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NEGOTIATING ISSUES IN FORMING THE 1967 TREATY ON OUTER SPACE*

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ABSTRACT

This paper considers the expression of views, international treaties, and other events which are pertinent to the establishment of principles governing exploration and use of outer space and celestial bodies and which led to the final agreement by the 28 members of the Legal Subcommittee of the United nations General Assembly's Committee on the Peaceful Uses of Outer Space to the Outer Space Treaty.

INTRODUCTION

An announcement was made 8 December 1966, that agreement had been achieved among the 28 members of the United Nations Committee on the Peaceful Uses of Outer Space (COPUS) on the text of a treaty establishing principles governing the activities of states in the exploration and use of outer space, the moon, and other celestial bodies. Approval of the Treaty was recommended unanimously by the Political Committee of the General Assembly on 17 December 1966. Two days later, the Treaty was endorsed by a unanimous vote of the General Assembly and on 27 January 1967 it was open for signature.

A remarkable endeavor of great significance to international law and politics had reached fruition. Nations often in conflict with one another and adhering to widely divergent political philosophies had agreed on the first Treaty of general applicability governing activity in outer space.[1]

The principles set forth in the Treaty had been advanced previously in the form of General Assembly resolutions, analogous international agreements, domestic legislation, statements by government officials, articles by scholars in the field and other expressions of vies. Final agreement on the Treaty, however, was primarily the product of the labors of the 28 members of the Legal Subcommittee of COPUS.

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[1] The Treaty is officially entitled "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies," and is annexed to a resolution of the General Assembly. U.N. Doc. A/C.1/L.396 (1966). 18 UST 2410,TIAS 6347, 610 UNTS 205. As of June 3, 1997, the U. S. Dept. of State Office of Treaty Affairs lists 92 countries parties to the Treaty.

PRINCIPLES APPLICABLE TO CELESTIAL BODIES

Although the scope of Treaty as eventually agreed upon includes both outer space and celestial bodies, an important aspect of the deliberations leading to agreement on the Treaty is the extent to which the nations and individuals were concerned, for the first time, with the formulation of realistic principles which might govern activity on celestial bodies in addition to, but as distinct from, outer space.[2] This consideration of celestial bodies was based upon a body of thought and action that preceded the Fifth Session (1966) of the Legal Subcommittee. Even prior to 1960, a considerable amount of commentary existed on the question of whether it was possible for a terrestrial nation-state to acquire sovereignty over all or part of a natural celestial body, and what would be required under existing law to make such a claim legally valid. Analogies were drawn to the manner in which nations had previously sought to exert legal claims to sovereignty over portions of the earth's surface, *e.g.*, through discovery, occupation, annexation and contiguity. Considerable discussion arose over the legal effect of the reported striking of the moon by an early Soviet satellite carrying the Soviet flag. However, the Soviet Union did not seek to exert any claim of sovereignty based upon this occurrence.

Although writers regarded the legal principles derived from exploration of the earth's surface as potentially applicable to exploration of celestial bodies, they did not consider such applicability to be desirable. The suggestion was made that both public and private groups formulate standards and procedures that will guarantee access by all to these resources on equitable terms and prevent interference by one State with the scientific programs of another.

As early as 1959, the American Bar Association passed a resolution declaring "that in the common interest of mankind . . . celestial bodies should not be subject to exclusive appropriation." The United Nations Ad Hoc Committee on the Peaceful Uses of Outers Space took the position that "serious problems could arise if States claimed, on one ground or another, exclusive rights over all or part of a celestial body," and suggested that "some form of international administration over celestial bodies might be adopted."[3] In an address before the General Assembly in September 1960, President Eisenhower proposed that:

"1. We agree that celestial bodies are not subject to national appropriation by any claims of sovereignty.

"2. We agree that the nations of the world shall not engage in warlike activities on these bodies.

