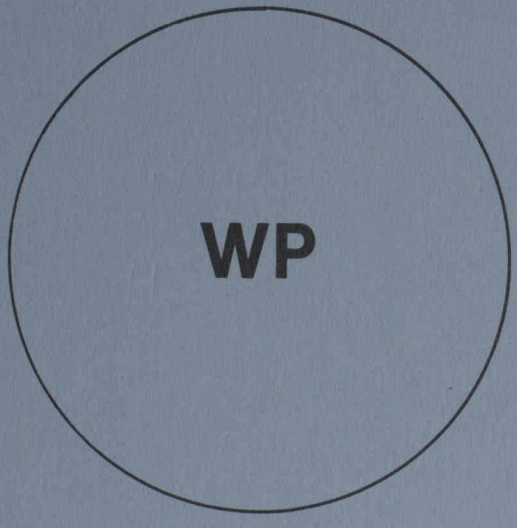
CONFERENCE ON DISARMAMENT

PREVENTION OF AN ARMS RACE IN OUTER SPACE — WORKING PAPERS (WP) 1985



COMPILED BY:

ARMS CONTROL AND DISARMAMENT DIVISION OF
THE DEPARTMENT OF EXTERNAL AFFAIRS
OTTAWA, CANADA

FEBRUARY 1986

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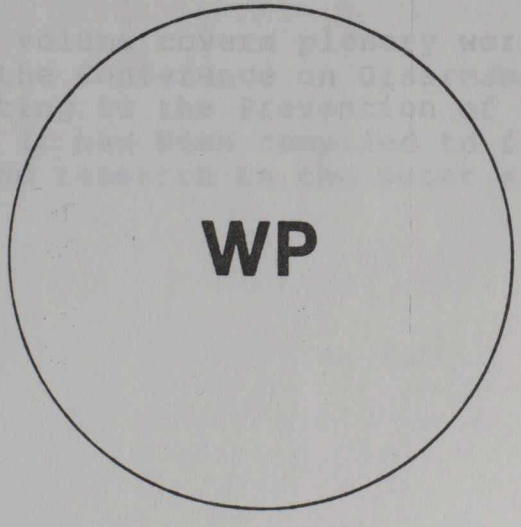

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PREFACE

Conference on Disarmament

This volume covers plenary working papers submitted to the Conference on Disarmament during its 1985 sessions relating to the Prevention of an Arms Race in Outer Space. It has been compiled to facilitate discussions and research on the outer space issue.

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CONFERENCE ON DISARMAMENT (CD)

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CONFERENCE ON DISARMAMENT

CD/542
26 October 1984

ENGLISH
Original: RUSSIAN
(Extract)

REPLIES OF MR. KONSTANTIN U. CHERNENKO TO QUESTIONS OF THE WASHINGTON POST

The Washington Post's Moscow Bureau Chief, Mr. D. Doder, asked Mr. Konstantin U. Chernenko to answer some questions dealing with Soviet-United States relations, a subject which he described as being of concern not only to readers of The Washington Post but to millions of people throughout the world.

Mr. Chernenko's answers are given below.

Question: President Reagan has said that the United States is prepared to resume a dialogue with the Soviet Union on a broad range of questions including arms control. What is the attitude of the Soviet Union towards President Reagan's expression of readiness for talks?

Answer: We have already heard references to the United States Administration's readiness for talks in the past, but they have never been supported by real deeds which would attest to a genuine desire to reach agreement on a just and mutually acceptable basis on even a single one of the essential issues of our relations, particularly in the field of arms limitation and a reduction of the danger of war.

Every time we have put forward concrete proposals, they have run into a blank wall. Let me give some examples.

This is what happened last March when we identified a whole set of problems. Reaching agreement on them - or at least on some of them - would mean a real shift both in Soviet-United States relations and in the international situation as a whole. But they simply avoided responding to our proposals.

This was also the case in June, when we proposed reaching agreement on preventing the militarization of outer space. This time we were answered, but with what? An attempt was made to change the very topic of the negotiations; it was proposed to discuss issues relating to nuclear weapons, i.e. issues which had previously been discussed at the talks in Geneva which were wrecked by the United States itself. At the same time, the United States not only refused to remove the obstacles created by the deployment of new United States missiles in Western Europe, but is going ahead with their deployment.

And what about outer space? Instead of preventing an arms race in space, we were invited to set about working out some rules for such a race, and in fact to legalize it. Obviously, we cannot agree to that. Our objective is genuinely peaceful outer space and we shall persistently strive to attain that goal.

These are the facts.

Turning now to President Reagan's statement which you have referred to: if what the President has said about readiness to negotiate is not merely a tactical move, I wish to state that the Soviet Union will not be found wanting. We have always been prepared to undertake serious and businesslike negotiations, and have repeatedly said so.

We are ready to embark on negotiations with a view to working out and concluding an agreement to prevent the militarization of outer space, including complete renunciation of anti-satellite systems, with a mutual moratorium - to be established from the date of the beginning of the talks - on testing and deployment of space weapons. This is precisely the way we formulated our proposal from the outset. Now it is for Washington to respond.

. . .

CONFERENCE ON DISARMAMENT

CD/543
20 December 1984

ENGLISH
Original: RUSSIAN
(Extract)

LETTER DATED 18 DECEMBER 1984 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT FROM THE HEAD OF THE DELEGATION OF THE GERMAN DEMOCRATIC REPUBLIC TO THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF THE COMMUNIQUE OF THE MEETING OF THE COMMITTEE OF FOREIGN MINISTERS OF THE STATES PARTIES TO THE WARSAW TREATY HELD IN BERLIN ON 3 AND 4 DECEMBER 1984

. . .

The States represented at the meeting call attention to the fact that the militarization of outer space, if not prevented in time, would enormously increase the risk of nuclear war and carry the nuclear-arms race to unprecedented heights. They are fully committed to preventing the militarization of outer space, to halting all actions aimed at extending the arms race to outer space, to using it exclusively for peaceful purposes for the benefit of all mankind, and to tackling this task thoroughly and as fast as possible by means of reliably verifiable agreements concluded on a bilateral and multilateral basis. The hope was expressed that all States and above all those with space capabilities, should recognize the need to take measures for the prevention of the militarization of outer space. Emphasis was placed on the role of the United Nations in the solution of this problem.

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CONFERENCE ON DISARMAMENT

CD/545
5 February 1985
ENGLISH
Original: FRENCH
(Extract)

LETTER DATED 31 JANUARY 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT BY THE REPRESENTATIVE OF ROMANIA PRESENTING THE POSITION OF THE SOCIALIST REPUBLIC OF ROMANIA ON DISARMAMENT ISSUES

. . .

The ever more numerous measures for the militarization of outer space are considerably increasing the danger of nuclear disaster. The misuse of space in general, without any control, represents a serious danger for ecological equilibrium and for the life of mankind and of our planet.

Outer space does not belong to any State, it is the common good of all States and all nations. That is why we consider that all activities for the use of outer space for military purposes must be stopped.

It is likewise important to work out general regulations governing the use of space by various countries for peaceful purposes.

We consider it necessary for the United Nations to shoulder the responsibility for the conclusion of an international treaty on outer space. One possibility which could be envisaged would be the organization of a world conference and, possibly, the creation of a special agency for the defence of outer space within the framework of the United Nations.

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CONFERENCE ON DISARMAMENT

CD/548 */
8 February 1985
ENGLISH
Original: RUSSIAN

LETTER DATED 4 FEBRUARY 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE ANSWERS OF THE GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION AND PRESIDENT OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR, K.U. CHERNENKO, TO THE QUESTIONS OF MR. S. LOURI, CORRESPONDENT OF THE AMERICAN TELEVISION COMPANY, CNN, WHICH WERE PUBLISHED ON 2 FEBRUARY 1985

Please find enclosed the answers of the General Secretary of the Central Committee of the Communist Party of the Soviet Union and President of the Presidium of the Supreme Soviet of the USSR, Mr. K.U. Chernenko, to the questions of Mr. S. Louri, correspondent of the American Television Company, CNN, which were published on 2 February 1985.

I should be grateful if you would arrange to have this text circulated as an official document of the Conference on Disarmament.

(Signed) V. Issraelyan

Representative of the USSR to the Conference on Disarmament

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*/ Re-issued for technical reasons.

Answers of Mr. K.U. Chernenko to the questions of Mr. S. Louri, correspondent of the American television company, CNN

Question: Do you think that the agreement reached between the United States and the USSR in Geneva on the negotiations which are to begin on 12 March create the conditions for serious and fruitful consideration of the prevention of an arms race in outer space and the halting of the arms race on Earth?

