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COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF
ITS FIFTEENTH SESSION (3-28 May 1976)

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INTRODUCTION

Opening of the session

1. The Legal Sub-Committee opened its fifteenth session at the United Nations Office at Geneva, on 3 May 1976, under the chairmanship of Ambassador Eugeniusz Wyzner (Poland).

Tribute to the memory of Mr. Charvet

2. The Chairman said that the Sub-Committee had suffered a great loss in the death of Mr. Jean-Félix Charvet of France. The Chairman recalled that Mr. Charvet had been a senior member of the Sub-Committee, the leader of the delegation of France for several years, and a close friend. The Sub-Committee observed a minute of silence in memory of Mr. Charvet. The representative of France expressed appreciation for the many statements of condolences that had been made and said that he would convey the kind sentiments of the Sub-Committee to his Government and the family of Mr. Charvet.

Statement by the Chairman

3. The Chairman, in his opening statement, observed that since the Sub-Committee's fourteenth session in February-March 1975, there had been a number of important developments in international co-operation in the peaceful uses of outer space. A manned Apollo space craft of the United States and a manned Soyuz space craft of the Soviet Union had, on 17 July 1975, successfully carried out a rendezvous and docking operation in space and joint scientific experiments had been conducted by their crews. On 19 February 1976, space technology was, for the first time, used by the United Nations in peace-keeping operations. On that date an earth station for space communications, placed at the disposal of the United Nations and linked to the "Symphonie" programme of France and the Federal Republic of Germany, had entered into service, transmitting a message from the Co-ordinator of the United Nations Forces in the Middle East, to the Secretary-General at United Nations Headquarters, New York. There were also other increasing activities undertaken by many States, jointly or individually, in the advancement of space applications and technology. These developments in the field of outer space should make the Sub-Committee even more conscious of the great practical significance of its work and of the importance of its moving ahead as rapidly as possible.

4. The Chairman reviewed the progress made by the Sub-Committee at its fourteenth session last year and said that the Committee on the Peaceful Uses of Outer Space at its eighteenth session in June 1975, had agreed with the recommendations made by the Sub-Committee as to the work to be undertaken at its present session. The General Assembly, in resolution 3388 (XXX) of 18 November 1975, noted with satisfaction the work accomplished by the Legal Sub-Committee and recommended that the Sub-Committee at its fifteenth session should continue to consider the following subjects as matters of high priority: the draft treaty relating to the

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moon; the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting; and the legal implications of remote sensing of the earth from space. The report of the Outer Space Committee, in which the Committee had agreed that work on matters relating to the definition and/or delimitation of outer space and outer space activities should be continued at the current session of the Sub-Committee, was endorsed by the General Assembly.

5. The Chairman, concluding his opening statement, expressed the hope that delegations were able to give further thought to the questions that had remained unresolved at the conclusion of the fourteenth session of the Sub-Committee. He was confident, he stated, that the Sub-Committee would make every effort to discharge its important responsibilities in a spirit of mutual understanding and co-operation, as it had done so well in the past.

Adoption of the agenda

6. At its opening meeting, the Sub-Committee adopted the following agenda for the session (A/AC.105/C.2/L.105):

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

Organization of work

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

(a) The Sub-Committee would devote the first week of its session to agenda item 2 (Draft treaty relating to the moon); the second week to agenda item 3 (Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting); and the third week to agenda item 4 (Legal implications of remote sensing of the earth from space). The Sub-Committee agreed that a certain degree of flexibility should be observed in the allocation of time between the three agenda items, so that all available time was in fact utilized. The same high priority of the three items would, however, be observed. The Sub-Committee would consider at the end of the third week of the session how, in the light of the progress it had achieved up to that point, the remaining time at its disposal could best be utilized, having regard to the time required for consideration of item 5 of its agenda, namely, the definition and/or delimitation of outer space and outer space activities.

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(b) The Sub-Committee would maintain its practice of setting up working groups, open to all members of the Sub-Committee, for consideration of the priority items on its agenda. The Sub-Committee, accordingly, re-established its Working Group I, on the draft treaty relating to the moon; its Working Group II on direct television broadcasting; and its Working Group III on remote sensing. As to the chairmanship of the three Working Groups, the Sub-Committee agreed that Dr. G. Haraszti, the representative of Hungary, would continue as Chairman of Working Group I, that Mr. Mishra, the representative of India, would be Chairman of Working Group II, and that Mr. Nettel, representative of Austria, would be Chairman of Working Group III.