"3. We agree, subject to verification, that no nation will put into orbit or station in outer space weapons of mass destruction. All launchings of spacecraft shall be verified by United Nations."[4]

The Ad Hoc Committee, however, concluded that "since 'early exploration of celestial bodies . . . was not likely in the near future,' no priority treatment was necessary." With the formation of COPUS in 1960, attention was directed primarily to problems associated with the launching of spacecraft, their revolving in earth orbit, and their return to earth.

If one includes principles applicable to the exploration of celestial bodies under those pertaining to the exploration of outer space generally, the practice developed during the International Geophysical Year and further developed by subsequent space flights would support the view that, as a principle of customary international law, anything outside the earth's atmosphere, except an item launched from earth, is not subject to claim of national sovereignty.

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[2] See Dembling and Arons, *The United Nations Celestial Bodies Convention*, 32 J. Air L. Com. 535 (1966) for a discussion of principles applicable to celestial bodies, analogies to other treaties, prior activity in the United Nations, and events giving rise to the Fifth Session of the Legal Subcommittee of the United Nations Ad Hoc Committee on the Peaceful Uses of Outer Space.

[3] U. N. Doc. A 4141/25 (1959).

[4] Address by President Dwight D. Eisenhower to the U.N. General Assembly, 10 Sept. 1960, 43 DEPT STATE BULL. 554(1960)

ANALOGIES TO OTHER TREATIES

The draft conventions tabled by the United States and the Soviet Union at the Fifth Session of the Legal Subcommittee, contain provisions quite obviously based upon analogous provisions in the Antarctic Treaty,[5] Article 1 provides that Antarctica shall be used only for peaceful purposes. Article II provides for freedom of scientific investigation in Antarctica and cooperation in that regard. Article III provides for exchange of scientific information and personnel. Article IV, paragraph 2, prohibits nations from making additional claims of sovereignty, although it does not require renunciation of existing claims.

Another treaty which afforded some precedent to agreement on the use of outer space and celestial bodies for peaceful purposes is the Nuclear Test Ban Treaty. The Treaty bans any nuclear weapon test explosion or any other nuclear explosion in the atmosphere, in outer space, and under water, or in any other environment.

Whether one regards the moon and other celestial bodies as included in "outer space," or "in any other environment," as referred to in Article 1 of the Nuclear Treaty, nuclear explosions are effectively prohibited from being carried out on celestial bodies. Thus, the negotiation and drafting of principles providing for the peaceful exploration and use of outer space and celestial bodies proceeded from the standpoint that an activity of immense military significance had already been banned.

PRIOR U. N. ACTIONS

Although the Fifth Session of the Legal Subcommittee provided an opportunity for intensive examination, in the United Nations, of principles governing the exploration and use of outer space and celestial bodies, it was not the first time that the U. N. had ever considered this matter. At the first meeting of the COPUS (1961), the nations represented agreed on a draft resolution, originally proposed by the United States, which, as adopted by the General Assembly on 20 December 1961 as G. A. Res. 1721 (XVI), commended to States for their guidance in the exploration and use of outer space the following principles:

(a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;

(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law and are not subject to national appropriation.

Proposed elaborations of, and additions to, the principles stated in that Resolution 1721 were further discussed in 1962 and 1963. This discussion of "basic principles," together with discussions of draft conventions and resolutions covering assistance to, and return of, astronauts and space vehicles, and of liability for damages caused by space vehicles, led to the unanimous adoption by the General Assembly, on 13 December 1963, of Resolution 1962 (XVIII) entitled *Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space.*

Although the *Declaration*, like other General Assembly resolutions, does not having the contractually binding characteristics of a treaty, the *Declaration* does reflect a certain international understanding of the principles which ought to govern the exploration and use of outer space and celestial bodies and, therefore, provided evidence of the customary international law in that regard. Thus, over two and one-half years prior to the 1966 (Fifth) Session, a general consensus had been obtained among the nations involved in space exploration that outer space and celestial bodies should be governed by the principles of international law and free for peaceful exploration and use without being subject to claims of national sovereignty.

