

(Mr. de Beausse, France)

Articles I and III of the 1967 outer space Treaty do, of course, state that outer space shall be used in accordance with international law and the Charter of the United Nations. Article III also refers to the maintenance of international peace and security.

The question of the immunity of military observation satellites, including their use in application of Article 2, paragraph 4, of the Charter, is therefore closely bound up with recognition of the international lawfulness of the role they play.

The above-mentioned declaration by President Carter in 1978 establishes a link between military observation satellites and national means of verification, whose lawful use is recognized in the international instruments in force.

With regard to the Soviet Union, the situation is formally less clear, and it is essential for us to know the position of the Soviet delegation on the following three points:

Does the international protection of "national technical means of verification" specifically include satellites? It would seem obvious that it should, but it would be useful if it were clearly recognized.

Is such immunity subject to restrictive interpretations concerning the extent of acceptable verifications, or is any observation capability automatically considered lawful? and lastly,

Does the non-interference clause embodied in Soviet-American bilateral agreements apply to third countries and international organizations?

An answer to these questions might not be necessary if the draft treaty submitted by the Soviet Union on 11 August 1981 did not appear, precisely to leave the door open for all possibilities. As the French and Italian delegations noted in earlier statements, the juxtaposition of article 1 of the draft text, which prohibits the stationing of weapons in outer space, although the term "weapons" is not -- and in our view cannot -- be defined, and article 3 thereof, which, on the other hand, legitimizes the destruction of satellites that might appear to any of the signatories to be designed for a purpose contrary to article 1, is extremely disturbing.

Article 3 not only in effect authorizes States to take the law into their own hands in outer space on the basis of their suspicions, thus creating mistrust and insecurity for all, but also legitimizes the deployment of such anti-satellite systems. In order to be used against possible violators, such systems would, of course, have to be tested, deployed and ready for use.

The wording of article 2 also gives rise to all kinds of questions: when, in the unilateral and subjective judgement of one of the parties, a satellite or space platform is considered as not being used "in strict accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding", is it to be concluded that it is legitimate to interfere with its functioning?

This question is a valid one in view of another proposal submitted by the Soviet Union on 10 August 1972 in connection with television satellites. The proposal provided that a State was entitled to use "the means available to it, not only in its territory, but also in outer space or situated outside its national jurisdiction" against programmes which it considered "unlawful".

Articles 1, 2 and 3 of the Soviet draft treaty which, as indicated above, presuppose the possession of anti-satellite systems for use by what might be called