(c) The Sub-Committee would each morning begin with a plenary meeting to provide for a general exchange of views during the first week of the session and to enable delegations to address the Sub-Committee on the specific items on the agenda in the remaining weeks of the session. The Sub-Committee would each morning after hearing the statements of delegations conclude its plenary meeting and reconvene as a working group.

8. The Sub-Committee, at the end of the third week of its session, decided that Working Groups I and II would hold additional meetings and that the Chairmen of the three Working Groups would report to the Sub-Committee during the fourth week. The Sub-Committee further decided that item 5 (matters relating to the definition and/or delimitation of outer space and outer space activities) would also be considered during that week.

9. Working Group I held 8 meetings, Working Group II held 12 meetings and Working Group III held 10 meetings.

10. The Chairmen of the three Working Groups reported to the Sub-Committee at its 263rd and 264th meetings on 26 May. The Sub-Committee took note with appreciation of the work done in the Working Groups.

11. At the 264th meeting of the Sub-Committee on 26 May the representative of Argentina made a statement relating to an informal working paper distributed on 25 May and entitled "International problems arising from the exploration of solar and other related energies". The delegation of Argentina signified that this paper would be submitted to the Main Committee for issuance as a document.

12. The Sub-Committee considered item 5 of its agenda at its 264th and 265th meetings on 26 and 28 May.

13. The Sub-Committee held a total of 20 meetings. The views expressed in the Sub-Committee are summarized in documents A/AC.105/C.2/SR.246-265.

14. A list of the representatives of States members of the Sub-Committee attending the session, of the observers for specialized agencies and other organizations and of the secretariat of the Sub-Committee, is to be found in document A/AC.105/C.2/INF.8.

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Summary records

15. On 3 May, at its 246th meeting, the Sub-Committee, in light of General Assembly resolution 3415 (XXX) dated 8 December 1975, considered the question of summary records of its meetings. The Sub-Committee was of the view that, as most of its work was done in working groups without summary records and having regard to the fact that it was a body in which international treaties were drafted, it continued to require summary records for its plenary meetings.

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

16. The Sub-Committee recommended that its sixteenth session should be held from 25 April to 20 May 1977. It is noted that the sixteenth session would be held in New York as previously decided by the Committee on the Peaceful Uses of Outer Space.

Work at next session

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

Adoption of the report

18. The Sub-Committee adopted the present report unanimously, and concluded its work on 28 May 1976.

I. DRAFT TREATY RELATING TO THE MOON

19. At the 247th meeting of the Sub-Committee on 4 May 1976, the Chairman made an introductory statement on the draft treaty relating to the moon (agenda item 2) in which he summarized the work carried out previously in the preparation of the draft treaty and outlined the main outstanding problems still to be resolved.

20. The Chairman noted that the General Assembly, at its thirtieth session, in resolution 3388 (XXX) of 18 November 1975, had recommended that the Sub-Committee should consider at its present session as a matter of high priority "the draft treaty relating to the moon with a view to completing it as soon as possible".

21. As indicated in paragraph 7 (b) above, the Sub-Committee re-established Working Group I with respect to agenda item 2. The discussions in the Sub-Committee and the Working Group centred on the question of the legal status of the moon and its natural resources and on a number of informal working papers submitted during the present session relating to that question.

22. At the 264th meeting of the Sub-Committee on 26 May, the Chairman of Working Group I reported on the work of that Group. The Sub-Committee took note

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with appreciation of the report and of the work done by Working Group I. In accordance with the decision taken by the Sub-Committee at the same meeting, the report of the Chairman of Working Group I is reproduced in annex I of the present report.

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

23. The Chairman made an introductory statement on agenda item 3 (Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting) at the 251st meeting of the Sub-Committee on 10 May 1976. He further reviewed the work done by the Sub-Committee on this item at its previous sessions.