During its previous four sessions, the Legal Subcommittee had been primarily concerned with subjects of assistance to and return of astronauts and space objects and liability for damages caused by

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[5] The Antarctic Treaty signed at Washington on 1 Dec. 1959, by the seven Antarctic sector States (Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom) and Belgium, Japan, Union of South Africa, the Soviet Union and the United States.

space vehicles. By October 1965, agreement had been virtually achieved on a draft convention covering the former subject, and considerable progress had been made on the latter. However, the activities of the Legal Subcommittee were not limited to these two subjects. Under the mandate governing its activities during the Fifth Session, the Subcommittee was not only "urged" by the General Assembly to prepare draft international agreements on "assistance and return" and "liability" but also to consider incorporating in international agreement form the legal principles governing the activities of States in the exploration and use of outer space. The consideration and use of outer space and celestial bodies come within this last part of its mandate.

EVENTS GIVING RISE TO FIFTH SESSION

That a sense of urgency had developed concerning the need for an international agreement on the exploration of the moon and other celestial bodies was made clear in a statement by President Lyndon B. Johnson on 7 May 1966. He emphasized the need to "take action now . . . to insure that explorations of the moon and other celestial bodies will be for peaceful purposes only" and "to be sure that our astronauts and those of other nations can freely conduct scientific investigations of the moon."[6] The President suggested a treaty containing the following elements:

1. The moon and other celestial bodies should be free for exploration and use by all countries. No country should be permitted to advance a claim of sovereignty.
2. There should be freedom of scientific investigation, and all countries should cooperate in scientific activities relating to celestial bodies.
3. Studies should be made to avoid harmful contamination.
4. Astronauts of one country should give any necessary help to astronauts of another country.
5. No country should be permitted to station weapons of mass destruction on a celestial body. Weapons tests and military maneuvers should be forbidden.

[6] For full text, see 54 Dep't State Bull. 900 (1966).

Two days after the President made his statement, the United States Ambassador to the United Nations addressed a letter to the Chairman of COPUS requesting an early convening of the Legal Subcommittee to consider the treaty proposed by President Johnson. On 30 May 1966, the Soviet Ambassador transmitted to the Secretary-General of the United Nations a letter from the Minister for Foreign Affairs of the U. S. S. R., requesting the inclusion of an item on the agenda for the 21st Session of the General Assembly entitled "Conclusion of an International Agreement on Legal Principles Governing the Activities of States in the Exploration and Conquest of the Moon and Other Celestial Bodies." In his letter, the Minister suggested that such an international agreement be based on four principles, which appeared to be quite similar to the principles stated by President Johnson.

On 16 June 1966, both the U. S. Ambassador and the Acting Permanent Representative of the U. S. S. R., forwarded the draft treaties proposed by their countries. In diplomatic discussions that followed, agreement was reached that 12 July would be the date on which formal consideration would commence and that the meeting would be held at Geneva, the date being the preference of the United States, and the place being the preference of the Soviet Union.

THE FIFTH SESSION OF THE LEGAL SUBCOMMITTEE

Scope of the Treaty

During the first few days of the Fifth Session, the various delegations discussed the urgent need for the Treaty, whether its scope should be limited to activities on celestial bodies or should include outer space as well, and whether its provisions should state general principles or should provide specific rules for the conduct of activity in outer space and on celestial bodies.[7] There was a belief that a treaty regulating

[7] All 28 members of the Legal Subcommittee were present, representing Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chad, Czechoslovakia, France, Hungary, India, Iran, Italy, Japan, Lebanon, Mexico, Mongolia, Morocco, Poland, Rumania, Sierra Leone,

the conduct of States on celestial bodies should be agreed upon as soon as possible. It was apparent that the delegations regarded the prospect of manned lunar landings by both the United States and the Soviet Union as necessitating regulation before such landings. Also, there was particular desire to prohibit the use of celestial bodies, if not outer space as well, for military purposes. In this regard, there was also general agreement that a critical need existed to include a provision banning nuclear weapons and other weapons of mass destruction from outer space.

