that the Treaty will enter into force also for Land Berlin on the day on which it enters into force for the Federal Republic of Germany.

5 The Embassy of the Republic of Korea informed the Department of State in a note dated January 27, 1967, in connection with the signature of the Treaty, as follows:

"The signing and the ratification by the Government of the Republic of Korea of the present Treaty does not in any way mean or imply the recognition of any territory or regime which has not been recognized by the Government of the Republic of Korea as a state or government."

6 The instrument of accession by Kuwait was accompanied by a declaration reading as follows:

"UNDERSTANDING"

"In acceding to the Treaty on Principles governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1967, the Government of the State of Kuwait takes the view that its Accession to the said Treaty does not in any way imply its recognition of Israel nor does it oblige it to apply the provisions of the aforementioned Treaty in respect of the said country."

7 The instrument of accession by the Malagasy Republic contains the following statement:

"The Government of the Malagasy Republic understands that the provisions of Article 10 may in no way affect the principle of the national sovereignty of the State, which shall retain its freedom of decision with respect to the possible installation of foreign observation bases in its territory and shall continue to possess the right to fix, in each case, the conditions for such installation." [translation]

Status of
Outer Space Treaty

8 The Prime Minister and Minister of External Affairs of Mauritius informed the Secretary of State by a note dated April 7, 1969 as follows:

"The Government of Mauritius declares that it considers itself bound [under the Treaty] as from the 12th March, 1968, the date on which Mauritius acceded to independence."

9 It is stated in the Netherlands instrument of ratification that the Treaty is approved "pour le Royaume en Europe, pour le Surinam et pour les Antilles Neerlandaises".

10 The Tonga High Commission in London transmitted to the American Ambassador by note dated July 7, 1971, a note dated June 22, 1971 from the Prime Minister and Minister for Foreign Affairs of Tonga stating as follows:

"The Government of Tonga has examined the Treaty ... and declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law. I would therefore request you to consider listing Tonga as a party to this instrument."

11 The instrument of ratification by the United Kingdom states that the Treaty is ratified in respect of "the United Kingdom of Great Britain and Northern Ireland, the Associated States (Antigua, Dominica, Grenada, Saint Christopher-Nevis-Anguilla and Saint Lucia) and Territories under the territorial sovereignty of the United Kingdom, as well as the State of Brunei, the Kingdom of Swaziland, the Kingdom of Tonga and the British Solomon Islands Protectorate".

12 The British Ambassador made the following declaration in a note to the Secretary of State dated October 10, 1967:

"In depositing with the Government of the United States the instrument of ratification by the United Kingdom of the Treaty ..., I have the honour to declare on behalf of the Government of the United Kingdom that this Treaty will not be applicable in regard to Southern Rhodesia unless and until the Government of the United Kingdom informs the other depositary Governments that it is in a position to ensure that the obligations imposed by the Treaty in respect of that territory can be fully implemented."

13 On July 24, 1970, an instrument of ratification was deposited in the name of the Republic of China. Effective January 1, 1979, the United States recognized the People's Republic of China as the sole legal government of China. The authorities on Taiwan state that they will continue to abide by the provisions of the Treaty and the United States regards them as bound by its obligations.

Department of State,

Washington,

MAR 11 1980

[Reprint of English text only]

**AGREEMENT ON THE RESCUE OF ASTRONAUTS,
THE RETURN OF ASTRONAUTS AND THE RETURN
OF OBJECTS LAUNCHED INTO OUTER SPACE**

**Between the
UNITED STATES OF AMERICA
and OTHER GOVERNMENTS**

**Done at Washington, London and Moscow
April 22, 1968**



MULTILATERAL

Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space

*Done at Washington, London and Moscow April 22, 1968;
Ratification advised by the Senate of the United States of America
October 8, 1968;
Ratified by the President of the United States of America
October 18, 1968;
Ratification of the United States of America deposited at Washington, London and Moscow December 3, 1968;
Proclaimed by the President of the United States of America
December 3, 1968;
Entered into force December 3, 1968.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched Into Outer Space was signed at Washington, London, and Moscow on April 22, 1968 in behalf of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics and was signed at one or more of the three capitals in behalf of a number of other States;

WHEREAS a certified copy of the text of the Agreement, in the English, Russian, French, Spanish, and Chinese languages, is word for word as follows:

AGREEMENT ON THE RESCUE OF ASTRONAUTS,
THE RETURN OF ASTRONAUTS AND
THE RETURN OF OBJECTS LAUNCHED INTO OUTER SPACE

The Contracting Parties,

Noting the great importance of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, which calls for the rendering of all possible assistance to astronauts in the event of accident, distress or emergency landing, the prompt and safe return of astronauts, and the return of objects launched into outer space,

Desiring to develop and give further concrete expression to these duties,

Wishing to promote international co-operation in the peaceful exploration and use of outer space,

Prompted by sentiments of humanity,

Have agreed on the following:

Article 1

Each Contracting Party which receives information or discovers that the personnel of a spacecraft have suffered accident or are experiencing conditions of distress or have made an emergency or unintended landing in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State shall immediately:

(a) Notify the launching authority or, if it cannot identify and immediately communicate with the launching authority, immediately make a public announcement by all appropriate means of communication at its disposal;

(b) Notify the Secretary-General of the United Nations, who should disseminate the information without delay by all appropriate means of communication at his disposal.

Article 2

If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party, it shall immediately take all possible steps to rescue them and render them all necessary assistance. It shall inform the launching authority and also the Secretary-General of the United Nations of the steps it is taking and of their progress. If assistance by the launching authority would help to effect a prompt rescue or would contribute substantially to the effectiveness of search and rescue operations, the launching authority shall co-operate with the Contracting Party with a view to the effective conduct of search and rescue operations. Such operations shall be subject to the

direction and control of the Contracting Party, which shall act in close and continuing consultation with the launching authority.

Article 3

If information is received or it is discovered that the personnel of a spacecraft have alighted on the high seas or in any other place not under the jurisdiction of any State, those Contracting Parties which are in a position to do so shall, if necessary, extend assistance in search and rescue operations for such personnel to assure their speedy rescue. They shall inform the launching authority and the Secretary-General of the United Nations of the steps they are taking and of their progress.

Article 4

If, owing to accident, distress, emergency or unintended landing, the personnel of a spacecraft land in territory under the jurisdiction of a Contracting Party or have been found on the high seas or in any other place not under the jurisdiction of any State, they shall be safely and promptly returned to representatives of the launching authority.

Article 5

1. Each Contracting Party which receives information or discovers that a space object or its component parts has returned to Earth in territory under its jurisdiction or on the high seas or in any other place not under the jurisdiction of any State, shall notify the launching authority and the Secretary-General of the United Nations.

2. Each Contracting Party having jurisdiction over the territory on which a space object or its component parts has been discovered shall, upon the request of the launching authority and with assistance from that authority if requested, take such steps as it finds practicable to recover the object or component parts.

3. Upon request of the launching authority, objects launched into outer space or their component parts found beyond the territorial limits of the launching authority shall be returned to or held at the disposal of representatives of the launching authority, which shall, upon request, furnish identifying data prior to their return.

4. Notwithstanding paragraphs 2 and 3 of this article, a Contracting Party which has reason to believe that a space object or its component parts discovered in territory under its jurisdiction, or recovered by it elsewhere, is of a hazardous or deleterious nature may so notify the launching authority, which shall immediately take effective steps, under the direction and control of the said Contracting Party, to eliminate possible danger of harm.

5. Expenses incurred in fulfilling obligations to recover and return a space object or its component parts under paragraphs 2 and 3 of this article shall be borne by the launching authority.

Article 6

For the purposes of this Agreement, the term "launching authority" shall refer to the State responsible for launching,

or, where an international inter-governmental organization is responsible for launching, that organization, provided that that organization declares its acceptance of the rights and obligations provided for in this Agreement and a majority of the States members of that organization are Contracting Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

Article 7

1. This Agreement shall be open to all States for signature. Any State which does not sign this Agreement before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Agreement shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Agreement shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments under this Agreement.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Agreement, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Agreement, the date of its entry into force and other notices.

6. This Agreement shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article 8

Any State Party to the Agreement may propose amendments to this Agreement. Amendments shall enter into force for each State Party to the Agreement accepting the amendments upon their acceptance by a majority of the States Parties to the Agreement and thereafter for each remaining State Party to the Agreement on the date of acceptance by it.

Article 9

Any State Party to the Agreement may give notice of its withdrawal from the Agreement one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article 10

This Agreement, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Agreement shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

WHEREAS the Senate of the United States of America by its resolution of October 8, 1968, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the Agreement;

WHEREAS the President of the United States of America on October 18, 1968 duly ratified the Agreement, in pursuance of the advice and consent of the Senate;

WHEREAS Article 7 provides that the Agreement shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Governments, namely the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics;

WHEREAS instruments of ratification were deposited with the Government of the United States of America as follows: Nepal on July 11, 1968; Ireland on September 6, 1968; and the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America on December 3, 1968;

AND WHEREAS, pursuant to the aforesaid provisions of Article 7, the Agreement entered into force on December 3, 1968;

NOW, THEREFORE, be it known that I, Lyndon B. Johnson, President of the United States of America, do hereby proclaim and make public the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched Into Outer Space, to the end that the Agreement and every article and clause thereof shall be observed and fulfilled with good faith, on and after December 3, 1968, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this third day of December in the year of our Lord one thousand nine hundred sixty-eight and [SEAL] of the Independence of the United States of America the one hundred ninety-third.

LYNDON B. JOHNSON

By the President:

DEAN RUSK

Secretary of State

Status of

Signatures Affixed and Instruments Deposited in Washington
with respect to
Agreement on the Rescue of Astronauts,
the Return of Astronauts and
the Return of Objects Launched Into Outer Space
Opened for signature on April 22, 1968
at Washington, London, and Moscow *

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession, notifica- tion of succession, or declaration of of acceptance
Argentina	Apr. 22, 1968	Mar. 26, 1969	
Australia	Apr. 22, 1968		
Austria	Apr. 22, 1968	Feb. 19, 1970	
Bahamas			Aug. 13, 1976 ¹
Belgium	Aug. 14, 1968	Apr. 15, 1977	
Bolivia	Apr. 22, 1968		
Botswana			Apr. 18, 1969
Brazil			Feb. 27, 1973
Bulgaria	Apr. 22, 1968	Apr. 16, 1969	
Burma	Aug. 21, 1968		
Canada	Apr. 25, 1968	Feb. 20, 1975	
Chile	Apr. 22, 1968		
China	Apr. 22, 1968	June 15, 1973 ¹¹	
Colombia	Apr. 23, 1968		
Congo, Democratic Republic of	Apr. 22, 1968		
Costa Rica	Apr. 24, 1968		
Cyprus	May 9, 1968	Jan. 20, 1971	
Czechoslovakia	Apr. 22, 1968	Feb. 18, 1969	

* The Agreement entered into force on December 3, 1968, in accordance with the provisions of Article 7, paragraph 3, thereof, with respect to States which deposited instruments of ratification on or before that date.

Article 7, paragraph 4, of the Agreement provides: "For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Agreement, it shall enter into force on the date of the deposit of their instruments of ratification or accession."