24. The Chairman noted that the General Assembly, at its thirtieth session, in resolution 3388 (XXX) of 18 November 1975, had recommended that the Sub-Committee should at its present session consider as a matter of high priority "the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements, in accordance with General Assembly resolution 2916 (XXVII) of 9 November 1972".

25. As noted in paragraph 7 (b) above, the Sub-Committee at its opening meeting on 3 May 1976 re-established its working group on direct television broadcasting as Working Group II. The discussion in the Sub-Committee and Working Group II dealt mainly with the content of the report of the Chairman of Working Group II on direct television broadcasts, at the fourteenth session of the Sub-Committee. That report contained the texts of the five principles drafted at the thirteenth session and reconsidered at the fourteenth session of the Sub-Committee as well as the texts of the further principles formulated at the Sub-Committee's fourteenth session.

26. At the 263rd meeting of the Sub-Committee on 26 May, the Chairman of Working Group II reported on the work of that Group. The Sub-Committee took note with appreciation of the report and of the work done by Working Group II, and noted with satisfaction the formulation of the following nine principles: purposes and objectives, applicability of international law, rights and benefits, international co-operation, State responsibility, duty and right to consult, peaceful settlement of disputes, copyright and neighbouring rights, and notification to the United Nations. In accordance with the decision taken by the Sub-Committee at the same meeting, the report of the Chairman of Working Group II is reproduced in annex II of the present report.

27. A working paper submitted by Mexico (A/AC.105/C.2/L.108) at the 265th meeting of the Sub-Committee is contained in annex V to the present report.

III. LEGAL IMPLICATIONS OF REMOTE SENSING OF THE EARTH FROM SPACE

28. The Chairman made an introductory statement on agenda item 4 (Legal implications of remote sensing of the earth from space) at the 256th meeting of the Sub-Committee on 17 May 1976. He reviewed the work of the Sub-Committee on this item at its fourteenth session in February-March 1975, and referred, in particular, to the three draft international instruments: one submitted by France and the Union of Soviet Socialist Republics, the second by Argentina and Brazil and co-sponsored by Chile, Mexico and Venezuela, and the third by the United States of America, which were still before the Sub-Committee. He further drew attention to certain common elements, which were identified by Working Group III last year, in those three draft international instruments and in the views expressed by members.

29. The Chairman noted that the Committee on the Peaceful Uses of Outer Space had at its eighteenth session in June 1975, considered the report of the Legal Sub-Committee on its fourteenth session. The Committee's recommendations as to the work to be undertaken by the Sub-Committee at its fifteenth session were contained in paragraph 23 of the Committee's report. These recommendations were endorsed by the General Assembly and were incorporated in paragraph 4 of its resolution 3388 (XXX) of 18 November 1975.

30. The Chairman also drew attention to the two reports of the Scientific and Technical Sub-Committee on its twelfth (1975) session (A/AC.105/150) and thirteenth (1976) session (A/AC.105/170). Paragraphs 64 to 68 of the 1976 report were commended by the Scientific and Technical Sub-Committee to the attention of the Legal Sub-Committee and of member States whose more detailed views on those questions would be welcomed by the Scientific and Technical Sub-Committee at its next session.

31. As noted in paragraph 7 (b) above, the Sub-Committee at its opening meeting on 3 May 1976 re-established its Working Group III on the item of remote sensing. The discussion in the Sub-Committee and in Working Group III concerned essentially the formulation of principles based on the common elements agreed last year and the consideration and identification of further common elements on this item. A proposal submitted to the present session of the Sub-Committee by the Federal Republic of Germany (A/AC.105/C.2/L.106) was, following a statement by its representative, withdrawn on 17 May 1975. A working paper submitted by Mongolia (A/AC.105/C.2/L.107) is contained in annex IV to the present report.

32. At the 263rd meeting of the Sub-Committee on 26 May, the Chairman of the Working Group reported on the work of that Group. The Sub-Committee, at its 264th meeting on the same date, took note with appreciation of the report and of the work done by Working Group III. In accordance with the decision taken by the Sub-Committee at the same meeting, the report of the Chairman of Working Group III is reproduced in annex III of the present report.