Answer: We have no doubt about this. Objectively, the agreement on the subject and goals of the forthcoming Soviet-United States negotiations do open up such a possibility. It offers a sound basis, and I would say the only one possible in the present circumstances, for solving the problems of nuclear and space weapons. It is today impossible to limit nuclear weapons, still less to reduce them, without taking effective measures to prevent the militarization of outer space. This inherent link is clearly established in the joint Soviet-American document.

Another fundamental point is that in this document it is clearly stated that the end result of the parties' efforts in the field of arms limitation and reduction should be the complete elimination of nuclear weapons. I would like to remind you that the Soviet Union has consistently advocated this very solution ever since nuclear weapons first appeared. I would point out that so far the United States has not wanted even to discuss this point.

I repeat, the basis exists for serious, purposeful negotiations. The main thing is to follow the agreement reached in Geneva in good faith and to stick to it strictly in all respects in practice.

We shall give our delegation clear instructions to act in this manner, and we expect the United States to do the same.

Question: Why is the Soviet Union so firmly opposed to the United States "strategic defence initiative" concept, bearing in mind that today the United States Government is referring only to scientific research in this field?

Answer: The use of the word "defence" is a play on words. Essentially, this concept is offensive, and in fact aggressive. Its goal is to attempt to disarm the other side, to deprive it of the possibility of making a counter-strike in the event of a nuclear attack against it.

To put it more simply, the aim is to gain the possibility of making a nuclear strike with impunity by protecting oneself against retribution by means of an anti-missile "shield". This is the same old policy of achieving decisive military superiority, with all its consequences for peace and international security.

I think it is clear from this why we are firmly opposed to this concept and these plans.

References to the fact that for the time being plans are limited to scientific research are only misleading. I would remind you that the atom bomb was the result of scientific research under the Manhattan Project. Everyone knows how this turned out for the residents of Hiroshima and Nagasaki. Since then, the whole world, including the Americans themselves, is living in the shadow of nuclear weapons. We cannot now allow a serious danger to come from space.

I would like to be understood correctly. We oppose the spread of the arms race into outer space so strongly not because we cannot respond to these plans on the part of Washington. If we must, we shall do everything, as more than once in the past, to protect our safety and the security of our allies and friends.

However, we must not deceive ourselves: the militarization of outer space would put an end to the permanent Soviet-American agreement on the limitation of anti-ballistic missile systems, as well as many other international agreements in force at the moment. The militarization of outer space would not only signify in fact the end of the process of limiting and reducing nuclear weapons but would trigger off an uncontrolled arms race in all its aspects.

Question: Many American officials have recently stated that the new talks will be difficult and will not lead to rapid agreements. Do you share this point of view? What in your opinion may be the most serious obstacle to a successful outcome for these negotiations?

Answer: Yes, we are aware that statements of this kind have been made in the United States by, among others, officials participating in preparations for the negotiations. These negotiations have not yet begun, and already there is talk of insurmountable difficulties, the public is being prepared in advance for years of fruitless discussions and there are calls not to be "hypnotized" by Geneva but to carry on rapidly expanding nuclear arsenals and developing space programmes. There may also be some talk about the possibility of reaching some agreement, but only of course with regard to individual aspects of nuclear weapons of advantage to the United States, with the question of outer space to be postponed indefinitely.

I would not like to give the impression, however, that we in the Soviet Union think that the coming negotiations will be easy. We look at things realistically and we can see all the difficulties that exist. And these difficulties are not inconsiderable.

However, they can be overcome. For this to happen, both sides must demonstrate good will, a readiness to reach reasonable compromises and strict respect for the principle of equality and equal security.

And, of course, no steps must be taken that hinder constructive negotiations or run counter to the objective of preventing an arms race in outer space and halting the arms race on Earth.

We must think along different lines, namely about how to create a favourable atmosphere for negotiations. There is a real possibility that this can be achieved.

Negotiations, and the attainment of our common objective, namely the eventual elimination of all nuclear weapons, would surely be facilitated if the United States followed the example of the Soviet Union and undertook not to be the first to use nuclear weapons. Freezing nuclear arsenals and totally prohibiting all nuclear weapons tests would put a powerful brake on the nuclear arms race and thus also help the negotiations.

Question: How does the present state of Soviet-American relations affect the general international situation? How can the coming negotiations change this situation?

Answer: Unfortunately, the situation between the Soviet Union and the United States is not ideal. This must, of course, be reflected in the general international situation which remains complex and tense.

Agreement has been reached between the USSR and the United States to conduct negotiations on the central issues concerning general security. This step naturally met with approval and gave rise to hope throughout the world. However, we cannot close our eyes to the fact that the factors causing the tension in the world today have not been eliminated.

Has the United States abolished even one of its programmes aimed at achieving military superiority? No. On the contrary, the arms production line is working at full capacity to achieve this goal. Or has the deployment of new American nuclear missiles in Western Europe stopped? No again.

Nor has the United States refrained from using methods of diktat in relation to other States. The international situation today is characterized by the undeclared war against Nicaragua, support for Israeli aggression in the Middle East and complicity in the racist terror in southern Africa, i.e. political phenomena rejected by the overwhelming majority of people in all continents. The peoples of the world do not accept such policies -- they condemn them and demand that they be stopped.

To sum up, I will say this: mankind has reached a turning point in its history. The very future of human civilization depends on whether solutions can be found to the major questions facing the world today, and above all on whether it is possible to eliminate the threat of nuclear war, to prevent the militarization of outer space and ensure its use solely for peaceful purposes and to combine the efforts of all peoples with a view to resolving global economic and ecological problems.

This, I think, is also the reply to the second part of your question. A favourable outcome to the new Soviet-American negotiations on nuclear and space weapons would have a positive effect on the situation in the world and would represent a major step towards the solution of the crucial problems of today.

The Soviet Union will be working to this end and towards achieving significant and concrete results in Geneva. But everything does not depend solely on the Soviet Union.

People not only recognize the dramatic nature of our time, they perceive more and more clearly the dividing line between the two main policies -- the policy of peace and the policy of preparing for war. Peoples and Governments are firmly in favour of improving the international situation, halting the arms race, ensuring peace in outer space and removing nuclear weapons from the face of the Earth.

This was rightly stated in no uncertain manner by the Heads of State and Government of India, Mexico, Sweden, the United Republic of Tanzania, Argentina and Greece in the declaration just adopted in Delhi.

Our countries are committed to this course because of the great responsibility they bear in relation to present and future generations.

CONFERENCE ON DISARMAMENT

CD/549
6 February 1985
Original: ENGLISH
(Extract)

LETTER DATED 4 FEBRUARY 1985 FROM THE REPRESENTATIVES OF ARGENTINA, INDIA, MEXICO AND SWEDEN ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF THE DELHI DECLARATION

. . .

We reiterate our appeal for an all-embracing halt to the testing, production and deployment of nuclear weapons and their delivery systems. Such a halt would greatly facilitate negotiations. Two specific steps today require special attention: the prevention of an arms race in outer space, and a comprehensive test ban treaty.

Outer space must be used for the benefit of mankind as a whole, not as a battle-ground of the future. We therefore call for the prohibition of the development, testing, production, deployment and use of all space weapons. An arms race in space would be enormously costly, and have grave destabilizing effects. It would also endanger a number of arms limitation and disarmament agreements.

We further urge the nuclear weapon States to immediately halt the testing of all kinds of nuclear weapons, and to conclude, at an early date, a treaty on a nuclear weapon test ban. Such a treaty would be a major step towards ending the continuous modernization of nuclear arsenals.

We are convinced that all such steps, in so far as necessary, can be accompanied by adequate and non-discriminatory measures of verification.

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CONFERENCE ON DISARMAMENT

CD/570 */
27 February 1985

ENGLISH
Original: RUSSIAN

LETTER DATED 21 FEBRUARY 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT BY THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS TRANSMITTING "THE JOINT SOVIET-UNITED STATES STATEMENT" WHICH WAS ISSUED ON 8 JANUARY 1985

I have the honour to transmit herewith the text of a document entitled "Joint United States-Soviet Statement" which was published on 8 January 1985. I also wish to inform you that the USSR and the United States have agreed that the negotiations on nuclear and space arms will begin on 12 March 1985 in Geneva (Switzerland). The USSR delegation will be headed by Ambassador V.P. Karpov, who will at the same time represent the Soviet side in one of the groups of the negotiations; in the other two groups the Soviet side will be represented by Ambassador Y.A. Kvitsinsky and Ambassador A.A. Obukhov. I would request you to arrange to have the Soviet-United States Statement circulated as an official document of the Conference on Disarmament.