[Status of
Astronaut Agreement]

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession, notifica- tion of succession, or declaration of of acceptance
Denmark	Apr. 22, 1968	May 6, 1969	
Dominican Republic	Apr. 22, 1968		
Ecuador	Apr. 22, 1968	Mar. 7, 1969	
El Salvador	Apr. 22, 1968	Feb. 19, 1970	
European Space Agency ²			Dec. 31, 1975
Fiji			July 18, 1972 ³
Finland	April 22, 1968	Sept. 10, 1970	
France			Dec. 31, 1975
Gabon			April 2, 1969
Gambia	Sept. 20, 1968		
Germany, Federal Republic of	Aug. 20, 1968	Feb. 17, 1972 ⁴	
Ghana	April 22, 1968		
Greece	June 11, 1968		
Haiti	April 22, 1968		
Hungary	April 22, 1968	June 4, 1969	
Iceland	April 22, 1968	Dec. 4, 1969	
India			July 9, 1979
Iran	April 22, 1968	Dec. 21, 1970	
Ireland	April 22, 1968	Sept. 6, 1968	
Israel	April 22, 1968	Dec. 19, 1969	
Italy	April 22, 1968	Mar. 31, 1978	
Jamaica	July 23, 1968		
Korea, Republic of	May 9, 1968 ⁵	April 4, 1969 ⁶	
Kuwait			June 7, 1972 ⁷
Laos	April 22, 1968	Nov. 29, 1972	
Lebanon	April 22, 1968	June 30, 1969	
Lesotho	July 18, 1968		
Luxembourg	Aug. 14, 1968		

[Status of
Astronaut Agreement]

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession, notifica- tion of succession, or declaration of of acceptance
Madagascar	June 25, 1968	Feb. 11, 1969	
Malaysia	June 18, 1968		
Maldives	April 22, 1968	April 3, 1970	
Mauritius			April 16, 1969
Mexico	July 15, 1968	March 11, 1969	
Morocco	April 22, 1968	Dec. 21, 1970	
Nepal	April 22, 1968	July 11, 1968	
Netherlands	Aug. 14, 1968		
New Zealand	April 24, 1968	July 8, 1969	
Nicaragua	April 22, 1968		
Niger	April 22, 1968	Jan. 15, 1969	
Nigeria	May 3, 1968		
Norway	April 22, 1968	April 20, 1970	
Pakistan			Oct. 18, 1973
Peru			Mar. 21, 1979
Philippines	April 24, 1968		
Poland	April 22, 1968	Feb. 14, 1969	
Portugal	April 22, 1968	Mar. 25, 1970	
Romania	April 22, 1968	June 28, 1971	
Rwanda	April 22, 1968		
San Marino	Nov. 7, 1968	Aug. 31, 1970	
Singapore			Sept. 10, 1976
Somali Democratic Republic	April 22, 1968		
South Africa	Aug. 6, 1968	Oct. 6, 1969	
Swaziland			June 9, 1969
Sweden			July 21, 1969
Switzerland	April 22, 1968	Dec. 18, 1969	

[Status of
Astronaut Agreement]

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession, notifica- tion of succession, or declaration of of acceptance
Thailand			May 30, 1969
Tonga			July 7, 1971 ⁸
Tunisia	April 22, 1968	Feb. 10, 1971	
Turkey	Nov. 29, 1968		
Union of Soviet Socialist Republics	April 22, 1968	Dec. 3, 1968	
United Kingdom of Great Britain and Northern Ireland	April 22, 1968	Dec. 3, 1968 ^{9,10}	
United States of America	April 22, 1968	Dec. 3, 1968	
Uruguay	April 22, 1968		
Venezuela	April 22, 1968		
Yugoslavia	April 22, 1968	Mar. 1, 1971	
Zambia			Aug. 20, 1973

[Status of
Astronaut Agreement]

1 The Embassy of The Commonwealth of The Bahamas transmitted to the Department of State by a note dated August 13, 1976 a note of the Minister of External Affairs of The Commonwealth of The Bahamas dated July 16, 1976, stating that the Government of The Commonwealth of The Bahamas has examined the Agreement and "declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law. I would therefore request you to consider listing The Commonwealth of The Bahamas as a party" to this instrument .

2 Declaration of acceptance deposited in accordance with Article 6.

3 The Charge d'Affaires ad interim of Fiji transmitted to the Secretary of State by note dated July 18, 1972 a note of the Prime Minister and Minister for Foreign Affairs of Fiji, dated July 14, 1972, stating that the Government of Fiji has examined the Agreement "and declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law." The Prime Minister's note further states "I would therefore request you to consider listing Fiji as a party" to this instrument.

4 The instrument of ratification by the Federal Republic of Germany contains the following declaration:

"The above Agreement shall go into effect also for Land Berlin on the day of its entry into force in the Federal Republic of Germany." [translation]

5 The Ambassador of the Republic of Korea informed the Secretary of State in a note dated May 9, 1968 as follows:

"The signing by the Government of the Republic of Korea of the present Agreement does not in any way mean or imply the recognition of any territory or regime which has not been recognized by the Government of the Republic of Korea as a State or Government."

6 The Ambassador of the Republic of Korea informed the Secretary of State as follows, in the note dated April 4, 1969 accompanying the instrument of ratification:

"With regard to the ratification of the Agreement, the Ambassador has the honour to inform the following position of the Government of the Republic of Korea.

'The ratification by the Republic of Korea of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space which was opened for signature at Washington, London and Moscow on the twenty-second day of April, one thousand nine hundred and sixty-eight does not in any way mean or imply the recognition of any territory or regime which has not been recognized by the Government of the Republic of Korea as a State or Government.'"

7 The instrument of accession by Kuwait was accompanied by a declaration reading as follows:

"UNDERSTANDING"

"In acceding to the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 1968, the Government of the State of Kuwait takes the view that its Accession to the said Agreement does not in any way imply its recognition of Israel nor does it oblige it to apply the provisions of the aforementioned Agreement in respect of the said country."

[Status of
Astronaut Agreement]

8 The Tonga High Commission in London transmitted to the American Ambassador by note dated July 7, 1971, a note dated June 22, 1971 from the Prime Minister and Minister for Foreign Affairs of Tonga stating as follows:

"The Government of Tonga has examined the Agreement ... and declares that it considers itself to be bound thereby by virtue of the signature of the United Kingdom and pursuant to customary international law. I would therefore request you to consider listing Tonga as a party to this instrument."

9 The instrument of ratification by the United Kingdom states that the Agreement is ratified in respect of "the United Kingdom of Great Britain and Northern Ireland, the Associated States (Antigua, Dominica, Grenada, Saint Christopher-Nevis-Anguilla and Saint Lucia) and Territories under the territorial sovereignty of the United Kingdom, as well as the State of Brunei, the Kingdom of Tonga and the British Solomon Islands Protectorate".

10 The British Ambassador made the following declaration in a note to the Secretary of State dated December 3, 1968:

"Acting on instructions from Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs I hereby declare that the provisions of the Agreement shall not apply in regard to Southern Rhodesia unless and until the Government of the United Kingdom informs the other depositary Governments that it is in a position to ensure that the obligations imposed by the Agreement in respect of that territory can be fully implemented."

11 On June 15, 1973, an instrument of ratification was deposited in the name of the Republic of China. Effective January 1, 1979, the United States recognized the People's Republic of China as the sole legal government of China. The authorities on Taiwan state that they will continue to abide by the provisions of the Treaty and the United States regards them as bound by its obligations.

Department of State,

Washington,

MAR 11 1980

**CONVENTION ON INTERNATIONAL LIABILITY
FOR DAMAGE CAUSED BY SPACE OBJECTS**

**Between the
UNITED STATES OF AMERICA
and OTHER GOVERNMENTS**

**Done at Washington, London, and Moscow
March 29, 1972**



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MULTILATERAL

**Convention on International Liability for
Damage Caused by Space Objects**

*Done at Washington, London, and Moscow March 29, 1972;
Ratification advised by the Senate of the United States of America
October 6, 1972;
Ratified by the President of the United States of America May 18,
1973;
Ratification of the United States of America deposited at Wash-
ington, London, and Moscow October 9, 1973;
Proclaimed by the President of the United States of America
November 21, 1973;
Entered into force with respect to the United States of America
October 9, 1973.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION**CONSIDERING THAT:**

The Convention on International Liability for Damage Caused by Space Objects was signed at Washington, London, and Moscow on March 29, 1972 in behalf of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, the depositary governments, and was signed at one or more of the three capitals in behalf of a number of other States, a certified copy of which Convention is hereto annexed;

The Senate of the United States of America by its resolution of October 6, 1972, two-thirds of the Senators present concurring therein, gave its advice and consent to the ratification of the Convention;

The President of the United States of America ratified the Convention on May 18, 1973, in pursuance of the advice and consent of the Senate;

The United States of America deposited its instrument of ratification on October 9, 1973, in accordance with the provisions of paragraph 2 of Article XXIV of the Convention; and

Pursuant to the provisions of paragraph 4 of Article XXIV of the Convention, the Convention entered into force for the United States of America on October 9, 1973;

NOW, THEREFORE, be it known that I, Richard Nixon, President of the United States of America, proclaim and make public the said Convention to the end that it shall be observed and fulfilled with good faith on and after October 9, 1973 by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-first day of November
in the year of our Lord one thousand nine hundred
[SEAL] seventy-three and of the Independence of the United
States of America the one hundred ninety-eighth.

RICHARD NIXON

By the President:

HENRY A. KISSINGER
Secretary of State

CONVENTION ON INTERNATIONAL LIABILITY FOR
DAMAGE CAUSED BY SPACE OBJECTS

The States Parties to this Convention,

Recognizing the common interest of all mankind in furthering
the exploration and use of outer space for peaceful purposes,

Recalling the Treaty on Principles Governing the Activities
of States in the Exploration and Use of Outer Space, including
the Moon and Other Celestial Bodies, ^[1]

Taking into consideration that, notwithstanding the
precautionary measures to be taken by States and international
intergovernmental organizations involved in the launching of space
objects, damage may on occasion be caused by such objects,

Recognizing the need to elaborate effective international
rules and procedures concerning liability for damage caused by
space objects and to ensure, in particular, the prompt payment
under the terms of this Convention of a full and equitable measure
of compensation to victims of such damage,

Believing that the establishment of such rules and procedures
will contribute to the strengthening of international cooperation
in the field of the exploration and use of outer space for peaceful
purposes,

Have agreed on the following:

¹ TIAS 6347; 18 UST 2410.

ARTICLE I

For the purposes of this Convention:

- (a) The term "damage" means loss of life, personal injury or other impairment of health; or loss of or damage to property of States or of persons, natural or juridical, or property of international intergovernmental organizations;
- (b) The term "launching" includes attempted launching;
- (c) The term "launching State" means:
 - (i) A State which launches or procures the launching of a space object;
 - (ii) A State from whose territory or facility a space object is launched;
- (d) The term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

ARTICLE II

A launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the earth or to aircraft in flight.

ARTICLE III

In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, the latter shall be liable only if the damage is due to its fault or the fault of persons for whom it is responsible.

ARTICLE IV

1. In the event of damage being caused elsewhere than on the surface of the earth to a space object of one launching State or to persons or property on board such a space object by a space object of another launching State, and of damage thereby being caused to a third State or to its natural or juridical persons, the first two States shall be jointly and severally liable to the third State, to the extent indicated by the following:

(a) If the damage has been caused to the third State on the surface of the earth or to aircraft in flight, their liability to the third State shall be absolute;

(b) If the damage has been caused to a space object of the third State or to persons or property on board that space object elsewhere than on the surface of the earth, their liability to the third State shall be based on the fault of either of the first two States or on the fault of persons for whom either is responsible.

2. In all cases of joint and several liability referred to in paragraph 1 of this article, the burden of compensation for the damage shall be apportioned between the first two States in accordance with the extent to which they were at fault; if the extent of the fault of each of these States cannot be established, the burden of compensation shall be apportioned equally between them. Such apportionment shall be without prejudice to the right of the third State to seek the entire compensation due under this Convention from any or all of the launching States which are jointly and severally liable.

ARTICLE V

1. Whenever two or more States jointly launch a space object, they shall be jointly and severally liable for any damage caused.

2. A launching State which has paid compensation for damage shall have the right to present a claim for indemnification to other participants in the joint launching. The participants in a joint launching may conclude agreements regarding the apportioning among themselves of the financial obligation in respect of which they are jointly and severally liable. Such agreements shall be without prejudice to the right of a State sustaining damage to seek the entire compensation due under this Convention from any or all of the launching States which are jointly and severally liable.

3. A State from whose territory or facility a space object is launched shall be regarded as a participant in a joint launching.