IV. MATTERS RELATING TO THE DEFINITION AND/OR DELIMITATION
OF OUTER SPACE AND OUTER SPACE ACTIVITIES

33. The Sub-Committee considered item 5 of its agenda (Matters relating to the definition and/or delimitation of outer space and outer space activities) at its 264th and 265th meetings on 26 and 28 May. The Sub-Committee was unable because of limitations of time to consider this item in any substantial manner. However, a number of useful statements were made by delegations in which they stressed the renewed importance of the subject and expressed the wish that it should receive more detailed examination at future meetings. In particular it was emphasized that such an examination could be undertaken if the question were included as a priority item on the agenda when one of the priority items at present on the agenda was resolved, but a view was also expressed questioning the need to treat the question as a priority item at that time.

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Annex I

REPORT OF THE CHAIRMAN OF WORKING GROUP I

1. The Sub-Committee, at its 246th meeting, held on 3 May 1976, decided to re-establish Working Group I to continue its consideration of the draft treaty relating to the moon. The Working Group held a total of eight meetings between 4 and 25 May. An informal group for consultations, open to all interested delegations, also had a meeting.
2. In the course of the previous sessions of the Sub-Committee no agreement could be reached on three main outstanding issues: the question of the scope of the treaty, the information to be furnished on missions to the moon, and the natural resources of the moon. The Working Group, as it did at the fourteenth session of the Sub-Committee, decided again to give priority to the question of the natural resources, regarded by many delegations as the problem whose solution would facilitate an agreement on the two remaining issues.
3. The Working Group, in discussing the question of the natural resources, based itself on the texts of articles X and X bis as elaborated during the fourteenth session. In these articles a number of words and sentences, owing to a lack of consensus, appeared in square brackets, and certain provisions, for the same reason, were drafted in two versions. The Working Group also had before it three working papers which are appended to the present report: two on the question of the natural resources of the moon submitted by the delegation of Italy (PUOS/C.2(XV)/WG.I/Working papers 1 and 2) and one submitted jointly by Argentina, Brazil, Chile, Indonesia, Mexico, Nigeria, Romania, Sierra Leone and Venezuela (PUOS/C.2(XV)/WG.I/Working Paper 3), as well as several informal working papers submitted by members of the Group.
4. In the course of the exchange of views serious efforts had been made to reach a compromise solution. These efforts, however, proved unsuccessful, since no consensus could be realized. Consequently, no new text relating to the debated issue was elaborated during the present session by the Working Group.

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APPENDICES

Italy: working paper on the legal régime applicable
to the natural resources of the moon

Without prejudice to the equal relevance of the Outer Space Treaty to all
/other/ celestial bodies, the following legal régime shall apply to the moon:

(Appropriate articles)

Italy: working paper on the legal régime applicable
to the natural resources of the moon

1. The moon is not subject to appropriation by any State or group of States through any claim of sovereignty, by means of use or occupation, or by any other means. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon, including structures permanently affixed to its surface or subsurface, shall not create a right of ownership over any areas or zones on or below the surface of the moon.

2. Natural resources of the moon can be freely used by States for the purpose of exploration of outer space and its celestial bodies in the interest and for the benefit of all countries.

3. 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 régime as specified by the following article.

4. The economic resources of the moon, due to be (when) transferred on to the earth, shall be dealt with as common heritage of mankind; all States shall have an equal and unhindered access to them on an equitable basis.

5. When so requested by a third of the members of the United Nations judging that the economic exploitation of the resources of the moon has actually become feasible, the Secretary-General of the United Nations shall convene a United Nations conference to define the structure of the international régime provided for by article 4.

Argentina, Brazil, Chile, Indonesia, Mexico, Nigeria,
Romania, Sierra Leone, Venezuela: working paper

Article IX bis

The moon* and its natural resources are a common heritage of all mankind.

* The question of the scope of the treaty is to be settled separately.

Article X

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Article X bis

1. States have an equal right to undertake the exploration and use of the moon, including the exploitation of its natural resources, without discrimination of any kind.

2. States Parties undertake to establish an international régime governing such exploitation on the basis of the principle that the moon and its resources are a common heritage of mankind.

3. The main objectives of such international régime to be established shall include:

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

(b) the rational management of these resources;

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

(d) an equitable sharing in the benefits derived from those resources.

The interests and needs of developing countries as well as the efforts of the countries which have contributed to the exploration of the moon shall be given special consideration in this regard.