V. ISSRAELYAN

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*/ Reissued for technical reasons.

JOINT UNITED STATES-SOVIET STATEMENT

As previously agreed, a meeting was held on 7 and 8 January 1985 in Geneva between George P. Shultz, the United States Secretary of State, and Andrei A. Gromyko, Member of the Politburo of the Central Committee of the CPSU, First Deputy Chairman of the Council of Ministers of the USSR and Minister of Foreign Affairs of the USSR.

During the meeting they discussed the subject and objectives of the forthcoming United States-Soviet negotiations on nuclear and space arms.

The sides agree that the subject of the negotiations will be a complex of questions concerning space and nuclear arms -- both strategic and intermediate-range -- with all these questions considered and resolved in their interrelationship.

The objective of the negotiations will be to work out effective agreements aimed at preventing an arms race in space and terminating it on earth, at limiting and reducing nuclear arms, and at strengthening strategic stability. The negotiations will be conducted by a delegation from each side divided into three groups.

The sides believe that ultimately the forthcoming negotiations, just as efforts in general to limit and reduce arms, should lead to the complete elimination of nuclear arms everywhere.

The date of the beginning of the negotiations and the site of these negotiations will be agreed through diplomatic channels within one month.

CONFERENCE ON DISARMAMENT

CD/571 */
5 March 1985

Original: ENGLISH

LETTER DATED 21 FEBRUARY 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT FROM THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TRANSMITTING A DOCUMENT ENTITLED "JOINT UNITED STATES-SOVIET STATEMENT"

I have the honour to transmit herewith the text of a document entitled "Joint United States-Soviet Statement", which was issued on 8 January 1985. I wish further to inform the Conference on Disarmament that bilateral negotiations on nuclear and space arms will begin in Geneva on 12 March 1985. The United States delegation will be headed by Ambassador Max M. Kampelman, who will also head the United States team for the group on space arms; Ambassador John Tower will head the team for the group on strategic nuclear arms; and Ambassador Maynard W. Glitman will head the team on intermediate-range nuclear arms. I request that you make arrangements for the Statement to be issued as an official document of the Conference on Disarmament.

Donald Lowitz
United States Representative to the
Conference on Disarmament

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*/ Reissued for technical reasons.

GE.85-60662

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The date of the beginning of the negotiations and the site of these negotiations will be agreed through diplomatic channels within one month.

CONFERENCE ON DISARMAMENT

CD/572
25 February 1985

ENGLISH
Original: RUSSIAN
(Extract)

LETTER DATED 25 FEBRUARY 1985 FROM THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING A TEXT ENTITLED, "NOT SABOTAGE BUT COMPLIANCE WITH OBLIGATIONS"

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pages 2-3

The Soviet Union has repeatedly drawn the attention of the United States administration to all this, advancing concrete, incontrovertible facts. Suffice it to recall the Soviet memorandum transmitted to the United States State Department on 27 January and the TASS statement of 21 October 1984. The Soviet Union has repeatedly made pertinent, serious claims of the United States in the Standing Consultative Commission, the body specially set up to further the goals and provisions of strategic arms limitation agreements. The United States has yet to give any convincing responses to these questions from the Soviet side, despite the fact that the issues concerned are extremely serious.

Firstly, the United States has adopted a course aimed at undermining the indefinite 1972 ABM Treaty. The United States President himself virtually officially declared this intention when he announced his "Star Wars" programme for the creation of a large-scale ABM system with space-based elements, a system which is directly prohibited by the Treaty. The United States has already programmed the allocation of 26 billion dollars to achieve this illegal goal. And this is only the first step in plans for an arms race and the undermining of strategic stability on the implementation of which Washington is prepared to spend a total of over a trillion dollars.

It is by no means only theoretical investigation and scientific research in which they are engaged in this connection. Work is going ahead at full speed on the development of mobile ABM phased-array radars, Minutemen missiles are being tested to give them an anti-missile capability, multiple warhead components are being developed for anti-missile missiles, etc. All of this is in obvious violation of the clear provisions of the 1972 Treaty.

Part of Washington's effort to prepare for the establishment of a large-scale anti-missile defence system is the deployment within the United States of the PAVE PAWS phased-array radar system, which provides radar coverage of the major part of the territory of the United States.

These facts are general knowledge, and the United States Administration does not even attempt to refute a single one of them.

CONFERENCE ON DISARMAMENT

CD/579
19 March 1985
ENGLISH
Original: CHINESE

China

Working Paper

China's Basic Position on the Prevention of an Arms Race in Outer Space

1. With the intensification of the development of anti-satellite and anti-ballistic missile weapons, the question of preventing an arms race in outer space is becoming ever more urgent. Resolution A/39/59 adopted at the thirty-ninth session of the United Nations General Assembly by an overwhelming majority with only one abstention fully reflects the grave concern and anxiety of the international community about an arms race in outer space.

2. Consistent with its stand against any arms race, China is opposed to an arms race in outer space. It holds that the exploration and use of outer space should in the interest of mankind serve to promote the economic, scientific and cultural development of all countries. China fully subscribes to the objective of "the non-militarization of outer space" and "the exclusive use of outer space for peaceful purposes."

3. In principle, "the non-militarization of outer space" requires both space weapons with actual lethal or destructive power and military satellites of all types be limited and prohibited.

4. In view of their complexities, the limitation and prohibition of military satellites may be left to be considered and resolved at an appropriate time in future.

5. At the present stage, the primary objective in the efforts to prevent an arms race in outer space should be "the de-weaponization of outer space", i.e. banning the development, testing, production, deployment and use of any space weapons and the thorough destruction of all space weapons.

6. The aforesaid space weapons should include all devices or installations either space-, land-, sea-, or atmosphere-based, which are designed to attack or damage spacecraft in outer space, or disrupt their normal functioning, or change their orbits; and all devices or installations based in space (including those based on the moon and other celestial bodies) which are designed to attack or damage objects in the atmosphere, or on land, or at sea, or disrupt their normal functioning.

7. While certain restrictions on the military activities in outer space have been provided by the existing international legal instruments regarding outer space, especially the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, these documents, however, because of their limited scope, are far from being adequate for the total prevention of an arms race in outer space. It is, therefore, necessary to undertake an analysis and examination of the major existing instruments, and to formulate new provisions and conclude new agreements.

8. The two Powers which possess the greatest space capabilities and are right now intensifying their efforts in the development and testing of space weapons bear special responsibilities for the prevention of an arms race in outer space. They should demonstrate genuine political will, conduct their bilateral negotiations in good faith and keep the Conference on Disarmament appropriately informed of the progress of the negotiations.

9. The prevention of an arms race in outer space is a priority agenda item of the Conference on Disarmament. As the single multilateral negotiating forum on disarmament, the Conference on Disarmament should establish a subsidiary body and undertake negotiations on this subject. The mandate of the subsidiary body should have a clear ultimate objective, i.e. the conclusion of an agreement or agreements; and at the same time, may include an exploratory stage to identify issues.

10. In order to create conditions and an atmosphere favourable for negotiations, all countries with space capabilities should refrain from developing, testing and deploying space weapons.

CONFERENCE ON DISARMAMENT

CD/584
1 April 1985
Original: ENGLISH

DECISION ON THE ESTABLISHMENT OF AN AD HOC COMMITTEE ON ITEM 5 OF THE AGENDA ENTITLED: "PREVENTION OF AN ARMS RACE IN OUTER SPACE"

In the exercise of its responsibilities as the multilateral disarmament negotiating forum in accordance with paragraph 120 of the Final Document of the First Special Session of the General Assembly devoted to Disarmament, the Conference on Disarmament decides to establish an Ad Hoc Committee under item 5 of its agenda entitled "Prevention of an arms race in outer space".

The Conference requests the Ad Hoc Committee, in discharging that responsibility, to examine, as a first step at this stage, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space.

The Ad Hoc Committee will take into account all existing agreements, existing proposals and future initiatives and report on the progress of its work to the Conference on Disarmament before the end of its 1985 session.

GE.85-60922

CONFERENCE ON DISARMAMENT

CD/587
9 April 1985
ENGLISH
Original: RUSSIAN
(Extract)

LETTER DATED 9 APRIL 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT FROM THE PERMANENT REPRESENTATIVE OF THE USSR TRANSMITTING THE TEXT OF AN INTERVIEW GIVEN BY THE GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION, MR. MIKHAIL GORBACHEV, TO THE NEWSPAPER PRAVDA

. . .