ARTICLE VI

1. Subject to the provisions of paragraph 2 of this article, exoneration from absolute liability shall be granted to the extent that a launching State establishes that the damage has resulted either wholly or partially from gross negligence or from an act or omission done with intent to cause damage on the part of a claimant State or of natural or juridical persons it represents.

2. No exoneration whatever shall be granted in cases where the damage has resulted from activities conducted by a launching State which are not in conformity with international law including,

in particular, the Charter of the United Nations ^[1] and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

ARTICLE VII

The provisions of this Convention shall not apply to damage caused by a space object of a launching State to:

- (a) Nationals of that launching State;
- (b) Foreign nationals during such time as they are participating in the operation of that space object from the time of its launching or at any stage thereafter until its descent, or during such time as they are in the immediate vicinity of a planned launching or recovery area as the result of an invitation by that launching State.

ARTICLE VIII

1. A State which suffers damage, or whose natural or juridical persons suffer damage, may present to a launching State a claim for compensation for such damage.

2. If the State of nationality has not presented a claim, another State may, in respect of damage sustained in its territory by any natural or juridical person, present a claim to a launching State.

3. If neither the State of nationality nor the State in whose territory the damage was sustained has presented a claim or notified its intention of presenting a claim, another State may, in respect of damage sustained by its permanent residents, present a claim to a launching State.

¹ TS 993; 59 Stat. 1031.

ARTICLE IX

A claim for compensation for damage shall be presented to a launching State through diplomatic channels. If a State does not maintain diplomatic relations with the launching State concerned, it may request another State to present its claim to that launching State or otherwise represent its interests under this Convention. It may also present its claim through the Secretary-General of the United Nations, provided the claimant State and the launching State are both Members of the United Nations.

ARTICLE X

1. A claim for compensation for damage may be presented to a launching State not later than one year following the date of the occurrence of the damage or the identification of the launching State which is liable.

2. If, however, a State does not know of the occurrence of the damage or has not been able to identify the launching State which is liable, it may present a claim within one year following the date on which it learned of the aforementioned facts; however, this period shall in no event exceed one year following the date on which the State could reasonably be expected to have learned of the facts through the exercise of due diligence.

3. The time-limits specified in paragraphs 1 and 2 of this article shall apply even if the full extent of the damage may not be known. In this event, however, the claimant State shall be entitled to revise the claim and submit additional documentation after the expiration of such time-limits until one year after the full extent of the damage is known.

ARTICLE XI

1. Presentation of a claim to a launching State for compensation for damage under this Convention shall not require the prior exhaustion of any local remedies which may be available to a claimant State or to natural or juridical persons it represents.

2. Nothing in this Convention shall prevent a State, or natural or juridical persons it might represent, from pursuing a claim in the courts or administrative tribunals or agencies of a launching State. A State shall not, however, be entitled to present a claim under this Convention in respect of the same damage for which a claim is being pursued in the courts or administrative tribunals or agencies of a launching State or under another international agreement which is binding on the States concerned.

ARTICLE XII

The compensation which the launching State shall be liable to pay for damage under this Convention shall be determined in accordance with international law and the principles of justice and equity, in order to provide such reparation in respect of the damage as will restore the person, natural or juridical, State or international organization on whose behalf the claim is presented to the condition which would have existed if the damage had not occurred.

ARTICLE XIII

Unless the claimant State and the State from which compensation is due under this Convention agree on another form of compensation,

the compensation shall be paid in the currency of the claimant State or, if that State so requests, in the currency of the State from which compensation is due.

ARTICLE XIV

If no settlement of a claim is arrived at through diplomatic negotiations as provided for in article IX, within one year from the date on which the claimant State notifies the launching State that it has submitted the documentation of its claim, the parties concerned shall establish a Claims Commission at the request of either party.

ARTICLE XV

1. The Claims Commission shall be composed of three members: one appointed by the claimant State, one appointed by the launching State and the third member, the Chairman, to be chosen by both parties jointly. Each party shall make its appointment within two months of the request for the establishment of the Claims Commission.

2. If no agreement is reached on the choice of the Chairman within four months of the request for the establishment of the Commission, either party may request the Secretary-General of the United Nations to appoint the Chairman within a further period of two months.

ARTICLE XVI

1. If one of the parties does not make its appointment within the stipulated period, the Chairman shall, at the request of the other party, constitute a single-member Claims Commission.

2. Any vacancy which may arise in the Commission for whatever reason shall be filled by the same procedure adopted for the original appointment.

3. The Commission shall determine its own procedure.

4. The Commission shall determine the place or places where it shall sit and all other administrative matters.

5. Except in the case of decisions and awards by a single-member Commission, all decisions and awards of the Commission shall be by majority vote.

ARTICLE XVII

No increase in the membership of the Claims Commission shall take place by reason of two or more claimant States or launching States being joined in any one proceeding before the Commission. The claimant States so joined shall collectively appoint one member of the Commission in the same manner and subject to the same conditions as would be the case for a single claimant State. When two or more launching States are so joined, they shall collectively appoint one member of the Commission in the same way. If the claimant States or the launching States do not make the appointment within the stipulated period, the Chairman shall constitute a single-member Commission.

ARTICLE XVIII

The Claims Commission shall decide the merits of the claim for compensation and determine the amount of compensation payable, if any.

ARTICLE XIX

1. The Claims Commission shall act in accordance with the provisions of article XII.

2. The decision of the Commission shall be final and binding if the parties have so agreed; otherwise the Commission shall render a final and recommendatory award, which the parties shall consider in good faith. The Commission shall state the reasons for its decision or award.

3. The Commission shall give its decision or award as promptly as possible and no later than one year from the date of its establishment, unless an extension of this period is found necessary by the Commission.

4. The Commission shall make its decision or award public. It shall deliver a certified copy of its decision or award to each of the parties and to the Secretary-General of the United Nations.

ARTICLE XX

The expenses in regard to the Claims Commission shall be borne equally by the parties, unless otherwise decided by the Commission.

ARTICLE XXI

If the damage caused by a space object presents a large-scale danger to human life or seriously interferes with the living conditions of the population or the functioning of vital centers, the States Parties, and in particular the launching State, shall examine the possibility of rendering appropriate and rapid assistance to the State which has suffered the damage, when it so requests. However, nothing in this article shall affect the rights or obligations of the States Parties under this Convention.

ARTICLE XXII

1. In this Convention, with the exception of articles XXIV to XXVII, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are States Parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the preceding paragraph.

3. If an international intergovernmental organization is liable for damage by virtue of the provisions of this Convention, that organization and those of its members which are States Parties to this Convention shall be jointly and severally liable; provided, however, that:

(a) Any claim for compensation in respect of such damage shall be first presented to the organization;

(b) Only where the organization has not paid, within a period of six months, any sum agreed or determined to be due as compensation for such damage, may the claimant State invoke the liability of the members which are States Parties to this Convention for the payment of that sum.

4. Any claim, pursuant to the provisions of this Convention, for compensation in respect of damage caused to an organization which has made a declaration in accordance with paragraph 1 of this article shall be presented by a State member of the organization which is a State Party to this Convention.

ARTICLE XXIII

1. The provisions of this Convention shall not affect other international agreements in force in so far as relations between the States Parties to such agreements are concerned.

2. No provision of this Convention shall prevent States from concluding international agreements reaffirming, supplementing or extending its provisions.

ARTICLE XXIV

1. This Convention shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force on the deposit of the fifth instrument of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices.

6. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XXV

Any State Party to this Convention may propose amendments to this Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

ARTICLE XXVI

Ten years after the entry into force of this Convention, the question of the review of this Convention shall be included in the provisional agenda of the United Nations General Assembly in order to consider, in the light of past application of the Convention, whether it requires revision. However, at any time after the

Convention has been in force for five years, and at the request of one third of the States Parties to the Convention, and with the concurrence of the majority of the States Parties, a conference of the States Parties shall be convened to review this Convention.

ARTICLE XXVII

Any State Party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

ARTICLE XXVIII

This Convention, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

*Note by the Department of State*Signatories at Washington to the Convention on International
Liability for Damage Caused by Space Objects [¹]Opened for signature on March 29, 1972 at Washington, London and
MoscowFOR THE UNITED STATES OF
AMERICA:

WILLIAM P. ROGERS

FOR THE UNITED KINGDOM
OF GREAT BRITAIN AND
NORTHERN IRELAND:

CROMER

FOR THE UNION OF SOVIET
SOCIALIST REPUBLICS:

A DOBRYNIN

FOR LAOS:

T. KHAMMAO

FOR ICELAND:

GUDM. I. GUDMUNDSSON

FOR MEXICO:

DR JOSÉ JUAN DE OLLOQUI

FOR FINLAND:

OLAVI MUNKKI

FOR ZAIRE:

ILEKA MBOYO

FOR NORWAY:

ARNE GUNNENG

FOR HUNGARY:

DR. SZABÓ KÁROLY

FOR ARGENTINA:

CARLOS M. MUÑIZ

FOR BULGARIA:

DR L GUERASSIMOV

FOR COSTA RICA:

R A ZÚÑIGA

FOR DAHOMEY:

WILFRID DE SOUZA

FOR SWITZERLAND:

F. SCHNYDER

FOR COLOMBIA:

D. BOTERO BOSHELL

FOR THE REPUBLIC OF CHINA:

JAMES C. H. SHEN

FOR HONDURAS:

ROBERT GALVEZ B

FOR BELGIUM:

WALTER LORIDAN

FOR BURUNDI:

NSANZE TÉRENCE

FOR POLAND:

TRAMPCZYNSKI

FOR IRELAND:

SEÁN Ó HÉIDEÁIN

FOR MONGOLIA:

M DUGERSUREN
10 April 1972

FOR CZECHOSLOVAKIA:

DR DUŠAN SPÁČIL

¹ Signatures affixed March 29, 1972, unless otherwise indicated.

FOR NICARAGUA:

GUILLERMO SEVILLA-
SACASA

FOR BOTSWANA:

CHIEF LINCHWE II

FOR ITALY:

EGIDIO ORTONA

FOR HAITI:

R. CHALMERS

FOR EL SALVADOR:

J A RIVERA

FOR IRAN:

DR. A. ASLAN AFSHAR

FOR ROMANIA:

CORNELIU BOGDAN

FOR VENEZUELA:

LUIS UGUETO

FOR THE KHMER REPUBLIC:

SONN

FOR SOUTH AFRICA:

J. S. F. BOTHA

FOR LEBANON:

N. KABBANI

FOR RWANDA:

FIDÈLE NKUNDABAGENZI

FOR GUATEMALA:

J. ASENSIO WUNDERLICH

FOR TUNISIA:

SLAHEDDINE EL GOULLI

FOR MOROCCO:

BADREDDINE SENOUSI

FOR THE REPUBLIC OF KOREA:

HO EUL WHANG [Romaniza-
tion]

FOR SPAIN:

ANGEL SAGAZ

FOR GHANA:

EBENEZER MOSES DEBRAH
March 31 1972

FOR MALI:

S. TRAORÉ
10th April 1972

FOR TOGO:

E A MAWUSSI
10th April 1972

FOR PERU:

F. BERCKEMEYER
10th April 1972

FOR GREECE:

Subject to Ratification
B VITSAXIS
April 12th 1972

FOR SENEGAL:

A. J. COULBARY
April 14th 1972

FOR DENMARK:

EYVIND BARTELS
19/4—72

FOR ECUADOR:

Sujeto a ratificación
ORLANDO GABELA
April 25th, 1972

FOR LUXEMBOURG:

JEAN WAGNER
April 25th 1972

FOR THE DOMINICAN
REPUBLIC:

S. ORTIZ
April 26, 1972

FOR THE CENTRAL AFRICAN
REPUBLIC:

27 . 4 . 1972

CHRISTOPHE MAIDOU

FOR CYPRUS:

A NICOLAIDES

May 12, 1972

FOR JORDAN:

Z MUFTI

May 25, 1972

FOR NIGER:

May 24th 1972

O G YOUSSEUFOU

FOR AUSTRIA:

May 30th 1972

GRUBER

FOR TANZANIA:

SHILAM [G.M. RUTA-
BANZIBWA]

May 31, 1972

FOR THE GAMBIA:

ANDREW DAVID CAMARA

2/6/72

FOR KUWAIT:

SALEM S. AL-SABAH
[Romanization]

6/7/1972

FOR NEW ZEALAND:

FRANK CORNER

19 June 1972

FOR NEPAL:

KUL SHEKHAR SHARMA

19 June 1972

FOR BRAZIL:

JOÃO AUGUSTO DE ARAUJO
CASTRO

13 July 1972

FOR SIERRA LEONE:

J. A. C. DAVIES

17 July 1972

FOR SINGAPORE:

E. S. MONTEIRO

19 July 1972

FOR PAKISTAN:

S M KHAN

10th August 1972

FOR THE PHILIPPINES:

EDUARDO ROMUALDEZ

Aug. 22nd/1972

Status of

Signatures Affixed and Instruments Deposited in Washington
with respect to
Convention on International Liability for Damage
Caused by Space Objects

Opened for signature on March 29, 1972
at Washington, London, and Moscow *

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession
Argentina	Mar. 29, 1972		
Australia			Jan. 20, 1975
Austria	May 30, 1972	Jan 10, 1980 ¹¹	
Belgium	Mar. 29, 1972	Aug. 13, 1976	
Botswana	Mar. 29, 1972	Mar. 11, 1974	
Brazil	July 13, 1972	Mar. 9, 1973	
Bulgaria	Mar. 29, 1972	June 14, 1972	
Burundi	Mar. 29, 1972		
Canada			Feb. 20, 1975 ¹
Central African Rep.	Apr. 27, 1972		
Chile			Dec. 1, 1976
China	Mar. 29, 1972	Feb. 9, 1973 ¹⁰	
Colombia	Mar. 29, 1972		
Costa Rica	Mar. 29, 1972		
Cyprus	May 12, 1972	May 23, 1973	
Czechoslovakia	Mar. 29, 1972	Sept. 8, 1976	
Dahomey	Mar. 29, 1972	Apr. 25, 1975	
Denmark	Apr. 19, 1972	Apr. 1, 1977 ²	
Dominican Rep.	Apr. 26, 1972	Feb. 23, 1973	
Ecuador	Apr. 25, 1972	Aug. 17, 1972	
El Salvador	Mar. 29, 1972		
Fiji			Apr. 4, 1973
Finland	Mar. 29, 1972	Feb. 1, 1977	
France			Dec. 31, 1975

* In accordance with Article XXIV, paragraph 3, of the Convention, the Convention entered into force on September 1, 1972, with respect to States which deposited instruments of ratification or accession on or before that date.

Article XXIV, paragraph 4, of the Convention provides: "For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession."

[Outer Space Liability
Convention, cont'd]
Status of

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession
Gambia	June 2, 1972		
Germany, Fed. Rep.			Dec. 18, 1975 ³
Ghana	Mar. 31, 1972		
Greece	Apr. 12, 1972 ⁴	Apr. 27, 1977	
Guatemala	Mar. 29, 1972		
Haiti	Mar. 29, 1972		
Honduras	Mar. 29, 1972		
Hungary	Mar. 29, 1972	Dec. 27, 1972	
Iceland	Mar. 29, 1972		
India			July 9, 1979
Iran	Mar. 29, 1972	Feb. 13, 1974	
Ireland	Mar. 29, 1972	June 29, 1972 ⁵	
Israel			June 21, 1977
Italy	Mar. 29, 1972		
Jordan	May 25, 1972		
Kenya			Sept. 25, 1975
Khmer Rep.	Mar. 29, 1972		
Korea, Rep.	Mar. 29, 1972 ⁶	Jan. 14, 1980	
Kuwait	June 7, 1972	Nov. 15, 1972 ⁷	
Laos	Mar. 29, 1972	Mar. 22, 1973	
Lebanon	Mar. 29, 1972		
Liechtenstein			Dec. 26, 1979
Luxembourg	Apr. 25, 1972		
Mali	Apr. 10, 1972	June 9, 1972	
Mexico	Mar. 29, 1972	Apr. 8, 1974	
Mongolia	Apr. 10, 1972	Sept. 5, 1972	
Morocco	Mar. 29, 1972		
Nepal	June 19, 1972		
New Zealand	June 19, 1972	Oct. 30, 1974 ⁸	
Nicaragua	Mar. 29, 1972		
Niger	May 24, 1972	Sept. 1, 1972	

[Outer Space Liability
Convention, cont'd]
Status of

State	Date of signature	Date of deposit of instrument of ratification	Date of deposit of instrument of accession
Norway	Mar. 29, 1972		
Pakistan	Aug. 10, 1972	Apr. 4, 1973	
Panama	[signed at London]	June 5, 1974	
Peru	Apr. 10, 1972		
Philippines	Aug. 22, 1972		
Poland	Mar. 29, 1972	Jan. 25, 1973	
Romania	Mar. 29, 1972		
Rwanda	Mar. 29, 1972		
Saudi Arabia			Dec. 17, 1976
Senegal	Apr. 14, 1972	Mar. 26, 1975	
Sierra Leone	July 17, 1972		
Singapore	July 19, 1972	Aug. 19, 1975	
South Africa	Mar. 29, 1972		
Spain	Mar. 29, 1972	Jan. 2, 1980	
Sri Lanka			Apr. 9, 1973
Sweden			June 15, 1976 ⁹
Switzerland	Mar. 29, 1972	Jan. 22, 1974	
Syrian Arab Rep.			Feb. 6, 1980
Tanzania	May 31, 1972		
Togo	Apr. 10, 1972	Apr. 26, 1976	
Trinidad & Tobago			Feb. 8, 1980
Tunisia	Mar. 29, 1972	May 18, 1973	
Union of Soviet Socialist Reps.	Mar. 29, 1972	Oct. 9, 1973	
United Kingdom of Great Britain and Northern Ireland	Mar. 29, 1972	Oct. 9, 1973	
United States	Mar. 29, 1972	Oct. 9, 1973	
Uruguay			Jan. 7, 1977
Venezuela	Mar. 29, 1972	Aug. 1, 1978	
Yugoslavia			Oct. 20, 1975
Zaire	Mar. 29, 1972		
Zambia			Aug. 20, 1973

[Outer Space Liability
Convention, cont'd]
Status of

1 Accession by Canada accompanied by a note of the Ambassador of Canada to the Secretary of State dated February 19, 1975, stating that

"the Government of Canada hereby declares that it will recognize as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Canada may become a party under the terms of the Convention"

2 Ratification by Denmark accompanied by note of Minister of Foreign Affairs dated February 15, 1977, stating that he declares, on behalf of the Government of Denmark

"that Denmark will recognise as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Denmark may become a party under the terms of the Convention"

3 Accession by the Federal Republic of Germany accompanied by a note of the Charge d'Affaires ad interim of the Federal Republic of Germany dated December 18, 1975, containing a declaration on behalf of the Federal Public of Germany

"that the said Convention shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany."

4 Greek signature accompanied by the following Statement:

"Greece accepts the decisions of the Committee of Reparations - provided by the Convention - as mandatory only on a reciprocal basis."

5 Ratification of Ireland accompanied by a note of the Ambassador of Ireland to the Secretary of State dated June 29, 1972, stating that

"the Government of Ireland hereby declare that Ireland will recognise as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Ireland may become a party under the Convention"

6 By a note dated March 29, 1972 the Embassy of the Republic of Korea informed the Department of State of the following position of the Government of the Republic of Korea in signing the Convention:

"The signing by the Government of the Republic of Korea of the present Convention does not in any way mean or imply the recognition of any territory or regime which has not been recognized by the Government of the Republic of Korea."

7 The Kuwaiti ratification was accompanied by the following Understanding:

"In ratifying the Convention on International Liability for Damage caused by Space Objects, 1972, the Government of the State of Kuwait takes the view that its ratification of the said Convention does not in any way imply its recognition of Israel, nor does it oblige it to apply the provisions of the aforementioned Convention in respect of the said country."

8 The New Zealand ratification contains a declaration stating that the Government of New Zealand "will accept as binding decisions of any Claims Commission established in accordance with Article XIV of the Convention."

[Outer Space Liability
Convention, cont'd]
Status of

9 The accession by Sweden is accompanied by a Declaration signed by the Minister of Foreign Affairs on May 24, 1976, declaring, on behalf of the Government of Sweden,

"that Sweden will recognise as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Sweden may become a party under the terms of the Convention"

10 On February 9, 1973, an instrument of ratification was deposited in the name of the Republic of China. Effective January 1, 1979, the United States recognized the People's Republic of China as the sole legal government of China. The authorities on Taiwan state that they will continue to abide by the provisions of the Treaty and the United States regards them as bound by its obligations.

11 Ratification by Austria contains a declaration on behalf of the Government of Austria "that Austria will recognize as binding, in relation to any other State accepting the same obligation, the decision of a Claims Commission concerning any dispute to which Austria may become a party under the terms of the Convention"

Department of State,

Washington,

MAR 11 1980

REGISTRATION OF OBJECTS
LAUNCHED INTO OUTER SPACE

Convention Between the
UNITED STATES OF AMERICA
and OTHER GOVERNMENTS

Opened for Signature at New York
January 14, 1975



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

“... the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MULTILATERAL

Registration of Objects Launched into Outer Space

Opened for signature at New York January 14, 1975;

*Ratification advised by the Senate of the United States of America
June 21, 1976;*

*Ratified by the President of the United States of America July 24,
1976;*

*Ratification of the United States of America deposited with the
Secretary-General of the United Nations September 15, 1976;*

*Proclaimed by the President of the United States of America
January 18, 1977;*

Entered into force September 15, 1976.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention on Registration of Objects Launched Into Outer Space was opened for signature at New York on January 14, 1975, a certified copy of which Convention, in the English, Arabic, Chinese, French, Russian and Spanish languages, is hereto annexed;

The Senate of the United States of America by its resolution of June 21, 1976, two-thirds of the Senators present concurring therein, gave its advice and consent to the ratification of the Convention;

The President of the United States of America ratified the Convention on July 24, 1976, in pursuance of the advice and consent of the Senate;

The United States of America deposited its instrument of ratification on September 15, 1976, in accordance with the provisions of Article VIII of the Convention;

The Convention entered into force for the United States of America on September 15, 1976;

NOW, THEREFORE, I, Gerald R. Ford, President of the United States of America, proclaim and make public the Convention, to the end that it shall be observed and fulfilled with good faith on and after September 15, 1976, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eighteenth day of January in the year of our Lord one thousand nine hundred seventy-seven and of the Independence of the United States of America the two hundred first.

[SEAL]

GERALD R. FORD

By the President:

HENRY A. KISSINGER

Secretary of State

CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE

The States Parties to this Convention,

Recognizing the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes,

Recalling that the Treaty on principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies of 27 January 1967 [¹] affirms that States shall bear international responsibility for their national activities in outer space and refers to the State on whose registry an object launched into outer space is carried,

Recalling also that the Agreement on the rescue of astronauts, the return of astronauts and the return of objects launched into outer space of 22 April 1968 [²] provides that a launching authority shall, upon request, furnish identifying data prior to the return of an object it has launched into outer space found beyond the territorial limits of the launching authority, .

Recalling further that the Convention on international liability for damage caused by space objects of 29 March 1972 [³] establishes international rules and procedures concerning the liability of launching States for damage caused by their space objects,

Desiring, in the light of the Treaty on principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies, to make provision for the national registration by launching States of space objects launched into outer space,

Desiring further that a central register of objects launched into outer space be established and maintained, on a mandatory basis, by the Secretary-General of the United Nations,

¹ TIAS 6347; 18 UST 2410.

² TIAS 6599; 19 UST 7570.