4. In order to decide whether the exploitation of natural resources has become feasible with a view to implementing the provisions of paragraph 2 of this article, the Secretary-General, after the entry into force of this Treaty, shall convene a conference of States Parties during a regular session of the General Assembly, every 10 years unless ... of the States Parties request to convene earlier conferences to decide whether the international régime is to be established. All States Parties undertake to take all appropriate measures to assure their participation at such conferences.

5. If the conference of States Parties, provided for in paragraph 4 of this article, decides that the international régime should be established, the Secretary-General shall include in the provisional agenda of the next session of the General Assembly the item on the establishing of the international régime, in accordance with the provisions of paragraph 2 of this article.

6. Until such international régime is established and without prejudice to the provisions of article V of this Treaty, States Parties undertake that all their

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activities with respect to the moon and its natural resources shall be carried out in a manner compatible with the principle mentioned in paragraph 2 above and the main objectives of the international régime to be established.

7. States Parties shall promptly inform the Secretary-General as well as the public and the international scientific community to the greatest extent possible and practicable, of each discovery of natural resources of the moon and of every other activity undertaken thereon.

Annex II

REPORT OF THE CHAIRMAN OF WORKING GROUP II

1. At its opening meeting, held on 3 May 1976, the Legal Sub-Committee re-established Working Group II for the item "Elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting".
2. Working Group II held a total of 12 meetings. There were also a number of informal consultations. At its first meeting, held on 10 May, the Working Group decided that it would continue the consideration of the set of principles contained in the report of the Chairman of Working Group II and taken note of by the Sub-Committee last year (A/AC.105/147, annex II) with a view to removing square brackets and alternatives, as well as to improving the language of agreed texts.
3. As a result of the discussions and informal consultations, the Working Group was successful in formulating nine principles, including minor drafting changes to two principles agreed to last year. It was also decided not to formulate the principles on spill-over and disruption.
4. There was an exchange of views on three subjects, namely, consent and participation, programme content and unlawful/inadmissible broadcasts, but it was incomplete.
5. The texts of the nine principles, as agreed to by the Working Group, are set out below:

Purposes and objectives

States declare a/ that activities in the field of international direct television broadcasting by means of artificial earth satellites should be carried out in a manner compatible with the development of mutual understanding and the strengthening of friendly relations and co-operation among all States and peoples in the interest of maintaining international peace and security. Such activities should, inter alia, promote the dissemination and mutual exchange of information and knowledge in cultural and scientific fields, assist in educational, social and economic development, particularly in the developing countries, enhance the quality of life of all peoples and provide beneficial recreation.

Applicability of international law

Activities in the field of direct television broadcasting by means of

a/ Subject to review in the context of the final form of this document.

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artificial earth satellites should be conducted in accordance with international law, including the Charter of the United Nations, 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, the relevant provisions of the International Telecommunication Convention and its Radio Regulations and of international instruments relating to friendly relations and co-operation among States and to human rights.

Rights and benefits

Every State has an equal right to conduct activities in the field of direct television broadcasting by means of artificial earth satellites and to authorize such activities by persons and entities under its jurisdiction. All States and peoples are entitled to and should enjoy the benefits from such activities. Access to the technology in this field should be available to all States without discrimination on terms mutually agreed by all concerned.

International co-operation

Activities in the field of direct television broadcasting by means of artificial earth satellites should be based upon and encourage international co-operation. Such co-operation should be the subject of appropriate arrangements. b/

State responsibility

States should bear international responsibility for activities in the field of direct television broadcasting by means of artificial earth satellites carried out by them or under their jurisdiction and for the conformity of any such activities with the principles set forth in this document.

When direct television broadcasting by means of artificial earth satellites is carried out by an international intergovernmental organization, responsibility for compliance with these principles should be borne both by such organization and by States participating in it.

Duty and right to consult

Any State requested to do so by another State should promptly enter into consultations with the requesting State concerning any matter arising from those activities in the field of international direct television broadcasting by satellites that are likely to affect the requesting State, and such consultations should be conducted with due regard to the other principles of this document.

b/ Subject to review of the second sentence in the light of the discussion on consent and participation.