Everybody has heard a lot about the "Star Wars" plans announced by the United States Administration. The terminology appears to be taken from science fiction, but the attempt is to use it as a screen to conceal the real and grave danger to our planet. I would describe as fantastic the arguments used to substantiate the militarization of outer space. They are talking about defence but preparing for attack; they are claiming a space shield, but forging a space sword; they are promising to eliminate nuclear arms, but in practice building up these arms and perfecting them. They are promising the world stability, but in reality striving to wreck the military balance.

Since people intuitively feel the danger of the "Star Wars" plans, the authors of these plans want to make them believe that they supposedly amount to nothing more than harmless research, which, moreover, allegedly holds out the promise of technological benefits. By using this bait the authors of these plans want to turn their allies too into accomplices in this dangerous project.

. . .

CONFERENCE ON DISARMAMENT

CD/607
CD/OS/WP.3
5 July 1985

ENGLISH
Original: RUSSIAN

PREVENTION OF AN ARMS RACE IN OUTER SPACE

Working Paper of a group of socialist countries

1. The world has recently come to an extremely dangerous frontier: the arms race, which has reached unprecedented dimensions, is not only intensifying but also threatening to spread to outer space. The danger that space will become the springboard for aggression and war is increasingly real. Programmes are being carried out to develop space weapons that are intended to destroy objects in space and attack targets on Earth from space. These activities, which stem from calculations on achieving military superiority, are likely to make an arms race in space irreversible and seriously destabilize the situation, and they heighten the threat of nuclear war. The onset of an arms race in outer space will undermine the prospects for arms limitation and reduction as a whole. The militarization of space, if it cannot be halted, will swallow up enormous material and intellectual resources, thereby doing great damage to the peaceful development of mankind and the solution of pressing global problems, and create insurmountable obstacles to international co-operation in the peaceful use of outer space.

2. It is necessary to prevent this fatal course of events, and not to allow space to be turned into a source of military danger. The exclusion of space from the sphere of the arms race must be a strict norm in the policy of States, and a universally recognized international obligation.

3. The socialist States consider that strike weapons of any kind - conventional, nuclear, laser, particle-beam or any other form - whether in manned or unmanned systems should not be introduced into or stationed in space. Space weapons should not be developed, tested or deployed either for anti-missile defence, or as anti-satellite systems, or for use against targets on Earth or in the air. Such systems which have already been developed should be destroyed. In other words, the socialist States propose that agreement should be reached on the prohibition and elimination of an entire class of weapons, namely, attack space systems, including space-based anti-missile systems and anti-satellite systems.

4. Strict compliance with the indefinite 1972 Treaty on the Limitation of Anti-Ballistic-Missile Systems between the USSR and the United States is of particular significance for the prevention of the militarization of space.

The socialist States attach great importance to the absolute and strict implementation of multilateral agreements limiting the use of space for military purposes. These include 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 1967, and the Treaty banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water of 1963.

5. Given present developments, urgent measures must be taken to prevent an arms race in outer space. These measures may be worked out and adopted through both bilateral and multilateral negotiations. The socialist States consider that bilateral and multilateral negotiations complement each other.

6. The socialist States express satisfaction at the fact that the Conference on Disarmament was able to take the decision to set up an ad hoc committee on item 5 of its agenda, "Prevention of an arms race in outer space". They are ready to co-operate with the other States members in the implementation of the Ad Hoc Committee's mandate.

7. In the view of the socialist States, in carrying out its mandate the ad hoc committee should as a first step at this stage concentrate on examining the following issues:

(a) Political, military, economic and other consequences of the extension of the arms race into outer space.

(b) Significance of existing international agreements relating to the limitation of military activity in outer space for the prevention of an arms race in space.

(c) Proposals by States members of the Conference on Disarmament on the prevention of an arms race in outer space. Under this point, consideration should be given in particular to the proposals of the USSR on the conclusion of a treaty on the prohibition of the stationing of weapons of any kind in outer space (1981), the conclusion of a treaty on the prohibition of the use of force in outer space and from space against the Earth (1983) and on the use of outer space exclusively for peaceful purposes for the benefit of mankind.

8. The socialist States express the hope that the successful fulfilment of its mandate by the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space will enable the Conference on Disarmament rapidly to embark upon negotiations on the conclusion of an agreement or agreements, as appropriate, for the prevention of an arms race in outer space in all its aspects, as it was recommended to do by the United Nations General Assembly. Only the guaranteed prevention of the militarization of space will make it possible to use space for creative rather than destructive purposes, and open the way for uniting the efforts of all States for the peaceful use of outer space.

CONFERENCE ON DISARMAMENT

CD/609
8 July 1985

ENGLISH
Original: SPANISH/ENG
(Extract)

LETTER DATED 8 JULY 1985 FROM THE PERMANENT REPRESENTATIVE OF MEXICO ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF THE STATEMENT ADOPTED BY THE SYMPOSIUM ON "SURVIVAL IN THE NUCLEAR AGE" HELD IN NEW YORK ON 25 AND 26 APRIL 1985

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pages 4-5

Outer Space

Outer space is a "common heritage of mankind". It is in the common interest that the exploration and use of outer space should be solely for peaceful purposes, that the arms race should not be extended there, and that outer space should not become a battle-ground of the future. Strategic defence initiatives relating to ballistic missile defence systems, under research and development, and anti-satellite systems, raise the serious possibility of militarization of outer space and a dangerous escalation of the nuclear arms race. They also threaten the viability of several existing arms limitation agreements. They introduce an altogether new element which is dangerous and destabilizing and might actually provoke the use of nuclear weapons by either side. Instead of rendering nuclear weapons obsolete, it is more likely to result in a redoubled arms race in both defensive and offensive weapons.

These developments offer no substantial defence against strategic ballistic missiles, and do not limit the effectiveness of other systems - such as bomber aircraft and cruise missiles. At today's levels of super power deployment - about 10,000 strategic warheads on each side - even a miraculous 95 per cent protection level would be insufficient to save either society from utter destruction in the event of general nuclear war. Any effort in research or testing will inevitably lead to a reciprocal effort by the other side, and so each side will move to more offensive systems, of submarine launched missiles, cruise missiles, and advanced technology aircraft and missiles in order to overwhelm or evade the defence.

The collective weight of world scientific opinion rejects a "Star Wars" programme as an exercise in futility. In an environment of tension and insecurity, it is a highly dangerous and wasteful investment in delusion. There is no technical salvation from the threat of nuclear war. Only political solutions leading to the elimination of nuclear weapons can avert the danger.

All nations should, therefore, agree on a ban on all testing and deployment in outer space of any outer space-based weapon for the destruction of objects on the earth, in the atmosphere or in outer space; and of any ground based weapon for the destruction of objects in outer space.

. . .

CONFERENCE ON DISARMAMENT

CD/611
10 July 1985

ENGLISH
Original: RUSSIAN

LETTER DATED 9 JULY 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT FROM THE REPRESENTATIVE OF THE USSR TRANSMITTING THE TEXT OF THE REPLY OF THE GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION, Mr. MIKHAIL GORBACHEV, TO THE UNION OF CONCERNED SCIENTISTS, PUBLISHED ON 6 JULY 1985

I have the honour to transmit herewith the text of the reply by Mr. M.S. Gorbachev, General Secretary of the Central Committee of the CPSU, to a letter from the United States public organization "Union of Concerned Scientists", published on 6 July 1985.

I should be grateful if you could arrange to circulate this text as an official document of the Conference on Disarmament.

(Signed) V. ISSRAELYAN

GE.85-62351

OUTER SPACE MUST SERVE PEACE

Reply by Mr. M.S. Gorbachev to a letter from the Union of Concerned Scientists

Dear Mr. Kendall,

In reply to the letter sent by you on behalf of the Union of Concerned Scientists containing an appeal for the prohibition of space weapons, I wish to say that I feel profound respect for the opinions of eminent scientists who recognize more clearly than many others the dangerous consequences for mankind which the spread of the arms race to outer space and the transformation of outer space into an arena of military rivalry would entail.

The Union of Concerned Scientists rightly demands that a clear and irreversible political decision should be taken to prevent the militarization of outer space and leave it free for peaceful co-operation. The problem truly calls for a bold approach. Yesterday's yardsticks, narrow ideas about one-sided benefits and advantages - illusory in any case - will not do here. Now, as never before, what is needed is a far-sighted policy based on an understanding of realities and of the dangers we shall inevitably encounter tomorrow if those who can and must take the only right decision shirk their responsibility today.

On behalf of the Soviet leadership I should like to state in all certainty that the Soviet Union will not be the first to take weapons into outer space. We shall make every effort to persuade other countries too, and above all the United States of America, not to take such a fatal step, which would inevitably increase the threat of nuclear war and spur on an uncontrolled arms race in all directions.