³ TIAS 7762; 24 UST 2389.

Desiring also to provide for States Parties additional means and procedures to assist in the identification of space objects,

Believing that a mandatory system of registering objects launched into outer space would, in particular, assist in their identification and would contribute to the application and development of international law governing the exploration and use of outer space,

Have agreed on the following:

Article I

For the purposes of this Convention:

- (a) The term "launching State" means:
 - (i) A State which launches or procures the launching of a space object;
 - (ii) A State from whose territory or facility a space object is launched;
- (b) The term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof;
- (c) The term "State of registry" means a launching State on whose registry a space object is carried in accordance with article II.

Article II

1. When a space object is launched into earth orbit or beyond, the launching State shall register the space object by means of an entry in an appropriate registry which it shall maintain. Each launching State shall inform the Secretary-General of the United Nations of the establishment of such a registry.

2. Where there are two or more launching States in respect of any such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this article, bearing in mind the provisions of article VIII of the Treaty on principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies, and without prejudice to appropriate agreements concluded or to be concluded among the launching States on jurisdiction and control over the space object and over any personnel thereof.

3. The contents of each registry and the conditions under which it is maintained shall be determined by the State of registry concerned.

Article III

1. The Secretary-General of the United Nations shall maintain a Register in which the information furnished in accordance with article IV shall be recorded.

2. There shall be full and open access to the information in this Register.

Article IV

1. Each State of registry shall furnish to the Secretary-General of the United Nations, as soon as practicable, the following information concerning each space object carried on its registry:

- (a) Name of launching State or States;
- (b) An appropriate designator of the space object or its registration number;
- (c) Date and territory or location of launch;
- (d) Basic orbital parameters, including:
 - (i) Nodal period,
 - (ii) Inclination,

- (iii) Apogee,
- (iv) Perigee;
- (e) General function of the space object.

2. Each State of registry may, from time to time, provide the Secretary-General of the United Nations with additional information concerning a space object carried on its registry.

3. Each State of registry shall notify the Secretary-General of the United Nations, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in earth orbit.

Article V

Whenever a space object launched into earth orbit or beyond is marked with the designator or registration number referred to in article IV, paragraph 1 (b), or both, the State of registry shall notify the Secretary-General of this fact when submitting the information regarding the space object in accordance with article IV. In such case, the Secretary-General of the United Nations shall record this notification in the Register.

Article VI

Where the application of the provisions of this Convention has not enabled a State Party to identify a space object which has caused damage to it or to any of its natural or juridical persons, or which may be of a hazardous or deleterious nature, other States Parties, including in particular States possessing space monitoring and tracking facilities, shall respond to the greatest extent feasible

to a request by that State Party, or transmitted through the Secretary-General on its behalf, for assistance under equitable and reasonable conditions in the identification of the object. A State Party making such a request shall, to the greatest extent feasible, submit information as to the time, nature and circumstances of the events giving rise to the request. Arrangements under which such assistance shall be rendered shall be the subject of agreement between the parties concerned.

Article VII

1. In this Convention, with the exception of articles VIII to XII inclusive, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States Parties to this Convention and to the Treaty on principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies.

2. States members of any such organization which are States Parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with paragraph 1 of this article.

Article VIII

1. This Convention shall be open for signature by all States at United Nations Headquarters in New York. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall enter into force among the States which have deposited instruments of ratification on the deposit of the fifth such instrument with the Secretary-General of the United Nations.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices.

Article IX

Any State Party to this Convention may propose amendments to the Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

Article X

Ten years after the entry into force of this Convention, the question of the review of the Convention shall be included in the provisional agenda of the United Nations General Assembly in order to consider, in the light of past application of the Convention, whether it requires revision. However, at any

time after the Convention has been in force for five years, at the request of one third of the States Parties to the Convention and with the concurrence of the majority of the States Parties, a conference of the States Parties shall be convened to review this Convention. Such review shall take into account in particular any relevant technological developments, including those relating to the identification of space objects.

Article XI

Any State Party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article XII

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all signatory and acceding States.

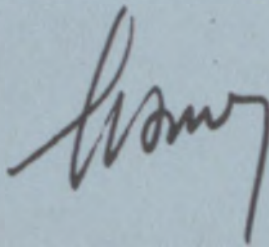
IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on the fourteenth day of January one thousand nine hundred and seventy-five.

I hereby certify that the foregoing text is a true copy of the Convention on registration of objects launched into outer space, adopted on 12 November 1974 by resolution 3235 (XXIX) of the General Assembly of the United Nations, the original of which is deposited with the Secretary-General of the United Nations.

Je certifie que le texte qui précède est une copie conforme de la Convention sur l'immatriculation des objets lancés dans l'espace extra-atmosphérique, adoptée le 12 novembre 1974 par résolution 3235 (XXIX) de l'Assemblée générale de l'Organisation des Nations Unies et dont l'original se trouve déposé auprès du Secrétaire général de l'Organisation des Nations Unies.

*For the Secretary-General:
The Legal Counsel*

*Pour le Secrétaire général :
Le Conseiller juridique*



United Nations, New York,
6 June 1975

Organisation des Nations Unies, New York,
6 juin 1975

Convention on Registration of Objects Launched into Outer Space
Adopted by the General Assembly of the United Nations on 12 November 1974¹

ENTRY INTO FORCE: 15 September 1976, in accordance with article VIII, paragraph 3.

REGISTRATION: 15 September 1976.

TEXT: A/RES/3235 (XXIX).

<i>State</i>	<i>Signature</i>		<i>Ratification, accession (a)</i>	
ARGENTINA	26 March	1975		
AUSTRIA	14 October	1975		
BELGIUM	19 March	1975	24 February	1977
BULGARIA	4 February	1976	11 May	1976
BURUNDI	13 November	1975		
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC	30 June	1975	26 January	1978
CANADA	14 February	1975	4 August	1976
CUBA			10 April	1978 ^a
CYPRUS			6 July	1978 ^a
CZECHOSLOVAKIA	5 April	1976	26 July	1977
DENMARK	12 December	1975	1 April	1977
FRANCE	14 January	1975	17 December	1975
GERMAN DEMOCRATIC REPUBLIC	27 August	1975	12 May	1977
GERMANY, FEDERAL REPUBLIC OF	2 March	1976		
HUNGARY	13 October	1975	26 October	1977
IRAN	27 May	1975		
MEXICO	19 December	1975	1 March	1977
MONGOLIA	30 October	1975		
NICARAGUA	13 May	1975		
NIGER	5 August	1976	22 Decemeber	1976
PAKISTAN	1 December	1975		
POLAND	4 December	1975	22 November	1978
SEYCHELLES			28 December	1977 ^a
SINGAPORE	31 August	1976		
SPAIN			20 December	1978 ^a
SWEDEN	9 June	1976	9 June	1976
SWITZERLAND	14 April	1975	15 February	1978
UKRAINIAN SOVIET SOCIALIST REPUBLIC	11 July	1975	14 September	1977
UNION OF SOVIET SOCIALIST REPUBLICS	17 June	1975	13 January	1978
UNITED KINGDOM ²	6 May	1975	30 March	1978
UNITED STATES OF AMERICA	24 January	1975	15 September	1976
URUGUAY			18 August	1977 ^a
YUGOSLAVIA			24 February	1978 ^a

¹ The Convention was adopted by resolution 3235 (XXIX) of the General Assembly dated 12 November 1974, pursuant to resolution 3182 (XXVIII) dated 18 December 1973 and taking into account the report of the Committee on the Pacific Uses of Outer Space (*Official Records of the General Assembly, Twenty-ninth Session, Supplement 20 (A/9620)*). The Convention was opened for signature on 14 January 1975.

² The instrument of ratification specifies that the Convention is ratified in respect of the United Kingdom of Great Britain and Northern Ireland, the Associated States (Antigua, Dominica, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent), Territories under the territorial sovereignty of the United Kingdom, the Solomon Islands and the State of Brunei.

Objects Launched into Outer Space

Actions subsequent to 31 December 1978

<u>State</u>	<u>Signature</u>	<u>Ratification, accession (a)</u>
European Space Agency ^{1/}		
Peru		21 March 1979 <u>a</u>
Germany, Federal Republic of ^{2/}		16 October 1979

1/

On 2 January 1979, the European Space Agency notified the Secretary-General that the Council of the Agency, during its first session held on 12 December 1978, had adopted a declaration, relating to the acceptance by the European Space Agency of the rights and obligations of the Convention in accordance with its article VII:

"In pursuance of Article VII, paragraph 1 of the Convention, the references made to the States parties to the said Convention, with the exception of Articles VIII to XII inclusive, apply to it with effect from the date of this Declaration."

2/ In a communication accompanying the instrument of ratification, the Government of the Federal Republic of Germany declared that the said Convention shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany.

Actions subsequent to 31 December 1979

<u>State</u>	<u>Signature</u>	<u>Ratification, accession (a)</u>
<u>Austria</u>		6 March 1980

Office of Public Information

CHARTER
of the
UNITED NATIONS
and
STATUTE
of the
INTERNATIONAL
COURT OF JUSTICE



United Nations, New York

INTRODUCTORY NOTE

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Statute of the International Court of Justice is an integral part of the Charter.

Amendments to Articles 23, 27 and 61 of the Charter were adopted by the General Assembly on 17 December 1963 and came into force on 31 August 1965. A further amendment to Article 61 was adopted by the General Assembly on 20 December 1971, and came into force on 24 September 1973. An amendment to Article 109, adopted by the General Assembly on 20 December 1965, came into force on 12 June 1968.

The amendment to Article 23 enlarges the membership of the Security Council from eleven to fifteen. The amended Article 27 provides that decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members (formerly seven) and on all other matters by an affirmative vote of nine members (formerly seven), including the concurring votes of the five permanent members of the Security Council.

The amendment to Article 61, which entered into force on 31 August 1965, enlarged the membership of the Economic and Social Council from eighteen to twenty-seven. The subsequent amendment to that Article, which entered into force on 24 September 1973, further increased the membership of the Council from twenty-seven to fifty-four.

The amendment to Article 109, which relates to the first paragraph of that Article, provides that a General Conference of Member States for the purpose of reviewing the Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote

of any nine members (formerly seven) of the Security Council. Paragraph 3 of Article 109, which deals with the consideration of a possible review conference during the tenth regular session of the General Assembly, has been retained in its original form in its reference to a "vote, of any seven members of the Security Council", the paragraph having been acted upon in 1955 by the General Assembly, at its tenth regular session, and by the Security Council.

CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS
determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
to promote social progress and better standards of life in larger freedom,

and for these ends

to practice tolerance and live together in peace with one another as good neighbours, and
to unite our strength to maintain international peace and security, and
to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
to employ international machinery for the promotion of the economic and social advancement of all peoples,

have resolved to combine our efforts

to accomplish these aims

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I

PURPOSES AND PRINCIPLES

ARTICLE 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

ARTICLE 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II MEMBERSHIP

ARTICLE 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

ARTICLE 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

ARTICLE 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

ARTICLE 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III ORGANS

ARTICLE 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

ARTICLE 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity

and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV

THE GENERAL ASSEMBLY

Composition

ARTICLE 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

Functions and Powers

ARTICLE 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

ARTICLE 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2,

and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

ARTICLE 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

ARTICLE 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting

in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

ARTICLE 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

ARTICLE 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

ARTICLE 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

ARTICLE 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any

financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting

ARTICLE 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

ARTICLE 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Procedure

ARTICLE 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

ARTICLE 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

ARTICLE 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V

THE SECURITY COUNCIL

Composition

ARTICLE 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of

the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

ARTICLE 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

ARTICLE 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

ARTICLE 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article

47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

ARTICLE 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

ARTICLE 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

ARTICLE 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

ARTICLE 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

ARTICLE 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

ARTICLE 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI

PACIFIC SETTLEMENT OF DISPUTES

ARTICLE 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

ARTICLE 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

ARTICLE 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

ARTICLE 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

ARTICLE 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take

action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

ARTICLE 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE,
BREACHES OF THE PEACE,
AND ACTS OF AGGRESSION

ARTICLE 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

ARTICLE 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

ARTICLE 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete

or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

ARTICLE 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

ARTICLE 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

ARTICLE 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed

under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

ARTICLE 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed

forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

ARTICLE 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

ARTICLE 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

ARTICLE 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

ARTICLE 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately

reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII

REGIONAL ARRANGEMENTS

ARTICLE 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

ARTICLE 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of

measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

ARTICLE 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX

INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

ARTICLE 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

ARTICLE 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

ARTICLE 57

1. The various specialized agencies, established by inter-governmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

ARTICLE 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

ARTICLE 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

ARTICLE 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X

THE ECONOMIC AND SOCIAL COUNCIL

Composition

ARTICLE 61

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

ARTICLE 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of pro-

moting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

ARTICLE 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

ARTICLE 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

ARTICLE 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

ARTICLE 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connexion with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Voting

ARTICLE 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

ARTICLE 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

ARTICLE 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

ARTICLE 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

ARTICLE 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI

DECLARATION REGARDING
NON-SELF-GOVERNING TERRITORIES

ARTICLE 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and

educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

ARTICLE 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII

INTERNATIONAL TRUSTEESHIP SYSTEM

ARTICLE 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

ARTICLE 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

ARTICLE 77

1. The trusteeship system shall apply to such territories in

the following categories as may be placed thereunder by means of trusteeship agreements:

- a. territories now held under mandate;
- b. territories which may be detached from enemy states as a result of the Second World War; and
- c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

ARTICLE 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

ARTICLE 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

ARTICLE 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation

and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

ARTICLE 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

ARTICLE 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

ARTICLE 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

ARTICLE 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and

assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

ARTICLE 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

THE TRUSTEESHIP COUNCIL

Composition

ARTICLE 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- a. those Members administering trust territories;
- b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
- c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

ARTICLE 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- a. consider reports submitted by the administering authority;
- b. accept petitions and examine them in consultation with the administering authority;
- c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- d. take these and other actions in conformity with the terms of the trusteeship agreements.

ARTICLE 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

ARTICLE 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the

convening of meetings on the request of a majority of its members.

ARTICLE 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

ARTICLE 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

ARTICLE 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

ARTICLE 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

ARTICLE 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

ARTICLE 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV

THE SECRETARIAT

ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

ARTICLE 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

ARTICLE 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

ARTICLE 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI

MISCELLANEOUS PROVISIONS

ARTICLE 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement

which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

ARTICLE 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

ARTICLE 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

ARTICLE 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII

TRANSITIONAL SECURITY ARRANGEMENTS

ARTICLE 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, shall, in

accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

ARTICLE 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII AMENDMENTS

ARTICLE 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

ARTICLE 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes

by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX

RATIFICATION AND SIGNATURE

ARTICLE 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

ARTICLE 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

ARTICLE 1

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I

ORGANIZATION OF THE COURT

ARTICLE 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

ARTICLE 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

ARTICLE 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those

prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

ARTICLE 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

ARTICLE 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

ARTICLE 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

ARTICLE 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

ARTICLE 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

ARTICLE 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

ARTICLE 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ARTICLE 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security

Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

ARTICLE 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court

for transmission to the Secretary-General. This last notification makes the place vacant.

ARTICLE 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

ARTICLE 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

ARTICLE 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 17

1. No member of the Court may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

ARTICLE 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

ARTICLE 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

ARTICLE 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

ARTICLE 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

ARTICLE 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious

reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

ARTICLE 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

ARTICLE 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

ARTICLE 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

ARTICLE 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

ARTICLE 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

ARTICLE 29

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

ARTICLE 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

ARTICLE 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

ARTICLE 32

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the condi-

tions under which members of the Court and the Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

ARTICLE 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II

COMPETENCE OF THE COURT

ARTICLE 34

1. Only states may be parties in cases before the Court.
2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.
3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

ARTICLE 35

1. The Court shall be open to the states parties to the present Statute.
2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.
3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount

which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

ARTICLE 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of an international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has

jurisdiction, the matter shall be settled by the decision of the Court.

ARTICLE 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

ARTICLE 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III PROCEDURE

ARTICLE 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties

agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

ARTICLE 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

ARTICLE 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

ARTICLE 42

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

ARTICLE 43

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

ARTICLE 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ARTICLE 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

ARTICLE 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

ARTICLE 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.

2. These minutes alone shall be authentic.

ARTICLE 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

ARTICLE 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

ARTICLE 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

ARTICLE 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

ARTICLE 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favour of its claim.

2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

ARTICLE 54

1. When, subject to the control of the Court, the agents,

counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

ARTICLE 55

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

ARTICLE 56

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

ARTICLE 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

ARTICLE 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

ARTICLE 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

ARTICLE 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

ARTICLE 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such

a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

ARTICLE 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

ARTICLE 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV

ADVISORY OPINIONS

ARTICLE 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

ARTICLE 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to

the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

ARTICLE 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

ARTICLE 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V

AMENDMENT

ARTICLE 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

ARTICLE 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

Dept of State Bulletin - Dec. 30, 1945.

Charter of the United Nations

Dates of deposit of instruments of ratification by the 51 signatory countries (1945)

*Argentina	Sept. 24
Australia	Nov. 1
Belgium	Dec. 27
Bolivia	Nov. 14
*Brazil	Sept. 21
*Byelorussian Soviet Socialist Republic	Oct. 24
Canada	Nov. 9
*Chile	Oct. 11
*China	Sept. 28
Colombia	Nov. 5
Costa Rica	Nov. 2
*Cuba	Oct. 18
*Czechoslovakia	Oct. 19
*Denmark	Oct. 9
*Dominican Republic	Sept. 4
Ecuador	Dec. 21
*Egypt	Oct. 22
*El Salvador	Sept. 28
Ethiopia	Nov. 18
*France	Aug. 31
Greece	Oct. 25
Guatemala	Nov. 21
*Haiti	Sept. 27
Honduras	Dec. 17
India	Oct. 30
*Iran	Oct. 18
Iraq	Dec. 21
*Lebanon	Oct. 18
Liberia	Nov. 2
*Luxembourg	Oct. 17
Mexico	Nov. 7
Netherlands	Dec. 10
*New Zealand	Sept. 10
*Nicaragua	Sept. 8
Norway	Nov. 27
Panama	Nov. 13
*Paraguay	Oct. 12
Peru	Oct. 31
*Philippine Commonwealth	Oct. 11
*Poland ¹	Oct. 24
*Saudi Arabia	Oct. 18
*Syria	Oct. 19
*Turkey	Sept. 28
*Ukrainian Soviet Socialist Republic	Oct. 24
Union of South Africa	Nov. 7
*Union of Soviet Socialist Republics ²	Oct. 24
*United Kingdom of Great Britain and Northern Ireland	Oct. 20
*United States of America	Aug. 8
Uruguay	Dec. 18
Venezuela	Nov. 15
*Yugoslavia	Oct. 19

Compiled Dec. 28, 1945 by the Treaty Branch, Division of Research and Publication, Department of State

¹One of twenty-nine countries named in the Protocol of Deposit of Ratifications signed by the Secretary of State on Oct. 24, 1945.

²The Charter was signed on behalf of Poland on Oct. 15, 1945 at Washington and for the other governments at San Francisco on June 26, 1945.

³The deposit of the Soviet instrument of ratification at 3:07 p. m. on Oct. 24, 1945 brought the Charter into force.

Admission to Membership in the United Nations

<u>Name of State</u>	<u>Effective Date</u>
Afghanistan	November 19, 1946
Iceland	November 19, 1946
Sweden	November 19, 1946
Siam	December 16, 1946
Pakistan	September 30, 1947
Yemen	September 30, 1947
Burma	April 19, 1948
[59th Member] Israel	May 11, 1949
Indonesia (5)	September 28, 1950
Albania	December 14, 1955
Austria	December 14, 1955
Bulgaria	December 14, 1955
Cambodia	December 14, 1955
Ceylon	December 14, 1955
Finland	December 14, 1955
Hungary	December 14, 1955
Ireland	December 14, 1955
Italy	December 14, 1955
Jordan	December 14, 1955
Laos	December 14, 1955
Libya	December 14, 1955
Nepal	December 14, 1955
Portugal	December 14, 1955
Rumania	December 14, 1955
Spain	December 14, 1955
Morocco	November 12, 1956
Sudan	November 12, 1956
Tunisia	November 12, 1956

Admission to Membership in the United Nations

<u>Name of State</u>	<u>Effective Date</u>
Japan	December 18, 1956
Ghana	March 8, 1957
Federation of Malaya (1)	September 17, 1957
United Arab Republic (2) and (3)	March 7, 1958
Republic of Guinea	December 12, 1958
Republic of Cameroun	September 20, 1960
Togolese Republic	September 20, 1960
Malagasy Republic	September 20, 1960
Republic of Somalia	September 20, 1960
Republic of the Congo (Leopoldville)	September 20, 1960
Republic of Dahomey	September 20, 1960
Republic of the Niger	September 20, 1960
Republic of the Upper Volta	September 20, 1960
Republic of the Ivory Coast	September 20, 1960
Republic of Chad	September 20, 1960
Republic of the Congo (Brazzaville)	September 20, 1960
Gabon Republic	September 20, 1960
Central African Republic	September 20, 1960
Republic of Cyprus	September 20, 1960
Republic of Senegal	September 28, 1960
Republic of Mali	September 28, 1960
Federation of Nigeria	October 7, 1960
Sierra Leone	September 27, 1961
Syrian Arab Republic (2)	October 13, 1961
Mongolian People's Republic	October 27, 1961
Islamic Republic of Mauritania	October 27, 1961
Tanganyika (4)	December 14, 1961
Republic of Rwanda	September 18, 1962
Kingdom of Burundi	September 18, 1962
Jamaica	September 18, 1962

Admission to Membership in the United Nations

<u>Name of State</u>	<u>Effective Date</u>
State of Trinidad and Tobago	September 18, 1962
Algeria	October 8, 1962
Uganda	October 25, 1962
Kuwait	May 14, 1963
✓ Zanzibar (4)	December 16, 1963
Kenya	December 16, 1963
Tanzania (4)	
Malawi	December 1, 1964
Malta	December 1, 1964
Zambia	December 1, 1964
Gambia	September 21, 1965
Maldives Islands	September 21, 1965
Singapore	September 21, 1965
Guyana	September 20, 1966
Botswana	October 17, 1966
Lesotho	October 17, 1966
Barbados	December 9, 1966
People's Republic of Southern Yemen	December 14, 1967
Mauritius	April 24, 1968
Swaziland	September 24, 1968
Equatorial Guinea	November 12, 1968
Fiji	October 13, 1970
Bhutan	September 21, 1971
Bahrain	September 21, 1971
Qatar	September 21, 1971
Oman	October 7, 1971
United Arab Emirates	December 9, 1971
German Democratic Republic	September 18, 1973
Federal Republic of Germany	September 18, 1973
125 Bahamas	September 18, 1973
Bangladesh	September 17, 1974
Grenada	September 17, 1974
Guinea-Bissau	September 17, 1974

Cape Verde	September 16, 1975
Mozambique	September 16, 1975
Sao Tome and Principe	September 16, 1975
Papua New Guinea	October 10, 1975
Comoros	November 12, 1975
Surinam	December 4, 1975
Seychelles	September 21, 1976
Angola	December 1, 1976
Samoa	December 15, 1976
Viet Nam, Socialist Republic of	September 20, 1977
Djibouti, Republic of	September 20, 1977
Solomon Islands	September 19, 1978
Dominica	December 18, 1978
Saint Lucia	September 18, 1979

(Reprint of English text only)

ANTARCTIC TREATY

Between the UNITED STATES
OF AMERICA and OTHER GOVERNMENTS

Signed at Washington December 1, 1959



MULTILATERAL

Antarctic Treaty

Signed at Washington December 1, 1959;

*Ratification advised by the Senate of the United States of America
August 10, 1960;*

*Ratified by the President of the United States of America August 18,
1960;*

*Ratification of the United States of America deposited at Washington
August 18, 1960;*

*Proclaimed by the President of the United States of America
June 23, 1961;*

Entered into force June 23, 1961.