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Peaceful settlement of disputes

Any dispute that may arise from activities in the field of direct television broadcasting by means of artificial earth satellites should be resolved by prompt consultations among the parties to the dispute. Where a mutually acceptable resolution cannot be achieved by such consultations, it should be sought through other established procedures for the peaceful settlement of disputes.

Copyright and neighbouring rights

Without prejudice to the relevant provisions of international law States should co-operate on a bilateral and multilateral basis for protection of copyright and neighbouring rights by means of appropriate agreements between the interested States. In such co-operation they should give special consideration to the interests of developing countries in the use of direct television broadcasting for the purpose of accelerating their national development.

Notification to the United Nations

In order to promote international co-operation in the peaceful exploration and use of outer space, States conducting or authorizing activities in the field of direct television broadcasting by satellites should inform the Secretary-General of the United Nations to the greatest extent possible of the nature of such activities. On receiving this information, the Secretary-General of the United Nations should disseminate it immediately and effectively to the relevant United Nations specialized agencies, as well as to the public and the international scientific community.

6. The draft texts formulated last year on which there was an incomplete exchange of views at the present session are reproduced below.

Consent and participation

Alternative A

Direct television broadcasting by means of artificial earth satellites specifically aimed at a foreign State shall require the consent of that State. The consenting State shall have the right to participate in activities which involve coverage of territory under its jurisdiction. This participation shall be governed by appropriate arrangements between the States involved.

The consent and participation referred to in Principle ... shall not apply where coverage of the territory of a foreign State results from radiation of the satellite signal within the limits considered technically unavoidable under the Radio Regulations of the International Telecommunication Union.

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Alternative B

Direct television broadcasting by satellite should be conducted in accordance with the principles set out herein, and in particular in accordance with principle ...* It may be subject to such restrictions imposed by the State carrying out or authorizing it as are compatible with the generally accepted rules of international law relating to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

The consent of any State in which such broadcasting is received is not required, but the State carrying it out or authorizing it should consult fully with any such receiving State which so requests concerning any restrictions to be imposed by the former State.

The foregoing is without prejudice to the restrictions which may be imposed in accordance with international law on technical grounds.

Programme content

States or their broadcasting entities which participate in direct television broadcasting by satellite with other States should co-operate with one another in respect of programming, programme content, production and interchange of programmes.

The broadcasting of commercial advertising, direct or indirect to countries other than the country of origin, should be on the basis of appropriate agreements between the countries concerned.

Notwithstanding the foregoing, States undertaking activities in direct television broadcasting by satellites should in all cases exclude from the television programmes any material which is detrimental to the maintenance of international peace and security, which publicizes ideas of war, militarism, national and racial hatred and enmity between peoples, which is aimed at interfering in the domestic affairs of other States or which undermines the foundations of the local civilization, culture, way of life, traditions or language.

Unlawful/inadmissible broadcasts

States shall regard as unlawful and as giving rise to the international liability of States direct television broadcasts specifically aimed at a foreign State but carried out without the express consent of the latter, containing

* Which relates to participation and co-operation

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material which according to these principles should be excluded from programmes, or received as a result of unintentional radiation if the broadcasting State has refused to hold appropriate consultations with the State in which the broadcasts are received.

In case of the transmission to any State of television broadcasts which are unlawful, that State may take in respect of such broadcasts measures which are recognized as legal under international law.

States agree to give every assistance in stopping unlawful direct television broadcasting by satellite.

Any broadcasts that a State does not wish to be made in its territory or among its population and in respect of which it has made known such decision to the broadcasting State are inadmissible.

Every transmitter, State, international organization or authorized agency shall refrain from making such broadcasts or shall immediately discontinue such broadcasts if it has begun to transmit them.