With this goal in view, the Soviet Union, as you must surely know, has submitted a radical proposal in the United Nations - a draft treaty on the prohibition of the use of force in outer space and from space against the Earth. If the United States of America joined the overwhelming majority of States which have supported this initiative, the question of weapons in space could be closed once and for all.

At the Soviet Union-United States negotiations on nuclear and space arms in Geneva we are endeavouring to reach agreement on a complete ban on the development, testing and deployment of strike systems in outer space. Such a ban would not only make it possible to preserve outer space for peaceful development, exploration and scientific discovery but also to embark upon a process of radical reduction and destruction of nuclear weapons.

More than once, we have also taken unilateral action intended to give the United States a good example. The moratorium placed by the Soviet Union on the stationing of anti-satellite weapons in outer space has now been in force for two years. and will remain in force for as long as other States act in the same way. Our proposal that both parties should completely cease work on the development of new anti-satellite systems and that the systems which the USSR and the United States of America already possess, including those whose testing has not been completed, should be destroyed lies on the table in Washington. The actions of the United States side will very shortly show what solution the United States Administration is going to prefer.

Strategic stability and confidence would undoubtedly be strengthened if the United States of America together with the USSR agreed to reaffirm in binding form its commitment to the régime of the Treaty on the Limitation of Anti-Ballistic Missile Systems, which is of unlimited duration. The Soviet Union is not developing any space strike weapons, a large-scale anti-ballistic missile system or the basis for such a system; it is abiding strictly by its obligations under the Treaty both as a whole and in its several parts; and it is unswervingly observing the spirit and the letter of that most important document. We invite the United States leadership to join us in this matter and to renounce the plans being nurtured for the militarization of outer space, plans which will inevitably lead to the scrapping of that document, the key link in the entire process of nuclear arms limitation.

The USSR is proceeding from the belief that a practical solution of the problem of preventing an arms race in outer space and terminating it on Earth is possible provided both sides have the political will and a sincere desire to strive for that historic goal. The Soviet Union has that desire and that will.

I wish the Union of Concerned Scientists and all its members success in their noble activities in the cause of peace and progress.

Yours sincerely,

M. GORBACHEV

Pravda, 6 July 1985

CONFERENCE ON DISARMAMENT

CD/618
CD/OS/WP.6
23 July 1985
Original: ENGLISH

CANADA

Working Paper

Survey of International Law Relevant to Arms Control and Outer Space

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Preface

For a number of years prior to 1985, the Conference on Disarmament (CD) and its predecessor organizations have recognized the importance of outer space. It was, however, only on 29 March 1985 that the CD succeeded in reaching agreement on a mandate for an ad hoc Committee on the Prevention of an Arms Race in Outer Space. This development was welcomed by Canada and other member nations as a first step toward an organized examination of the subject. This process is in accordance with the United Nations General Assembly resolution which was adopted without dissent during its 39th session on December 12, 1984 and which called upon the CD to consider the question of preventing an arms race in outer space as a matter of priority. The mandate now adopted by the CD is a realistic one. It is neither narrow nor restricted but permits the CD to begin some action and undertake concrete work almost immediately.

The ad hoc Committee on the Prevention of an Arms Race in Outer Space established under the mandate, is "to examine, as a first step at this stage, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space". In the process, it should take into account all existing agreements, existing proposals and future initiatives, then report on the progress of its work to the Conference on Disarmament in August, 1985.

From the Canadian perspective, the creation of the ad hoc Committee on outer space is in line with Canada's expressed policy and constitutes a significant step forward in coming to grips with the subject. The mandate of the ad hoc Committee both complements and accurately reflects the realities concerning the bilateral negotiations already underway between the United States and the Soviet Union in Geneva. It neither undermines, prejudges nor in any way interferes with those negotiations and this fact is considered by Canada to be absolutely central to the successful process of both sets of deliberations.

On 26 August 1982, Canada submitted its first substantive working paper to the CD on the outer space issue. That document entitled "Arms Control and Outer Space" (CD/320) undertook to discuss generally the subject of arms control and outer space in terms of stabilizing and destabilizing characteristics. With the establishment

of an ad hoc Committee to focus in more detail, Canada is prepared to reinforce its efforts and to participate actively and effectively in developing an understanding and consensus for further work relating to the subject of preventing an arms race in outer space.

This working paper is meant to facilitate consideration of this area by the CD by providing a basis for examining its legal context. In general, as a review of international law relating to arms control and outer space, it presents a broad interpretation of a variety of views concerning the significance and application of some of the existing treaties. It does not purport to provide a Canadian government position on any issue. Instead, in terms of the CD mandate relating to the prevention of an arms race in outer space, its objective is to provide a rational basis for discussion from which the ad hoc Committee might wish to develop its approach to the subject. It will be apparent throughout this paper that different interpretations may emerge due to the lack of consensus regarding terminology and definitions relating to the outer space.

I. Introduction

Generally speaking there are four sources of international law as outlined by Article 38(1) of the Statute of the International Court of Justice.[1] These are:

(a) international conventions, whether general or particular, establishing rules expressly recognized by the contracting states;

(b) international custom, as evidence of a general practice accepted as law;

(c) the general principles of law recognized by civilized nations;

(d) ... judicial decisions and the teachings of the most highly qualified publicists of various nations, as subsidiary means for the determination of rules of law.

This paper will limit its consideration to two categories. First, international conventions and treaties relevant to outer space will be reviewed. Treaties express the intention of the parties to create binding obligations under international law. They may also

reflect general principles of law and the obligations undertaken as part of a treaty may obtain broader acceptance so as to become a part of customary law.

Second, this paper will focus on UNGA resolutions some of which may reflect existing customary law or at least be indicative of the directions in which that law is evolving.

Comments by legal analysts have been included in the text where deemed appropriate.

II. International Agreements

Any consideration of international treaty law should be undertaken on the basis of the principles enumerated in the Vienna Convention on the Law of Treaties.[2]

Article 31 of this Convention provides the following general rule of interpretation:

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

   (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;

   (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the contexts:

   (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

   (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

(c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

The discussion of treaties which follows is arranged chronologically by the date of the agreement in question. It should be noted that several treaties are covered which might seem at first glance to be irrelevant to the subject of arms control and outer space. These agreements are included simply because some of their provisions (especially those regarding verification) or the circumstances surrounding their negotiation may shed light on developments respecting arms control and outer space.

(i) The Charter of the United Nations (1945)[3]

The UN Charter has considerable relevance to the subject of arms control and outer space. It is explicitly mentioned in several treaties which deal directly with outer space including the 1967 Outer Space Treaty where parties agree to carry on their activities relating to the exploration and use of outer space "in accordance with international law, including the Charter of the United Nations ..." (Article III; see also the Preamble). Similarly, the Moon Treaty mentions the Charter (Articles II and IV) as does the Environmental Modification Treaty (Preamble and Article V).

Particularly relevant in the context is one of the stated purposes of the UN:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and internatonal law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; (Article 1)

Also important is the Preamble which states that the peoples of the United Nations will ensure that "by

acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest".

States are also inter alia obligated to settle disputes peacefully and refrain from the threat or use of force under Article 2:

> The Organization and its members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.
>
> 1. The Organization is based on the principle of the sovereign equality of all its Members.
>
> 2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
>
> 3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
>
> 4. All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations....

Such obligations would seem to apply also to the activities of states in outer space, especially in view of the provisions of the Outer Space Treaty and other treaties mentioned above.

An important proviso to these obligations under the Charter is contained in Article 51 which states:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect

the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

(ii) Antarctic Treaty (1959)[4]

During the International Geophysical Year (IGY) of 1957[5] the international scientific community conducted a number of studies of man's environment - the earth, the oceans, the atmosphere and outer space. The guidelines for the IGY contained several ideas which were later incorporated in the Antarctic Treaty of 1959, and some of these basic provisions served as precedents for later treaties particularly the 1967 Outer Space Treaty, the 1967 Treaty of Tlatelolco, the 1971 Seabed Treaty, and the 1979 Moon Treaty.

Two of the main purposes of the Antarctic Treaty were to ensure continuation of scientific cooperation and to avoid the militarization of the continent. In regard to the latter, the suitability of Antarctica for nuclear tests and the testing of other military equipment provided a strong incentive to prohibit the military use of Antarctica.

The preamble to the Antarctic Treaty recognized "that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord" indicating that the parties intended to create a legal regime for this area which would ensure peace on the continent and facilitate international cooperation.