THE ANTARCTIC TREATY

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;^[1]

Have agreed as follows:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

¹ TS 993; 59 Stat. 1031.

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

(a) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;

(b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;

(c) scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:

(a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;

(b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

(c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

(a) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

(b) all stations in Antarctica occupied by its nationals; and

(c) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under subparagraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting

Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

- (a) use of Antarctica for peaceful purposes only;
- (b) facilitation of scientific research in Antarctica;
- (c) facilitation of international scientific cooperation in Antarctica;
- (d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;
- (e) questions relating to the exercise of jurisdiction in Antarctica;
- (f) preservation and conservation of living resources in Antarctica.

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty

whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1. (a) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

(b) Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provisions of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2. (a) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

(b) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all the Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article.

(c) If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instrument of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed the present Treaty.

DONE at Washington this first day of December, one thousand nine hundred and fifty-nine.

Status of

ANTARCTIC TREATY

Signed at Washington December 1, 1959
by Argentina, Australia, Belgium, Chile,
France, Japan, New Zealand, Norway, South
Africa the Union of Soviet Socialist
Republics, the United Kingdom of Great
Britain and Northern Ireland, and the
United States of America

State	Date of deposit of instrument of ratification	Date of deposit of instrument of accession	Date of entry into force
Argentina	June 23, 1961		June 23, 1961
Australia	June 23, 1961		June 23, 1961
Belgium	July 26, 1960		June 23, 1961
Brazil		May 16, 1975	May 16, 1975
Bulgaria		Sept. 11, 1978	June 23, 1961
Chile	June 23, 1961		
Czechoslovakia		June 14, 1962	June 14, 1962
Denmark		May 20, 1965	May 20, 1965
France	Sept. 16, 1960		June 23, 1961
German Democratic Republic		Nov. 19, 1974 ¹	Nov. 19, 1974
Germany, Federal Republic of		Feb. 5, 1979 ⁴	Feb. 5, 1979
Japan	Aug. 4, 1960		June 23, 1961
Netherlands		March 30, 1967 ²	March 30, 1967
New Zealand	Nov. 1, 1960		June 23, 1961
Norway	Aug. 24, 1960		June 23, 1961
Poland		June 8, 1961	June 23, 1961
Romania		Sept. 15, 1971 ³	Sept. 15, 1971
South Africa	June 21, 1960		June 23, 1961
Union of Soviet Socialist Republics	Nov. 2, 1960		June 23, 1961
United Kingdom of Great Britain and Northern Ireland	May 31, 1960		June 23, 1961
United States of America	Aug. 18, 1960		June 23, 1961
Uruguay		Jan. 14, 1980 ⁵	Jan. 11, 1980

[Antarctic Treaty]

1 The instrument of accession by the German Democratic Republic was accompanied by the following declaration:

"The German Democratic Republic takes the view that Article XIII, paragraph 1, of the Treaty is inconsistent with the principle that all States that have their policies guided by the purposes and principles of the United Nations Charter have a right to become parties to treaties which affect the interests of all States." [translation]

2 The Netherlands accession is for the Kingdom in Europe, Surinam and the Netherlands Antilles.

3 The Romanian instrument of accession was accompanied by a note of the Ambassador of the Socialist Republic of Romania, dated September 15, 1971, containing the following statement of the Council of State of the Socialist Republic of Romania:

"The Council of State of the Socialist Republic of Romania states that the provisions of the first paragraph of the article XIII of the Antarctic Treaty are not in accordance with the principle according to which the multilateral treaties whose object and purposes are concerning the international community, as a whole, should be opened for universal participation".

4 The instrument of accession of the Federal Republic of Germany was accompanied by a statement contained in a note of February 5, 1979, from the Ambassador of the Federal Republic of Germany. A copy of the Ambassador's note is attached.

5 The instrument of accession by Uruguay accompanied by a Declaration, a copy of which is attached, with translation.

Department of State,

Washington,

MAR 11 1980

Translation

THE AMBASSADOR
OF THE FEDERAL REPUBLIC OF GERMANY

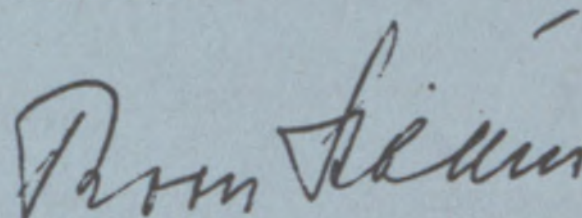
4645 Reservoir Road, N.W.
Washington, D.C. 20007

February 5, 1979

My dear Mr. Secretary,

In connection with the deposit today of the instrument of accession to the Antarctic Treaty signed in Washington December 1, 1959, I have the honor to state on behalf of the Federal Republic of Germany that with effect from the day on which the treaty enters into force for the Federal Republic of Germany it will also apply to Berlin (West) subject to the rights and responsibilities of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America including those relating to disarmament and demilitarization.

Accept, Excellency, the expression of my highest consideration.



His Excellency
Cyrus R. Vance
Secretary of State of the
United States of America
Washington, D.C.

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

DECLARATION BY THE ORIENTAL REPUBLIC OF URUGUAY

The Government of the Oriental Republic of Uruguay considers that, through its accession to the Antarctic Treaty signed at Washington (United States of America) on December 1, 1959, it helps to affirm the principles of using Antarctica exclusively for peaceful purposes, of prohibiting any nuclear explosion or radioactive waste disposal in this area, of freedom of scientific research in Antarctica in the service of mankind, and of international cooperation to achieve these objectives, which are established in said Treaty.

Within the context of these principles Uruguay proposes, through a procedure based on the principle of legal equality, the establishment of a general and definitive statute on Antarctica in which, respecting the rights of States as recognized in international law, the interests of all States involved and of the international community as a whole would be considered equitably.

The decision of the Uruguayan Government to accede to the Antarctic Treaty is based not only on the interest which, like all members of the international community, Uruguay has in Antarctica, but also on a special, direct, and substantial interest which arises from its geographic location, from the fact that its Atlantic coastline faces the continent of Antarctica, from the resultant influence upon its climate, ecology, and marine biology, from the historic bonds which date back to the first expeditions which ventured to explore that continent and its waters, and also from the obligations assumed in conformity with the

Inter-American Treaty of Reciprocal Assistance which includes a portion of Antarctic territory in the zone described in Article 4, by virtue of which Uruguay shares the responsibility of defending the region.

In communicating its decision to accede to the Antarctic Treaty, the Government of the Oriental Republic of Uruguay declares that it reserves its rights in Antarctica in accordance with international law.

2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967, 2463 (XXIII) of 20 December 1968 and 2533 (XXIV) of 8 December 1969, in which it affirmed the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Having considered the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,¹ which met in Geneva from 31 March to 1 May 1970,

Emphasizing the paramount importance of the Charter of the United Nations for the maintenance of international peace and security and for the development of friendly relations and co-operation among States,

Deeply convinced that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations on the occasion of the twenty-fifth anniversary of the United Nations would contribute to the strengthening of world peace and constitute a landmark in the development of international law and of relations among States, in promoting the rule of law among nations and particularly the universal application of the principles embodied in the Charter,

Considering the desirability of the wide dissemination of the text of the Declaration,

1. *Approves* the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the text of which is annexed to the present resolution;

2. *Expresses its appreciation* to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States for its work resulting in the elaboration of the Declaration;

3. *Recommends* that all efforts be made so that the Declaration becomes generally known.

1883rd plenary meeting,
24 October 1970.

¹ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 18 (A/8018).

DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

PREAMBLE

The General Assembly,

Reaffirming in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Bearing in mind also the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

Noting that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

Recalling the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

Convinced that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Considering it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Considering it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

Reaffirming, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

Convinced that the principle of equal rights and self-determination of peoples constitutes a significant contribution to

contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

Convinced in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

Considering the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

Considering that the progressive development and codification of the following principles:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,

(d) The duty of States to co-operate with one another in accordance with the Charter,

(e) The principle of equal rights and self-determination of peoples,

(f) The principle of sovereign equality of States,

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

Having considered the principles of international law relating to friendly relations and co-operation among States,

1. *Solemnly proclaims* the following principles:

The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

(b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.

Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in

particular those relating to the pacific settlement of international disputes.

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

The duty of States to co-operate with one another in accordance with the Charter

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

(a) States shall co-operate with other States in the maintenance of international peace and security;

(b) States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;

(c) States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;

(d) States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the promotion of economic growth throughout the world, especially that of the developing countries.

The principle of equal rights and self-determination of peoples

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights

and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

(a) To promote friendly relations and co-operation among States; and

(b) To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.

The principle of sovereign equality of States

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

(a) States are juridically equal;

(b) Each State enjoys the rights inherent in full sovereignty;

(c) Each State has the duty to respect the personality of other States;

(d) The territorial integrity and political independence of the State are inviolable;

(e) Each State has the right freely to choose and develop its political, social, economic and cultural systems;

(f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.

The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter

Every State has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations.

Every State has the duty to fulfil in good faith its obligations under the generally recognized principles and rules of international law.

Every State has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognized principles and rules of international law.

Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.

GENERAL PART

2. Declares that:

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.

Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of Member States under the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration.

3. Declares further that:

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

CONVENTION ON THE PROHIBITION
OF MILITARY OR ANY OTHER HOSTILE USE
OF ENVIRONMENTAL MODIFICATION TECHNIQUES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION ON THE PROHIBITION OF MILITARY OR
ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICA-
TION TECHNIQUES, SIGNED AT GENEVA ON MAY 18, 1977



SEPTEMBER 22, 1978.—Treaty was read the first time and, together with
the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1978

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 22, 1978.*

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on May 18, 1977.

The Convention is the result of extensive study, debate, and negotiation at the Conference of the Committee on Disarmament at Geneva and at the United Nations. It seeks to avert the dangers resulting from the hostile use of environmental modification techniques "having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party."

In 1973, growing awareness of the need for protecting our environment led to the adoption of Senate Resolution 71 which urged the Executive Branch to negotiate a treaty prohibiting environmental warfare. The United States and the Soviet Union, after three rounds of bilateral consultations, tabled identical draft texts of a multilateral convention at the Conference of the Committee on Disarmament in 1975. Negotiations on the basis of these texts resulted in the document I am transmitting to you today.

I am also sending with the Convention four Understandings relating to Articles I, II, III and VIII, respectively. These Understandings are not incorporated into the Convention. They are part of the negotiating record and were included in the report transmitted by the Conference of the Committee on Disarmament to the United Nations. The provisions of the Convention and the Understandings are described in detail in the accompanying report of the Department of State.

By prohibiting the hostile use of potentially disastrous environmental modification techniques, the Convention represents one more advance in the field of arms control to which my Administration is firmly committed. I recommend that the Senate give prompt consideration to the Convention, and advise and consent to its ratification.

JIMMY CARTER.

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER
HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The States Parties to this Convention,

Guided by the interest of consolidating peace, and wishing to contribute to the cause of halting the arms race, and of bringing about general and complete disarmament under strict and effective international control, and of saving mankind from the danger of using new means of warfare,

Determined to continue negotiations with a view to achieving effective progress towards further measures in the field of disarmament,

Recognizing that scientific and technical advances may open new possibilities with respect to modification of the environment,

Recalling the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Realizing that the use of environmental modification techniques for peaceful purposes could improve the interrelationship of man and nature and contribute to the preservation and improvement of the environment for the benefit of present and future generations,

Recognizing, however, that military or any other hostile use of such techniques could have effects extremely harmful to human welfare,

Desiring to prohibit effectively military or any other hostile use of environmental modification techniques in order to eliminate the dangers to mankind from such use, and affirming their willingness to work towards the achievement of this objective,

Desiring also to contribute to the strengthening of trust among nations and to the further improvement of the international situation in accordance with the purposes and principles of the Charter of the United Nations,

Have agreed as follows:

Article I

1. Each State Party to this Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.

2. Each State Party to this Convention undertakes not to assist, encourage or induce any State, group of States or international organization to engage in activities contrary to the provisions of paragraph 1 of this article.