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Annex III

REPORT OF THE CHAIRMAN OF WORKING GROUP III

1. The Sub-Committee at the opening meeting of its present session, on 3 May 1976, re-established its Working Group III on remote sensing.
2. Working Group III began its work on Monday, 17 May, and concluded its work on Friday, 21 May. It held a total of 10 meetings. There were, as well, a number of informal meetings, open to all members of the Sub-Committee, under the chairmanship of the Chairman of the Working Group.
3. At its first meeting the Working Group noted that it was required, under paragraph 4 (c) of General Assembly resolution 3388 (XXX) of 18 November 1975, to
 - "(i) continue detailed legal consideration of remote sensing from space of the earth - that is, of its natural resources and its natural environment - taking into account the various views of States expressed on the subject, including proposals for draft international instruments, and taking into account all relevant discussions, views and conclusions concerning organizational, economic and technical aspects of remote sensing in the Scientific and Technical Sub-Committee of the Committee on the Peaceful Uses of Outer Space, including those contained in the report on its twelfth session with a view to identifying further common elements among the views of States; and
 - "(ii) proceed to the drafting of principles in regard to those particular areas of the subject where common elements in the views of States are identified."
4. The Working Group had before it the following main documents: (a) the report of the Legal Sub-Committee on its fourteenth session in February-March 1975 (A/AC.105/147), which contained, in annex III, the report of the Chairman of the Working Group on remote sensing at the fourteenth session; (b) the following three draft international instruments considered at the fourteenth session of the Sub-Committee: (i) a working paper on draft principles governing the activities of States in the field of remote sensing of earth resources by means of space technology, submitted jointly by France and the USSR (A/AC.105/C.2/L.99); (ii) draft basic articles for a draft treaty on remote sensing of natural resources by means of space technology, submitted by Argentina and Brazil and co-sponsored by Chile, Mexico and Venezuela (A/C.1/1047); and (iii) a working paper on the development of additional guidelines for remote sensing of the natural environment of the earth from outer space submitted by the United States (A/AC.105/C.2/L.103); (c) the report of the Scientific and Technical Sub-Committee on its twelfth session in April-May 1975 (A/AC.105/150) and (d) the report of the Scientific and Technical Sub-Committee on its thirteenth session in March-April 1976 (A/AC.105/170).

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5. The Working Group also had before it a number of informal working papers submitted by delegations in the course of the Working Group's meetings.

6. The Working Group formulated the texts of five draft principles the first four of which were based on the common elements mentioned in paragraph 7 of the report of the Chairman of the Working Group on remote sensing at the Sub-Committee's fourteenth session (A/AC.105/147, annex III). The fifth draft principle was on a subject which was formulated after the Working Group had identified a new common element, reading as follows, on that subject:

"States participating in remote sensing programmes should make available technical assistance in that area to other interested States on mutually agreed terms."

The texts of the five draft principles which are set out below contain square brackets around words on which no agreement was reached.

Principle I a/

Remote sensing of the natural resources of the earth and its environment from outer space and international co-operation in that field shall should be carried out for the benefit and in the interests of all countries mankind, irrespective of their degree of economic or scientific development, and taking into consideration, in international co-operation, the particular needs of the developing countries.

Principle II b/

Remote sensing of the natural resources of the earth and its environment from outer space shall should be conducted in accordance with international law, including the Charter of the United Nations 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.

Principle III c/

1. States carrying out programmes for remote sensing of the natural resources of the earth and its environment from outer space should shall promote international co-operation in these programmes. To this end, sensing States should shall make available to other States opportunities

a/ Based on common element (a) of para. 7 of annex III to A/AC.105/147.

b/ Based on common element (b) of para. 7 of annex III to A/AC.105/147.

c/ Based on common element (c)-(d) of para. 7 of annex III to A/AC.105/147.

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for participation in these programmes. Such participation should be based in each case on equitable and mutually acceptable terms due regard being paid to elements ...

2. In order to maximize the availability of benefits from such remote sensing data, States are encouraged to consider agreements for the establishment of shared regional facilities.

Principle IV d/

Remote sensing of the natural resources of the earth and its environment from outer space should shall promote the protection of the natural environment of the earth. To this end States participating in remote sensing should shall identify and make available information useful for the prevention of phenomena detrimental to the natural environment of the earth.

Principle V e/

States participating in remote sensing of the natural resources of the earth and its environment from outer space should shall make available technical assistance to other interested States on mutually agreed terms.

7. In addition to the new common element referred to in the preceding paragraph, the Working Group was also successful in identifying further common elements which are set out below:

(a) The United Nations and other relevant international organizations could play a useful role in the area of remote sensing, especially as far as co-ordination of activities and co-operation between States, including technical assistance, are concerned.