In its operative part, the Treaty seeks to preserve a non-militarized status of the Antarctic by prescribing in Article I(1) that it shall be used "for peaceful purposes only" and prohibits "inter alia any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapons".[6] It is interesting to note that certain terms, such as "peaceful purposes", are not defined in the treaty.[7]

The Treaty, according to paragraph 2 of Article I, "shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purposes". This provision is said to have been

included in recognition of the importance of the support rendered, to scientific activities by naval vessels and personnel.[8]

The extent of the freedom of scientific investigation, as established in Article II of the Treaty, is set out in Article III. Freedom of scientific investigation is provided for to the extent to which it was actually exercised during the IGY.[9] Furthermore, one of its important elements is that of international cooperation.[10] The parties to the Treaty agree that to the greatest extent feasible and practicable, exchanges shall take place concerning plans for scientific programmes, or scientific personnel between expeditions and stations, and of scientific observations and results. Provision is also made for close cooperation with the specialized agencies of the United Nations and other international organizations having scientific or technical interest in Antarctica (Article II(2)).

Article V prohibits "any nuclear explosions in Antarctica and the disposal there of radioactive waste material".[11]

In order to promote the objectives and to ensure the observance of the Treaty's provisions, the principle of open inspection was established in Article VII of the Treaty.[12] Under paragraph 3 of Article VII, all areas of Antarctica, including all stations, installations and equipment shall be open at all times to inspection by any observers designated by state parties. Each of these observers shall have complete freedom of access at any time to any or all areas of Antarctica. Aerial observation is also permitted. In order to facilitate observation, information is exchanged between the parties as to expeditions to and within Antarctica, on all stations therein and any military personnel or equipment intended to be introduced into Antarctica (Article IX(1)). No sanctions are provided for non-compliance with the Treaty's provisions. Disputes about interpretation of the Treaty are to be dealt with by consultations. If a dispute remains unresolved, it may be taken to the International Court of Justice (Article XI).

Article IX of the Treaty contains important elements for the joint administration of Antarctica. In particular, representatives of contracting parties so entitled shall meet at suitable intervals for the purpose of exchanging information and for consultation on matters of common interest pertaining to Antarctica; and for

formulating and considering, as well as recommending to their governments, measures to further the principles and objectives of the Treaty. Article XII provides for a review conference thirty years after the Treaty's coming into force.

Prior to the beginning of international cooperation for scientific research, a number of states had already made claims of sovereignty over part of Antarctica. Article IV of the Treaty basically "freezes" the claims to sovereignty and jurisdiction of interested states. Under this provision, the Treaty does not have the effect of a renunciation by any contracting party of previously asserted rights or claims to territorial sovereignty. Furthermore, no new claims or enlargement of any existing claims shall be asserted while the Treaty is in force (Article IV(2)).

Concepts embodied in the Antarctic Treaty, such as the use of this area for peaceful purposes only, the freedom of scientific investigation, the promotion of international cooperation and the exchange of information and scientific personnel constitute examples of provisions which may be of relevance to the subject of arms control and outer space. The Antarctic Treaty is an example of the contribution that international law can make in ensuring a safer world.[13]

(iii) The Partial Test Ban Treaty (1963)

Concern for radioactive fallout caused by nuclear testing was one of the strongest motivating forces behind the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water.[14]

It developed between 1958 and 1962, with negotiations eventually being conducted in the Eighteen Nation Disarmament Committee (ENDC). Lack of progress in this forum led to private negotiations which resulted in the Treaty. The ENDC and its successors have considered but have not concluded an agreement to ban all nuclear tests.

The direct effect of paragraphs 1 and 2 of Article I is such that it is illegal to carry out a nuclear explosion in outer space:

> 1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other

nuclear explosion, at any place under its jurisdiction or control;

(a) in the atmosphere; beyond its limits, including outer space;...

2. Each of the Parties to this Treaty undertakes furthermore to refrain from causing, encouraging, or in any way participating in, the carrying out of any nuclear weapon test explosion, or any other nuclear explosion anywhere which would take place in any of the environments described, or have the effect referred to, in paragraph 1 of this Article.

(iv) Outer Space Treaty (1967)

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies,[15] commonly known as the Outer Space Treaty, is regarded as the cornerstone international space law convention. As is evident from its full title, the Treaty establishes a basic legal framework for general space exploration and utilization. Moreover, it marks an important step in controlling certain, though not all, arms in outer space.

Being the first international convention directly relating to an environment regulated by, at best, nebulous customary international law principles, its significance cannot be overestimated. Its adoption brought about substantive changes in the legal regime of outer space. What before had merely been a set of non-binding guidelines now became legal obligations.

Since the Treaty holds a central position within the legal framework governing all activities carried out in space, it is necessary to examine its provisions closely. Three general themes emerge from such an examination: freedom of exploration and use, peaceful use and cooperation and international responsibility of states for their activities in outer space.

In the operative part of the Treaty, Article I reiterates the primary interests of the international community:

The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests

> of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.
>
> Outer Space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.
>
> There shall be freedom of scientific investigation in outer space, including the moon and other celestial bodies, and States shall facilitate and encourage international cooperation in such investigation.

This Article establishes a basic principle of space law: space shall be free for exploration and use by all states on the basis of equality.

According to Article II, outer space is not subject to national appropriation by claims of sovereignty, by means of use or occupation, or by any other means. This Article reflects the notion of res communis already granted substantial recognition by customary international law. Article III obliges states to undertake space activities "in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding".

The primacy of the common interest of all nations[16] is stressed again in Article IX of the Outer Space Treaty which states that parties shall be guided by the principle of cooperation and mutual assistance in the exploration and use of outer space, and shall conduct all their activities with due regard to the corresponding interests of all other parties to the Treaty. It is worthy of note that in the first three articles of the operative part of the Outer Space Treaty, in which the guiding principles governing space activities have been laid down, no mention of the use of the whole of outer space exclusively for peaceful purposes has been made.[17] It is only with respect to the moon and other celestial bodies that this concept has been accepted (Article IV(2)).

Article IV contains the only provision of the Outer Space Treaty addressed specifically to military activities and reads as follows:

> States Parties to the Treaty undertake not to place in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner.
>
> The moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the moon and other celestial bodies shall also not be prohibited.

The first paragraph of this article codifies the policy set forth in a bilateral pledge by the United States and the Soviet Union, later unanimously adopted as a resolution of the United Nations General Assembly.[18] Within its admitted limits it contributed affirmatively to the stabilization of international relations through the imposition of some restraints on the military use of the space environment.[19] It also expands the prohibition against nuclear tests in outer space contained in the Partial Test Ban Treaty, to encompass any other kind of weapons of mass destruction.

The second paragraph of Article IV is one of the most controversial provisions of the Treaty and has often been cited in support of the claim that the Treaty forbids only those military activities that are enumerated in the above-mentioned article.[20] An argument has been advanced that Article IV, in conjunction with other provisions of the Treaty, imposes "complete demilitarization of outer space".[21] However, the negotiating history of the Treaty, its text and the practice of states would not seem to support this view.

To verify compliance with the provisions of the Outer Space Treaty, Article XII provides for inspection "on the basis of reciprocity" of all stations,

installations and equipment on the moon or other celestial bodies. Advance notice of inspection is required to ensure safety and to avoid interference with the operations of the facility to be visited. This provision for inspections does not, however, apply to objects in earth orbit. Observation of launches and flights of spacecraft on a voluntary basis is also allowed for by Article X. Article XI, which requires states to inform the UN Secretary General, the public and the scientific community "to the greatest extent feasible and practicable, of the nature, conduct, locations and results" of space activities, also has a limited role in the context of verification.

Concerning anti-satellite (ASAT) weapons Article IV of the Outer Space Treaty, read alone, makes certain legal conclusions clear. First, weapons systems of any kind including conventional weapon systems cannot be lawfully employed on the moon or other celestial bodies.[22] Second, the precise language of Article IV is such that ASATs "would not be prevented from being placed in outer space, per se",[23] since there is no specific stipulation in Article IV that space shall be used "exclusively for peaceful purposes" and ASATs are not prima facie weapons of mass destruction. Moreover, the negotiations between the space powers on this matter[31] suggest that they do not regard the terms of the Outer Space Treaty, as prohibiting the emplacement of anti-satellite devices in outer space. This attitude is further reinforced by recent Soviet proposals to ban all weapons in space. Thus, it would appear that the term "weapon of mass destruction" does not cover the emplacement in outer space of non-nuclear ASAT weapons. The same analysis is likely to apply to laser and particle-beam weapon systems with one reservation: the incipient nature of such systems makes it difficult to conclude whether such weapon systems would be for the purpose of mass destruction. This would probably depend on the type of system and its design objectives. Fractional orbital bombardment missiles (FOBS), although clearly weapons of mass destruction, may also not be prohibited by the Outer Space Treaty because they are in "outer space" (as yet undefined in international law) for less than one full orbit around the earth. SALT II, however, does include a provision prohibiting new FOBS systems.