The belief that agreement must be reached as soon as possible affected the matter of whether the agreement should be limited to a statement of general principles or whether it should establish more specific regulation of space activity. As noted above, previous sessions of the Subcommittee had devoted considerable attention to the detailed draft treaties on assistance to and return of astronauts and space vehicles and liability for damages caused by space vehicles. Various delegations expressed a desire that the Subcommittee continue its work on these drafts during the Fifth Session, and were not satisfied with the inclusion of general provisions on those subjects as items in a treaty as broad as those suggested by the United States and the Soviet drafts. However, the Subcommittee was interested in obtaining "maximum results in a minimum time" and believed it should limit itself strictly to settling essential and urgent issues.

Most of the delegations felt that the principles set forth in the United States and Soviet drafts were a starting point and would be applied in practice later - in particular in the field of liability and the return of astronauts. It was therefore essential to define and codify the largest number of points of agreement. As stated by the head of the Soviet delegation to the Fifth Session, and later agreed to by the members of the Subcommittee, the inclusion in the Treaty of two broadly phrased articles on assistance and return and liability respectively was not intended to prejudice the efforts already being made in the Subcommittee to conclude a special agreement on those matters.[8]

A further matter to which considerable ;discussion was devoted during the general debate was whether the Treaty should establish rules governing activity on celestial bodies or should include all of outer space as well. The most obvious difference between the Soviet and United States drafts was that the Soviet draft would have applied to celestial bodies *and* outer space while the United States draft would have applied only to celestial bodies. As expected, the delegate from the Soviet Union and the representatives from Communist bloc countries of Eastern Europe advocated the Soviet version. In addition, however, several delegations from non-aligned and pro-Western nations supported the Soviet position on this matter. Cogent arguments were advance to the effect that the implementation of several of the proposed treaty articles would be extremely difficult, if not impossible, should the scope of the Treaty be limited to activities on celestial bodies to the exclusion of outer space.

In view of the various statements made concerning the scope of the treaty, the United States delegation recognized that a consensus had been reached on the broad proposition that "the Treaty should not be limited to celestial bodies alone but should include outer space along the lines of the U. S. S. R. draft" and agreed to work towards the conclusion of such a treaty.[9] In return, the Soviet delegate stated that his delegation was prepared "to consider the possibility of including, in the draft treaty to be prepared by the Subcommittee, provisions which did not appear in the Soviet text, including certain points from the United States draft."[10] The Soviet delegate was referring particularly to the provisions in the United States draft that provided for reporting of scientific information and free access to all areas of celestial bodies. As a comparison of the Soviet and United States drafts readily indicates, there were not many substantive points of difference between the Soviet

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Sweden, Sweden, United Arab Republic, U. S. S. R., United Kingdom and the United States.

[8] Sum. Rep. 57 at 13.

[9] Sum. Rep. 63 at 2.

[10] Sum. Rep. 62 at 11.

and United States positions on the matters sought to be covered.

Thus even before the Subcommittee began its article by article analysis of the respective drafts, a reasonable amount of agreement existed between the two major space powers, and among all the members of the Subcommittee, on the general cope and purpose of the Treaty. The remainder of the discussions during the Session concerned specific matters to be covered in the Treaty.

The Preamble and Articles I, II and III of the Treaty state broad principles which, from the outset of discussion, were generally acceptable to the Subcommittee members and provoked little disagreement as to the wording. The text of these provisions was taken almost entirely from the Soviet draft though the same general principles appeared in the United States draft. The first three articles are, in large part, a codification of the first four paragraphs of the *Declaration of Legal Principles*, and are analogous to the principles set forth in the Antarctic Treaty. Thus, quick agreement on these provisions was not surprising. The second paragraph of Article I, provides that "there shall be free access to all areas of celestial bodies." This provision, however, must be read in the light of Article XII, which provides that "All stations, installations, equipment, and space vehicles shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity." So Article I is therefore to be read as granting free access at all times to all areas of outer space and celestial bodies, except as provided in Article XII.