Article II

As used in article I, the term "environmental modification techniques" refers to any technique for changing—through the deliberate manipulation of natural processes—the dynamics, composition or structure of the earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.

Article III

1. The provisions of this Convention shall not hinder the use of environmental modification techniques for peaceful purposes and shall be without prejudice to the generally recognized principles and applicable rules of international law concerning such use.

2. The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of scientific and technological information on the use of environmental modification techniques for peaceful purposes. States Parties in a position to do so shall contribute, alone or together with other States or international organizations, to international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment, with due consideration for the needs of the developing areas of the world.

Article IV

Each State Party to this Convention undertakes to take any measures it considers necessary in accordance with its constitutional processes to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control.

Article V

1. The States Parties to this Convention undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Convention. Consultation and co-operation pursuant to this

article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in paragraph 2 of this article.

2. For the purposes set forth in paragraph 1 of this article, the Depositary shall, within one month of the receipt of a request from any State Party to this Convention, convene a Consultative Committee of Experts. Any State Party may appoint an expert to the Committee whose functions and rules of procedure are set out in the annex, which constitutes an integral part of this Convention. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

3. Any State Party to this Convention which has reason to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

4. Each State Party to this Convention undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties of the results of the investigation.

5. Each State Party to this Convention undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of violation of the Convention.

Article VI

1. Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary who shall promptly circulate it to all States Parties.

2. An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article VII

This Convention shall be of unlimited duration.

Article VIII

1. Five years after the entry into force of this Convention, a conference of the States Parties to the Convention shall be convened by

the Depositary at Geneva, Switzerland. The conference shall review the operation of the Convention with a view to ensuring that its purposes and provisions are being realized, and shall in particular examine the effectiveness of the provisions of paragraph 1 of article I in eliminating the dangers of military or any other hostile use of environmental techniques.

2. At intervals of not less than five years thereafter, a majority of the States Parties to the Convention may obtain, by submitting a proposal to this effect to the Depositary, the convening of a conference with the same objectives.

3. If no conference has been convened pursuant to paragraph 2 of this article within ten years following the conclusion of a previous conference, the Depositary shall solicit the views of all States Parties to this Convention, concerning the convening of such a conference. If one third or ten of the States Parties, whichever number is less, respond affirmatively, the Depositary shall take immediate steps to convene the conference.

Article IX

1. This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall enter into force upon the deposit of instruments of ratification by twenty Governments in accordance with paragraph 2 of this article.

4. For those States whose instruments of ratification or accession are deposited after the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention and of any amendments thereto, as well as of the receipt of other notices.

6. This Convention shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article X

This Convention, of which the English, Arabic, Chinese, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send duly certified copies thereof to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at Geneva on the eighteenth day of May, one thousand nine hundred and seventy-seven.

ANNEX TO THE CONVENTION CONSULTATIVE COMMITTEE OF EXPERTS

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to paragraph 1 of article V of this Convention by the State Party requesting the convening of the Committee.

2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. The Committee shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.

3. The Depositary or his representative shall serve as the Chairman of the Committee.

4. Each expert may be assisted at meetings by one or more advisers.

5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

I hereby certify that the foregoing text is a true copy of the Convention on the prohibition of military or any other hostile use of environmental modification techniques, approved by the General Assembly of the United Nations on 10 December 1976 and opened for signature at Geneva on 18 May 1977, the original of which is deposited with the Secretary-General of the United Nations.

FOR THE SECRETARY-GENERAL:

_____,
The Legal Counsel.

UNITED NATIONS, New York, *May 18, 1977.*

UNDERSTANDINGS

UNDERSTANDING RELATING TO ARTICLE I

It is the understanding of the Committee that, for the purposes of this Convention, the terms, "widespread", "long-lasting" and "severe" shall be interpreted as follows:

(a) "widespread": encompassing an area on the scale of several hundred square kilometres;

(b) "long-lasting": lasting for a period of months, or approximately a season;

(c) "severe": involving serious or significant disruption or harm to human life, natural and economic resources or other assets.

It is further understood that the interpretation set forth above is intended exclusively for this Convention and is not intended to prejudice the interpretation of the same or similar terms if used in connexion with any other international agreement.

UNDERSTANDING RELATING TO ARTICLE II

It is the understanding of the Committee that the following examples are illustrative of phenomena that could be caused by the use of environmental modification techniques as defined in article II of the Convention: earthquakes; tsunamis; an upset in the ecological balance of a region; changes in weather patterns (clouds, precipitation, cyclones of various types and tornadic storms); changes in climate patterns; changes in ocean currents; changes in the state of the ozone layer; and changes in the state of the ionosphere.

It is further understood that all the phenomena listed above, when produced by military or any other hostile use of environmental modification techniques, would result, or could reasonably be expected to result, in widespread, long-lasting or severe destruction, damage or injury. Thus, military or any other hostile use of environmental modification techniques as defined in article II, so as to cause those phenomena as a means of destruction, damage or injury to another State Party, would be prohibited.

It is recognized, moreover, that the list of examples set out above is not exhaustive. Other phenomena which could result from the use of environmental modification techniques as defined in article II could also be appropriately included. The absence of such phenomena from the list does not in any way imply that the undertaking contained in article I would not be applicable to those phenomena, provided the criteria set out in that article were met.

UNDERSTANDING RELATING TO ARTICLE III

It is the understanding of the Committee that this Convention does not deal with the question whether or not a given use of environmental modification techniques for peaceful purposes is in accordance with generally recognized principles and applicable rules of international law.

UNDERSTANDING RELATING TO ARTICLE VIII

It is the understanding of the Committee that a proposal to amend the Convention may also be considered at any conference of Parties held pursuant to article VIII. It is further understood that any proposed amendment that is intended for such consideration should, if possible, be submitted to the Depositary no less than 90 days before the commencement of the conference.

Convention on the Prohibition of Military or any Other Hostile use of Environmental Modification Techniques

Approved by the General Assembly of the United Nations on 10 December 1976¹

ENTRY INTO FORCE: 5 October 1978, in accordance with article IX (3).

REGISTRATION: 5 October 1978.

TEXT: A/RES/31/72.

<i>State</i>	<i>Signature</i>		<i>Ratification, accession (a)</i>	
AUSTRALIA	31 May	1978		
BELGIUM	18 May	1977		
BENIN	10 June	1977		
BOLIVIA	18 May	1977		
BRAZIL	9 November	1977		
BULGARIA	18 May	1977	31 May	1978
BYELORUSSIAN SOVIET SOCIALIST REPUBLIC	18 May	1977	7 June	1978
CANADA	18 May	1977		
CUBA	23 September	1977	10 April	1978
CYPRUS	7 October	1977	12 April	1978
CZECHOSLOVAKIA	18 May	1977	12 May	1978
DENMARK	18 May	1977	19 April	1978
ETHIOPIA	18 May	1977		
FINLAND	18 May	1977	12 May	1978
GERMAN DEMOCRATIC REPUBLIC	18 May	1977	25 May	1978
GERMANY, FEDERAL REPUBLIC OF	18 May	1977		
GHANA	21 March	1978	22 June	1978
HOLY SEE	27 May	1977		
HUNGARY	18 May	1977	19 April	1978
ICELAND	18 May	1977		
INDIA	15 December	1977	15 December	1978
IRAN	18 May	1977		
IRAQ	15 August	1977		
IRELAND	18 May	1977		
ITALY	18 May	1977		
LAO PEOPLE'S DEMOCRATIC REPUBLIC	13 April	1978	5 October	1978
LEBANON	18 May	1977		
LIBERIA	18 May	1977		
LUXEMBOURG	18 May	1977		
MALAWI			5 October	1978 ^a
MONGOLIA	18 May	1977	19 May	1978
MOROCCO	18 May	1977		
NETHERLANDS	18 May	1977		
NICARAGUA	11 August	1977		
NORWAY	18 May	1977		

¹ The Convention was approved by the General Assembly of the United Nations in its resolution 31/72 of 10 December 1976. In application of paragraph 2 of the said resolution, the Secretary-General decided to open the Convention for signature and ratification by States from 18 to 31 May 1977 at Geneva, Switzerland. Subsequently, the Convention was transmitted to the Headquarters of the Organization of the United Nations, where it is open for signature by States.

<i>State</i>	<i>Signature</i>		<i>Ratification, accession (a)</i>	
POLAND	18 May	1977	8 June	1978
PORTUGAL	18 May	1977		
ROMANIA	18 May	1977		
SIERRA LEONE	12 April	1978		
SPAIN	18 May	1977	19 July	1978
SRI LANKA	8 June	1977	25 April	1978
SYRIAN ARAB REPUBLIC	4 August	1977		
TUNISIA	11 May	1978	11 May	1978
TURKEY	18 May	1977		
UGANDA	18 May	1977		
UKRAINIAN SOVIET SOCIALIST REPUBLIC	18 May	1977	13 June	1978
UNION OF SOVIET SOCIALIST REPUBLICS	18 May	1977	30 May	1978
UNITED KINGDOM ²	18 May	1977	16 May	1978
UNITED STATES OF AMERICA	18 May	1977		
YEMEN	18 May	1977	20 July	1977
ZAIRE	28 February	1978		

² The instrument of ratification specifies that the Convention is ratified in respect of the United Kingdom of Great Britain and Northern Ireland, the Associated States (Antigua, Dominica, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent), Territories under the territorial sovereignty of the United Kingdom, the Solomon Islands, the State of Brunei and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus.

Declarations and Reservations

GERMANY, FEDERAL REPUBLIC OF

Upon signature:

"With the proviso that the correct designation of the Federal Republic of Germany in the Russian language is "Federativnuju Respubliku Germaniju"."

16 June 1977

"The correct designation of the Federal Republic of Germany in the Russian language following the preposition 'sa' in the Russian text was spelled out in the aforementioned proviso as "Federativnuju Respubliku Germaniju"."

TURKEY

Upon signature:

Interpretative statement

"In the opinion of the Turkish Government the terms 'widespread', 'long lasting' and 'severe effects' contained in the Convention need to be more clearly defined. So long as this clarification is not made the Government of Turkey will be compelled to interpret itself the terms in question and consequently it reserves the right to do so as and when required.

"Furthermore, the Government of Turkey believes that the difference between 'military or any other hostile purposes' and 'peaceful purposes' should be more clearly defined so as to prevent subjective evaluations."

Actions subsequent to 31 December 1978

<u>State</u>	<u>Signature</u>	<u>Ratification, accession (a)</u>
Norway		15 February 1979
Democratic Yemen		12 June 1979 <u>a</u>
Bangladesh		3 October 1979 <u>a</u>
Cape Verde		3 October 1979 <u>a</u>
Sao Tome and Principe		5 October 1979 <u>a</u>

Actions subsequent to 31 December 1979

<u>State</u>	<u>Signature</u>	<u>Ratification, accession (a)</u>
Kuwait		2 January 1980 <u>a</u>
United States of America		17 January 1980

Declarations and reservations

KUWAIT

Upon accession:Reservation:

This Convention binds the State of Kuwait only towards States Parties thereto. Its obligatory character shall ipso facto terminate with respect to any hostile state which does not abide by the prohibition contained therein.

Understanding:

"It is understood that accession to the Convention on the Prohibition of Military or any other hostile use of Environmental Modification Techniques, done in Geneva, 1977, does not mean in any way recognition of Israel by the State of Kuwait. Furthermore, no treaty relation will arise between the State of Kuwait and Israel."



