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COMMITTEE ON THE PEACEFUL USES  
OF OUTER SPACE

DRAFT REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF  
OUTER SPACE ON THE WORK OF ITS TWENTY-FIRST SESSION

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Addendum

II. RECOMMENDATIONS AND DECISIONS

A. Report of the Legal Sub-Committee

1. The Committee took note with appreciation of the report of the Legal Sub-Committee on the work of its seventeenth session (A/AC.105/218) covering the results of its deliberations on the four items assigned to it by the General Assembly in its resolution 32/196 of 20 December 1977.
2. The Committee took note of the work done by the Legal Sub-Committee in the elaboration of draft principles governing the use by States of artificial earth satellites for direct television broadcasting, in accordance with General Assembly resolution 32/196. In particular, the Committee noted that the Sub-Committee, through its Working Group II, had concentrated on the draft principle on "Consultations and Agreements between States" and had been able to reach tentative agreement on reducing to four from six the alternatives in paragraph 3 of that draft principle. The Committee also noted that there had been an exchange of views on the other remaining issues as well as on the preamble but that no agreement was possible due to lack of consensus.
3. The Committee, having heard the views of its members on the outstanding issues, recommended that the Legal Sub-Committee, at its nineteenth session, should continue to consider, as a matter of high priority, the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting, in accordance with General Assembly resolution 32/196 and previous General Assembly resolutions relating to this item.
4. The Committee noted that the Legal Sub-Committee, in continuing its detailed consideration of the items relating to legal implications of earth resources

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survey by remote sensing satellites, as requested by the General Assembly in resolution 32/196, had made further progress. In particular, the Committee noted that, through its Working Group III, the Legal Sub-Committee had been able to give consideration to the formulation of five additional draft principles on the key issues involved but that, due to lack of consensus, the texts of those draft principles had to be placed within square brackets. The Committee also noted with satisfaction that it had been possible to remove several square brackets in the draft principles formulated in the previous year and that it had been possible to adopt a tentative text on definitions incorporating the technical definitions previously formulated by the Scientific and Technical Sub-Committee.

5. The Committee, having heard the views of its members on the outstanding issues, recommended that the Legal Sub-Committee should continue, on the basis of high priority, to give detailed consideration to the legal implications of remote sensing, with the aim of formulating draft principles relating to remote sensing.

6. The Committee took note of the work done by the Legal Sub-Committee in its effort to complete the text of the draft agreement relating to the moon and other celestial bodies. The Committee noted, in particular, that Working Group I of the Sub-Committee continued to give priority to the question of natural resources of the moon, which was widely considered as the key issue whose solution could facilitate an agreement on the other remaining issues. The Committee was gratified to note that, through informal consultations, the text of a tentative draft agreement was elaborated by the Austrian delegation with the hope that it could serve as a basis for the definitive formulation on an international instrument but that due to lack of time it was not possible to consider it in the Working Group and therefore was annexed to its report (A/AC.105/218, annex I, appendix) for future consideration.

7. In this connexion, the Committee noted the hope expressed by the Working Group in paragraph 4 of its report (A/AC.105/218, annex I) that the work on the agreement could be taken up again at the current session of the Committee on the Peaceful Uses of Outer Space.

8. In response to this recommendation, the Committee, at its 183rd meeting, agreed to establish an informal working group of the whole to review the outstanding matters with a view to achieving progress towards agreement on this item.

9. The informal working group reviewed the matter under the chairmanship of Mr. Gyula K. Szelei (Hungary), who reported to the Committee at its 186th meeting.

10. The Committee, having heard the views of its members and having noted the report of the Chairman of the Informal Working Group, expressed its appreciation to the delegation of Austria for the outstanding efforts made by it to facilitate a compromise on the outstanding issues with a view to reaching a consensus on this item and was of the view that the text of the tentative draft agreement elaborated by Austria and which is annexed to this report could facilitate the reaching of a consensus on an international instrument relating to the moon and other celestial bodies. In this connexion, the Committee also noted that there

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are also other proposals on this item presented at previous sessions which might also facilitate the work of the Sub-Committee.