The text of Article II, which prohibits national appropriation of outer space and celestial bodies, provoked little debate. The banning of national appropriation reinforces the free access language. if an individual nation cannot claim sovereignty to any particular area, it cannot deny access to that area.

Article III, by making international law, including the U. N. Charter applicable to outer space and celestial bodies, further reinforces Article I. Article III is important if viewed in the light of the consensus reached earlier that this Treaty is intended to establish basic principles applicable to conduct in outer space and on celestial bodies.

Article IV of the Treaty provides that no weapons of mass destruction shall be placed in orbit or on celestial bodies or stationed in outer space in any other manner; celestial bodies shall be used exclusively for peaceful purposes. The Article reflects principles previously agreed upon in the Nuclear Test Ban Treaty and in U. N. Resolution 1884 (XVIII) and is quite similar to Antarctic Treaty language.

There was debate on the use of the terms "installations" and "military equipment." The Soviet delegate insisted on use of the word "installations" since in Russian translation "bases" and "fortifications" connote facilities for military purposes while "installations" might apply to a facility used for peaceful purposes but constructed or inhabited by military personnel. Finally, the United States accepted the use of the term "installations" while the Soviets agreed to the inclusion of a provision which would not ban the use of military equipment on celestial bodies. Thus, the placement of a weapon or other items of military equipment would appear to be prohibited unless it can be shown that the item of military equipment will be devoted solely to peaceful exploration or use of the celestial body. Agreement on Article IV was not reached until after the close of the second (New York) portion of the session when the few outstanding differences were resolved so announcement of treaty agreement could be made.

Article V of the Treaty contains two distinct though related principles. The first two paragraphs provide for the assistance and return of astronauts, which had been discussed in considerable detail during previous sessions of the Legal Subcommittee and were already accepted by its members. The third paragraph, derived from a United States proposal that the U. N. Secretary-General shall be promptly notified of any information relating to the physical safety of astronauts. Article XI of the Treaty, a provision for reporting of activities in outer space and on celestial bodies, originated with the United States draft. This draft took the position that parties to the Treaty should be under a mandatory obligation to notify the U. N. Secretary-General. Originally, the Soviets argued against the mandatory obligation, favoring a voluntary basis for such reporting. The United States and its supporters were seeking to embody in treaty

form a requirement that there be full dissemination of scientific and technical information for peaceful purposes. A compromise working paper was proposed by the United Arab Republic which retained the Soviet proposal for voluntary reporting but also provided that "all information shall be promptly submitted, preferably in advance or at the carrying out of these activities or immediately after." While one might read this as a mandatory reporting provision, a fair reading of the first two paragraphs would be that the parties to the Treaty agree to report voluntarily but it must do so promptly if it chooses to report. Agreement was reached when it was further agreed that the Secretary-General would disseminate the information immediately and effectively.

Article VI of the Treaty assures that the parties cannot escape their international obligations under the Treaty by virtue of the fact that activity in outer space or on celestial bodies is conducted through the medium of non-governmental entities or international organizations. While the general concept was agreed to without too much debate, the more difficult question was whether or not international organizations should be made responsible for compliance with the Treaty in the conduct of their outer space activities. The compromise reached, as reflected in Articles VI and XIII, appears to require States which are parties to the Treaty, when they conduct activities through an international organization, to use their best efforts to secure compliance by that organization with the obligations set forth in the Treaty.

Although recognizing that the Legal Subcommittee was in the process of drafting a detailed treaty on liability, there was no objection raised to the mere inclusion of an article stating the general principle in the Outer Space Treaty. The subject of international liability for damage caused by space vehicles is indeed one involving a multitude of problems. Since Article VII is essentially a repetition of Paragraph 8 of the *Declaration of Legal Principles*, these problems were hardly touched during the Session. The meaning of the word "internationally" as used to modify "liable," however, did cause some concern. Many stated that the article would be acceptable only if "internationally" meant "absolutely." Other delegations noted that the concept of "absolute liability" was still being refined in discussions of the detailed drafts on liability and would have to await the outcome.