(b) States participating in remote sensing which obtained information indicating an impending natural disaster should make this available as soon as possible to all States likely to be affected and to concerned international organizations.

(c) Remote sensing data or information derived therefrom should not intentionally be used by States to the detriment of other States.

d/ Based on common element (e) of para. 7 of annex III to A/AC.105/147.

e/ Based on a new common element identified by the Working Group at the present session of the Sub-Committee.

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8. The Working Group understood that for the purposes of this report (1) the term "data" means the raw products emanating from a remote sensing satellite as well as the pre-processed but non-analysed products obtained from these raw products and (2) the term "information" means the results of the analysis of the above-mentioned pre-processed data, in whatever format. In this connexion, the view was expressed that, with reference to paragraph 23 of the report of the Scientific and Technical Sub-Committee on its thirteenth session in March-April 1976 (A/AC.105/170), points (1) to (4) in paragraph 23 of that report concerned "data", and points (5) and (6) concerned "information". In addition, the Working Group recognized the necessity of reaching agreement on the definition of the subject-matter of remote sensing activities which would be included within the scope of the draft principles. Various terms, including sensing of "the natural resources of the Earth", "the natural environment of the Earth", "the natural environment of the Earth including its natural resources" and "the natural resources of the Earth and its natural environment" have been suggested as the basis for such a definition, but no agreement has been reached on a single formula.

9. In the course of the discussion in the Working Group, the following questions were, inter alia, touched upon by different delegations: whether or not the prior consent of a State should be required for the remote sensing from outer space of the territory of that State, whether access to and dissemination of remote sensing data and information should be unlimited, or subject to limitations; as regards unlimited access whether all States should have equal, timely and non-discriminatory access to data acquired by remote sensing satellites; whether and how open dissemination of data and information will assure to all States maximum benefits from the use of remote sensing; as regards limitations in favour of the sensed State, whether remote sensing data and information should be available to a sensed State on a basis of continuity and priority and in any case no later than any other party, the terms and conditions in this regard being agreed upon by the parties concerned; whether a State obtaining data concerning the territory of a sensed State and developing information concerning the natural resources of that sensed State from such data should, upon request of that sensed State, enter into consultations promptly with a view to concluding mutually acceptable arrangements for respecting the confidentiality of, or the need for prior access of the sensed State to, such information, to the extent necessary to avoid detrimental effects on the interests of the sensed State; whether data and/or information produced for one purpose can be separated or distinguished from data or information appropriate for other purposes; whether data and information as to the natural resources of a sensed State should be made available to third parties without the consent of the sensed State; whether and how the principle of the sovereignty of a State over its natural resources should be applied to the activities in the field of remote sensing; and whether it should be accepted that the sovereignty of a State over its natural resources and its inalienable right to dispose of its natural resources give it the same right in regard to information concerning those resources; whether there ought not to be prompt and unrestricted dissemination of data and information about natural disasters or environmental hazards which could adversely affect one or more States; whether access to data and information should not be subject to equitable and mutually acceptable terms with respect to user charges; whether remote sensing data and information with respect to areas outside the national jurisdiction of any State should be available to all interested States

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without discrimination and on mutually acceptable terms; whether principles to be adopted to cover the existing situation should be formulated to take into account future developments on the organizational side.

10. Because of lack of time the Working Group was not able to examine further every question considered at the previous session and referred to in paragraph 8 of the report of the Chairman of the Working Group on remote sensing.

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Annex IV

LEGAL IMPLICATIONS OF REMOTE SENSING OF THE EARTH FROM SPACE

Mongolia: working paper

(A/AC.105/C.2/L.107, 25 May 1976)

States participating in remote sensing should respect the principle of full and permanent sovereignty of all States and peoples over their wealth and natural resources as well as their inalienable right to dispose of their natural resources and of information concerning those resources.

Annex V

INTERNATIONAL CO-OPERATION

Mexico: working paper

(A/AC.105/C.2/L.108, 26 May 1976)

Activities in the field of direct television broadcasting by means of artificial earth satellites should be based upon and encourage international co-operation.

In order to promote the international co-operation referred to in this paragraph, States shall give prior notification of all the details of a broadcast to the State for which it is intended. Every broadcast shall be based on arrangements mutually agreed between the State transmitting and the State receiving it.