11. The Committee, accordingly recommended that the Legal Sub-Committee, at its nineteenth session, should continue to consider, as a matter of high priority, the draft agreement relating to the moon and other celestial bodies.

12. In the course of its present session, the Committee also heard statements by its members underlining some basic issues with which the Sub-Committee had been confronted on the three priority items on the agenda of the Legal Sub-Committee and also expressing their disappointment at the lack of progress in the Legal Sub-Committee on the three priority items. The Committee therefore requested the Legal Sub-Committee to make every effort to accelerate its work with a view to completing consideration of the three priority items on its agenda.

13. The Committee also noted that the questions relating to the definition and/or delimitation of outer space and outer-space activities had also been discussed in the Legal Sub-Committee bearing in mind also the questions relating to the geostationary orbit. The Committee noted that this discussion had been the occasion for a wide and interesting exchange of views about the question of definition and/or delimitation of outer space. The Committee noted in this connexion, that some delegations supported the proposal by the delegation of the USSR, that space above 100 or 110 kilometres be considered outer space without, however, determining the space below that as air space but through which space vehicles will have the right of innocent passage for the purpose of launching of satellite and their return to earth. The delegation of the USSR suggested that such delimitation should be established in a treaty form in several stages, the first stage being the agreement on the lower limit of outer space. The question of the upper limit of air space might be a matter for further consideration bearing in mind the fields of competence of other international organizations which might finally lead to the establishment of a boundary between air and outer space.

14. The Committee noted that in the course of the discussion on the item relating to definition and/or delimitation of outer space in the Legal Sub-Committee extensive consideration was also given this year to the question of the geostationary orbit. The Committee noted that there were wide variety of divergent views on this matter as reported in paragraphs 40 to 45 of the Legal Sub-Committee's report. Divergence of views was also noticeable at the current session of the Committee, as some delegations considered that the geostationary orbit, both because of its physical characteristics and technical attributes, and because of existing legal regulations, constituted a limited natural resource over which equatorial countries exercise sovereign rights in accordance with international law, while other delegations held the view that geostationary orbits are inseparable from outer space and all relevant provisions of the Outer Space Treaty of 1967 are applicable to them and, therefore, that they are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

15. The Committee decided that, at its nineteenth session, the Legal Sub-Committee

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should pursue its work on the questions related to definition and/or delimitation of outer space and outer-space activities bearing in mind questions relating to the geostationary orbit.

16. The Committee, having discussed the report of the Legal Sub-Committee relating to (a) the elaboration of principles governing the use by States of artificial earth satellites for direct television broadcasting, referred to in paragraphs above, (b) legal implications of remote sensing of the earth from space, as referred to in paragraphs above, (c) the draft treaty relating to the moon, referred to in paragraphs above, and (d) matters relating to the definition and/or delimitation of outer space and outer-space activities, as referred to in paragraphs above, and having heard the views expressed by its members in regard to the programme of work and the priority items to be considered by the Legal Sub-Committee at its next session, recommended that the Legal Sub-Committee should continue to consider with the same high priority the issues covered by items (a), (b) and (c), and called upon the Legal Sub-Committee to continue its work on this basis at its following session bearing in mind paragraph above. The Committee also requested the Legal Sub-Committee to continue its work on item (d) above, and to include in its agenda an item entitled "Other Matters".

17. The Committee noted General Assembly resolution 32/195 of 20 December 1977 commemorating the tenth anniversary of the entry into force 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 inter alia called upon the Secretary-General to undertake research analysing the experience gained in the application of the Treaty and recommended that the Committee on the Peaceful Uses of Outer Space should consider at its current session possible measures to encourage the largest possible number of States to participate in the Treaty.

18. The Committee in this connexion noted that the Secretary-General had submit to the Committee a report in response to the request of the General Assembly (A/AC.105/219) giving the views of States on the experience gained by them in the application of the Treaty. Having taken note of this report, the Committee recommended that the Secretary-General should solicit the views of the Member States who, as yet, have not become parties to the treaty as to their intentions in that regard with a view to encouraging them to become party to it.