Article VIII consists of three sentences, two of which state general rules concerning control and ownership of personnel and objects while in outer space and on celestial bodies. The third sentence imposes an obligation upon the parties to return found objects to the party to the Treaty on whose registry they are carried. The State of registry is required to furnish identifying data if so requested. With some minor drafting changes, agreement was reached on the Article.

The parties to the Treaty must conduct their activities to avoid harmful contamination of outer space or celestial bodies and adverse changes in the environment of Earth according to Article IX. The Article also imposes a mandatory obligation upon a party planning a potentially harmful experiment to consult with other parties. It also provides each party with the right to request consultations concerning a potentially harmful activity or experiment planned by another State in outer space or on a celestial body. While agreement was reached on reporting outer space activities to the Secretary-General, it was understood that there was a distinction between the mandatory consultations in advance of the event, under Article IX, and what is regarded as voluntary reporting after the event under Article IX.

Article X of the Treaty pertains principally to the establishment and use of tracking facilities by parties to the Treaty on the territory of other parties. Protracted disagreement among the delegations proved to be the major stumbling block to agreement on the Treaty as a whole. The genesis of the provision was in the second sentence of Article I of the Soviet draft which provided that "The parties to the Treaty undertake to accord equal conditions to States engaged in the exploration of outer space." Essentially, this would have included a most-favored nation clause with respect to the availability of tracking facilities. The United States delegation and its supporters strongly opposed this proposal because it appeared to be for the benefit of the space powers alone. It "would give a space power the right to require of a non-space power equivalent facilities in regard to the tracking of space objects if the non-space power had previously granted facilities of that

kind to another State. Thus, the State would be bound to accord tracking facilities without reference to any bilateral negotiations.... Moreover, the proposal put a premium on non-cooperation... Only if State A had extended facilities to a third party was it obliged to make the same facilities available to State B. Besides, a country having tracking facilities and using them exclusively for its own space programs would have no obligation at all towards other countries.... Finally, the installation of tracking facilities in the territory of a host country raised many technical and political questions which could only be dealt with bilaterally."[11] Notwithstanding the strenuous objections of the United States and its supporters, the Soviets tabled a revised working paper which reiterated its earlier position, but stated that any expenses incurred by a party to the Treaty in rendering assistance to another party for the purpose of observing the flight of space objects would be reimbursed by the party receiving the assistance.

The New York (Second) portion of the Fifth Session adjourned without an accommodation on the use of tracking facilities. Agreement was finally reached on the text of Article X after extensive bilateral negotiations by the United States, the Soviet Union, and other States, particularly those which had already granted tracking facilities to the United States.

Parties to the Treaty which afford tracking facilities to other parties are only obligated to "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." This language recognizes that there must be agreement between the parties concerned for the establishment of a tracking facility.

Article XII of the Treaty is another provision which reflects a compromise of United States and Soviet positions. The United States draft initially provided that "All areas of celestial bodies, including all stations, installations, equipment and space vehicles on celestial bodies, shall be open at all times to representatives of other States conducting activities on celestial bodies"[12] The Soviet draft provided that "there shall be free access to all regions of celestial bodies "but this related more to the broad principle of freedom of scientific investigation on celestial bodies which was eventually covered by Article I of the Treaty. The Soviet delegation accepted the United States draft subject to deleting the words "all areas of celestial bodies, including" and the words "at all times" and the addition of the phrase: "on the basis of reciprocity under the conditions that the time of the visit is to be agreed between the parties concerned." The United States was seeking a treaty provision providing for an unlimited right of access. The Soviets, while accepting the principle of open access, was seeking to impose conditions upon the ability of individual nations to exercise that right. The Soviet position that the right of access to stations, etc. should not be so absolute as to endanger the lives of astronauts or to interfere with normal operations caught favor with other delegations. However, the Soviet suggestion that access should be on the basis of "reciprocity" provoked considerable discussion whereupon the United States delegate acceded to including "reciprocity" language in the treaty provision covering access to stations, etc. subject to certain interpretative caveats.[13] The issue was resolved when the United States introduced a revised version of Article 6, omitting the phrase "at all times" and adding the language that was eventually adopted as the second sentence of Article XII of the Treaty.