It is worth mentioning that the Outer Space Treaty is not, in fact, an arms control treaty but was in large measure negotiated in COPUOS. COPUOS does not have

a mandate specifically to negotiate matters concerning arms control. That is the specific responsibility of the CD. It is recognized, however, that the arms control and peaceful use aspects of the outer space issue are closely related.

(v) The Treaty of Tlatelolco (1967)

The parties to the Treaty for the Prohibition of Nuclear Weapons in Latin America[24] agree to use nuclear materials under their jurisdiction exclusively for peaceful purposes and to prevent on their territories the testing, use, manufacture, production, acquisition, receipt, storage, installation, deployment or any form of possession of nuclear weapons. They also agree to refrain from engaging in or participating in the testing, use, manufacture, production, possession or control of nuclear weapons (Article I). In essence, the Treaty establishes a nuclear weapons free zone in Latin America.

The safeguards system of the International Atomic Energy Agency applies to peaceful nuclear activities of parties as a control mechanism and for verification purposes (Article XII). In addition, the Convention establishes the Agency for the Prohibition of Nuclear Weapons in Latin America to ensure, among other things, compliance with Treaty provisions (Article VII). The Treaty is noteworthy as representing the first agreement on arms limitation to create an effective regional system of control under a permanent supervisory organ. Specifically, the Agency and the IAEA have the authority to verify that devices and facilities intended for peaceful uses of nuclear energy are not used to test or manufacture nuclear weapons and that explosions for peaceful purposes are compatible with the Treaty. Methods of verification include inspections (Article XVI). Measures are prescribed in the event of violation including referral of the matter to the OAS and UN (Article XX). The Agency is also empowered to enter into relations with any international organization or body, including any future body established to supervise disarmament or measures for the control of armaments in any part of the world (Article XIX).

The Treaty might be seen to serve as an initial model of regional cooperation for the control of arms. The verification provisions also provide a precedent for international control organizations.

(vi) Rescue and Return Agreement (1968)

The Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space[25] as its title suggests provides for the tendering of assistance and the rescue of astronauts in distress whether on sovereign territory or from areas outside of state jurisdiction.[26]

(vii) The Non-Proliferation Treaty (1968)[27]

This Treaty was negotiated and drafted by the ENDC pursuant to the 1965 General Assembly Resolution 2028 (XX) requesting the ENDC to give urgent consideration to the problem of nuclear weapons proliferation.

Article I of the Non-Proliferation Treaty prohibits the transfer, from a nuclear-weapon state "to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly." It also requires nuclear weapon states "not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices".

This is the active prohibition. The corollary is found in Article II which prohibits the corresponding activities on the part of the non-nuclear receiving state.

Article III provides for verification using safeguards established by the International Atomic Energy Agency. The IAEA inspectors have the authority to conduct regular on-site inspections of nuclear facilities coming under the NPT regime. The NPT, therefore, can be said to serve as a precedent for the establishment of an international body empowered to monitor compliance with a multilateral convention dealing with a specific type of weapon.

(viii) The Seabed Treaty (1971)[28]

This Treaty prohibits emplacing on the seabed and the ocean floor, and in the subsoil thereof beyond the outer limit of a coastal zone, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities especially designed for storing, testing or using such weapons (Article I).

Article III, paragraph 1 of the Treaty states that in order to ensure compliance, each state party has the right to verify, through observation, the activities of other parties on the seabed provided only that this observation does not interfere with such activities. Such observation can be conducted by the parties through the use of their own means, with the assistance of other parties or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. Should a state be dissatisfied with its inspection and reasonable doubts remain concerning the fulfillment of obligations assumed under the Treaty, the parties shall consult with a view to removing such doubts (Article III (2)). If doubts still persist, the state questioning compliance may notify the other parties to the Treaty with a view to co-operating on further procedures for verification including appropriate inspection of installations (Article III (3)). Finally, if satisfaction is still lacking, the state may refer the matter to the UN Security Council which is empowered to take any action in accordance with the Charter (Article III (4)). The Final Declaration of the Second Review Conference of the parties to the Seabed Treaty states that paragraphs (2), (3) and (5) of Article III include the right of parties to resort to various international consultative procedures, such as ad hoc consultative groups of experts.

Like the Antarctic Treaty, the Treaty of Tlatelolco and the Outer Space Treaty, the Seabed Treaty prevents the introduction of nuclear weapons to a new region of the earth's environment.

(ix) Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War (1971)[29], Agreement on Measures to Improve the Direct Communications Link (1971)[30] and Agreement on the Prevention of Nuclear War (1973)[31]

In the Prevention of Nuclear War Agreement each side undertakes to act in a manner so as "to prevent the development of situations capable of causing a dangerous exacerbation of their relations, as to avoid military confrontations and as to exclude the outbreak of nuclear war between them and between either of [them] and other countries" (Article I). This is further extended by Article II which requires the parties to refrain from the

threat or use of force against the other or its allies. In a crisis threatening nuclear war the parties agree to hold consultations.

The Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War requires the parties, inter alia, to notify each other immediately of signs of interference with their early warning systems or related communications facilities if such occurrences threaten nuclear war (Article III). There is, in this provision, a recognition that interference with early warning systems (including satellites) could risk the outbreak of nuclear war. Since the parties have agreed in the Prevention of Nuclear War Agreement not to create situations or use force which would endanger international peace and security or cause a dangerous exacerbation of their relations, they have an implied understanding of the need to avoid interfering with early warning satellites.

The 1971 Agreement on Measures to Improve the Direct Communication Link requires the establishment of two additional communications circuits between the superpowers, using satellite communications systems (Article I). Furthermore, "each Party confirms its intention to take all possible measures to ensure the continuous and reliable operation of the communication circuits ..." (Article II). These provisions therefore, to prohibit interference with communications satellites involved in the Direct Communication Link.

(x) Convention on International Liability for Damage Caused by Space Objects (1972)[32]

This Convention is primarily intended to ensure prompt and equitable compensation for victims of damage caused by space objects. It establishes a set of rules for determining the source and measure of liability for damage occurring on earth, in outer space and in airspace. Specific procedures are envisaged for third party arbitration in cases of disagreement on responsibility or payment of damages.

Different degrees of liability apply depending on the location of the damage resulting from space activities. If the damage occurs on the earth's surface or to aircraft in flight then the launching state is absolutely liable (Article II). If, however, the damage is to another space object, then liability only attaches if the damage is due to the launching state's fault (Article III).

While the Convention is not directly relevant to arms control and outer space, it does reinforce the view that states are legally responsible for their activities, presumably including military activities, in outer space. Moreover, should the military activities of a state in outer space cause damage to third parties, presumably civil liability for those damages might follow.

(xi) Biological Weapons Convention (1972)[33]

One of the few truly disarmament agreements, this Convention prohibits the development, production, stockpiling and acquisition of biological warfare agents and weapons including toxins. It also requires the destruction or diversion to peaceful uses of existing stocks.

Only limited provisions are incorporated with regard to handling compliance problems. The parties agree to consult and cooperate with each other to resolve disputes about implementation (Article V). This may take place through appropriate international procedures within the framework of the United Nations. Complaints regarding violations of the treaty can be lodged with the UN Security Council (Article VI) and parties agree to cooperate with any Security Council investigation. Recent difficulties in resolving allegations of the use of chemical and/or toxin agents in South-East Asia and elsewhere illustrate the consequences of the lack of adequate agreed international verification of compliance procedures in such a treaty.

(xii) Anti-Ballistic Missile Treaty (1972)[34]

This Treaty between the USA and USSR prohibits the deployment of anti-ballistic missile (ABM) defences except for limited systems to protect each national capital and one other area (Article I and III). The 1974 Protocol to the Treaty restricts each side to one site only. Moreover, while the Treaty permits the development and testing of fixed land-based ABM systems at selected test sites, the parties undertake "not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based" (Article V (1), emphasis added). It can be noted that research is not expressly prohibited by the Treaty.

Verification of compliance with the ABM Treaty is to be provided by the use of "national technical means... in a manner consistent with generally recognized principles of international law" (Article XII (1)). Each party also agrees not to interfere with the national technical means of the other when used in accordance with Article XII (1). Furthermore, the use of deliberate concealment measures to impede verification by national technical means is prohibited (Article XII (2) and (3)). This provision against non-interference with national technical means has direct relevance to the law of outer space because one of the primary components of national technical means are reconnaissance satellites. In essence this provision reinforces the legitimacy of such satellite activities.