The first twelve articles of the Outer Space Treaty prescribe, more or less, the general rules governing the conduct of the parties to the Treaty. Article XIII seeks to establish the applicability of the substantive principles to actions by the parties whether taken singly, jointly, or within the framework of international organizations. It does not provide a mechanism whereby international organizations can become, for all practical purposes, parties to the

[11] Sum. Rep. 73 at 4-5.

[12] Article 6 of the United States draft was based on Article VII, para. 3, of the Antarctic Treaty.

[13] This acceptance was based upon the understanding that the right of access by one state is not conditioned upon whether a second state wishes to exercise its right of access.

Treaty. It does, however, provide that the provisions of the Treaty shall apply to space activities carried out by parties to the Treaty within the framework of international intergovernmental organizations.

Miscellaneous Matters

The Treaty does not include a provision for the resolution of disputes arising between parties to the Treaty over matters covered therein. Both the United States and Soviet drafts contained articles on settlement of disputes. Earlier sessions of the Legal Subcommittee, however, had revealed an inability for the two delegations to compromise their differences on this matter. In the interest of expediting agreement on the Treaty as a whole, neither pressed for inclusion of a specific provision on this topic.

The only remaining provision which caused controversy was the one that provides that the Treaty shall be open to all States for signature. This was the position advocated by the Soviet Union. The United States proposed that the Treaty "be open for signature by States Members of the United Nations or of any of the specialized agencies or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party." This latter formulation would have excluded certain non-United Nations members from being permitted to become parties to the Treaty, notably Communist China and East Germany. Because of the very broad geographical coverage on the Treaty, the United States agreed to the Soviet formulation but subject to the understanding that accession to the Treaty by a regime or entity not recognized by the United States does not, without more, amount to recognition of that regime or entity by the United States.

Little need to be said about the remaining provisions of the Treaty. There was some debate over what agency would constitute the depositary authority. Other portions of the Treaty concern the mechanics and legal effect of ratification and deposit of the appropriate instruments; the method for amending the Treaty, how a party may withdraw from the Treaty; and that Chinese, English, French, Russian, and Spanish texts of the Treaty are equally authentic.

CONCLUSION

The Treaty was approved by acclamation on 19 December 1966 by the United Nations General Assembly. The Treaty was open for signature in Washington, London, and Moscow on 27 January 1967. Sixty nations signed the Treaty on that date. Since the signing and ratification of the Treaty, the activities of human beings in outer space and on celestial bodies have been subjected to a regime of law. The Treaty reflects a broad international consensus that outer space and celestial bodies are to be free for exploration and use for the benefit of all mankind; that the principles of international law are applicable thereto; that celestial bodies are to be devoted exclusively to peaceful purposes, and weapons of mass destruction are to be banned from outer space; that assistance is to be rendered to astronauts; that States are to be held internationally responsible for their activities in outer space, and held liable for damages caused thereby; that ownership of objects is not changed by their presence in outer space and on celestial bodies; that harmful contamination of the environment of earth, outer space, and celestial bodies shall be avoided; that information gathered from activities in outer space and on celestial bodies is to be broadly disseminated; and that stations, installations, etc., on celestial bodies are to be open for inspection.

In establishing these principles in treaty form, the parties are now contractually obligated to carry out their activities in outer space and on celestial bodies in accordance with accepted norms and goals validated in a legal form.