A Standing Consultative Commission is created to deal with compliance issues and other questions relating to the implementation of the Treaty (Article XIII).

(xiii) SALT I (1972)[35] and SALT II (1979)[36]

These agreements limit the number of strategic delivery vehicles that the superpowers may deploy. Only one provision of these agreements directly relates to outer space. Article IX (1)(C) of SALT II prohibits the development, testing or deployment of: "systems for placing into Earth orbit nuclear weapons or any other kind of weapons of mass destruction, including fractional orbital missiles". A common understanding to this provision states that it does not require the dismantling of any existing launchers. This provision, however, would seem to reaffirm and extends for these two states the applicability of the restrictions regarding nuclear weapons incorporated into Article IV of the Outer Space Treaty.

The other features of these agreements that are of most interest here, are those relating to verification. SALT I incorporates the same provision (Article V) regarding use of national technical means as that found in the ABM Treaty (Article XII). Compliance questions are referred to the same Standing Consultative Commission (Article VI).

SALT II also relies for verification on national technical means to be used in accordance with generally recognized principles of international law (Article XV (1)). As in SALT I and the ABM Treaty each party undertakes not to interfere with the other's national technical means (Article XV (2)) and not to use deliberate concealment measures to impede verification by national technical means (Article XV (3)). More precise definitions of concealment are provided in the form of Agreed Statements and Common Understandings. The use of design requirements such as "functionally related observable differences" to distinguish between weapons systems also facilitates verification. As was the case for the ABM Treaty and SALT I, these provisions relating to verification underscores the legitimacy of the use of military reconnaissance satellites which are a major element of national technical means of arms control and disarmament verification.

It is worth noting that recent events have underlined the limitations of national technical means when used alone for verification of strategic arms limits and have emphasized the need for additional effective methods of handling compliance questions.

SALT I expired in 1977 though both sides agreed to abide by its terms after that time. SALT II expires 31 December 1985. Though never ratified, both parties agreed to abide by the terms of SALT II on a reciprocal basis.

(xiv) The Threshold Test Ban Treaty (1974)[37] and the Peaceful Nuclear Explosions Treaty (1976)[38]

These two treaties are bilateral ones between the USA and the USSR. The Threshold Test Ban Treaty prohibits underground nuclear weapons tests exceeding 150 kt (Article I) and limits tests to designated test sites (Para. 1 of Protocol).

Verification, as under the ABM Treaty and SALT Treaties, is to be conducted by each side's national technical means used in a way consistent with international law (Article II). Each party again agrees not to interfere with the national technical means of the other. These national technical means include satellites as well as ground-based seismographic instruments.

In addition, the parties agree to consult about implementation. Noteworthy also is the exchange of data provisions in the Protocol relating to test site coordinates, geology, and test details. This Treaty was not ratified and no data exchange occurred. The parties did however state that they would abide by the 150 kt limit, on a reciprocal basis.

The Peaceful Nuclear Explosions Treaty is intended to complement the Threshold Test Ban Treaty by establishing a regime to govern underground nuclear explosions for peaceful purposes which by definition are those conducted outside test sites specified under the latter treaty. It limits any single peaceful nuclear explosion to 150 kt on a reciprocal basis. Any group of peaceful nuclear explosions is limited to 1500 kt. In the case of a group explosion, observers are to be invited on-site and they can bring their own monitoring equipment. Special detailed procedures for the shipment of this equipment are outlined. Other provisions for inspections are given regarding group explosions and individual explosions of different sizes. For explosions below 150 kt, national technical means of verification are relied upon, together with detailed data on the explosion provided by the party conducting it. The amount of information to be provided varies with the yield of the blast. A joint Consultative Commission is to be established to facilitate exchange of information and verification. Detailed procedures for the conduct of inspections are spelled out in a Protocol.

As with the Threshold Test Ban Treaty, the Peaceful Nuclear Explosions Treaty has not been ratified. The Treaty is significant because it involves on-site inspections that would take place at military-related sites on the territory of each superpower. Moreover, the two Treaties because they refer to non-interference with national technical means, again reinforce the legitimacy of military reconnaissance satellites as verification systems in the arms control and disarmament process.

(xv) The Registration Convention (1975)

The Convention on Registration of Objects Launched into Outer Space[39] entered into force on 13 September 1976. The Treaty establishes a mandatory and uniform registration system for objects launched into outer space. It provides for a general registry which is kept by the United Nations Secretary General and which is

publicly accessible. The Convention also provides a uniform format for information furnished by launching states.

The Treaty is based on the voluntary system established by General Assembly Resolution 1721 of 1961.[40] Under the voluntary system there was, however, no delineation of what details should be provided. Consequently, the information furnished by countries was not uniform and was not reported promptly and on a regular basis.

The Registration Convention is a reflection of the general principles established by the Outer Space Treaty and elaborated through the Rescue Agreement and Liability Convention. While the other treaties do not refer to a central registry system, the Outer Space Treaty does contemplate national registries.[41]

Three reasons have been posited for the establishment of a central registry: effective management of traffic, enforcement of safety standards, and imputation of liability for damage.[42] While the central registry is the most significant feature of the Treaty, it fulfills several other important objectives. Launching countries must maintain a national registry (Article II). Article IV of the Registration Convention requires mandatory reporting to the Secretary-General of the United Nations of information on a number of data, such as the date and location of the launch, changes in orbital parameters after the launch, and the recovery date of the spacecraft. States are not obliged to disclose the specific function of the satellite, but only the "general function of the space objects"(Article 1(e)). Furthermore, the Registration Convention does not require a launching state to provide appropriate identification markings for its spacecraft and its component parts.[43]

It is worthy of note that, notwithstanding the fact that over half of the satellites launched serve military purposes,[44] not one of the launchings registered has ever been described as having a military function.

(xvi) Environmental Modification Convention (1977)

The Environmental Modification Convention[45] as its title suggests aims at prohibiting the hostile use of potentially disastrous environmental modification techniques. This Convention is relevant to outer space

because of the potential of space science and technology for use in environmental modification either for peaceful or hostile uses. The dual-purpose nature of these technologies is explicitly referred to in the Preamble of the Convention which recognizes that the use of such techniques for peaceful purposes could "contribute to the preservation and improvement of the environment for the benefit of present and future generations", while their military or any other hostile application "could have effects extremely harmful to human welfare".

The key provision of the Convention is contained in Article I (1) which prohibits "military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party". Environmental modification techniques are defined as those which can be used "for changing - through the deliberate manipulations of natural processes - the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere, and atmosphere, or of outer space" (Article II, emphasis added). The Convention, therefore, has direct application to outer space.

The Convention does not establish a ban on all environmental modification technologies for military or hostile purposes, but only for those which have widespread, long-lasting or severe effects. No definition of these terms may be found in the Convention itself. However, the understandings which accompany the Convention and form part of its negotiating record, define "widespread" as encompassing an area of several hundred square kilometers; "long-lasting" as lasting for a period of months or approximately a season; and "severe" as involving significant disruption or harm to human life, natural and economic resources or other assets.[46] These broad and legally non-binding provisions do not alter the largely recognized consequence that whatever is not prohibited verbis expressis by the Convention is implicitly permitted.[47] Thus, non-hostile techniques are not prohibited, regardless of their effects, nor are techniques which produce destructive effects below a certain threshold.[48]

Another characteristic of the Convention derives from the dual-purpose character of environmental modification technologies. The Convention states that its provisions "shall not hinder the use of environmental modification techniques for peaceful purposes" (Article

III). As a result of their dual-purpose character, the distinction between peaceful and military applications becomes very difficult to draw. Peaceful applications might include changing rainfall patterns, dissipating fog, and the diversion of hurricanes and earthquakes to name but a few.[49] Hostile applications might include triggering of earthquakes, upsetting the ecological balance of a region and destroying crops. The purpose of using environmental modification techniques in war also includes interfering with communications. Because of the difficulty of distinguishing research and development for peaceful applications from that for hostile uses, nowhere does the Convention prohibit research and development of environmental modification technologies for war-like purposes.

Article III (2) states that parties to the Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of scientific and technological information on the use of environmental modification techniques for peaceful purposes. Article IV provides that each party to the Convention undertakes "to take any measure it considers necessary in accordance with its constitutional process to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control" . Such a provision would seem to have little practical significance since no definition is given as to what constitutes an "activity in violation". Furthermore, recourse to different national laws precludes the establishment of a uniform and objective set of sanctions in case of non-compliance.

No means of verification are provided for in the Convention. However, a recent study[50] has indicated that military and civilian weather satellites could assist in verifying compliance with the provisions of the Convention, though it would be difficult to determine the cause of any unusual developing weather pattern which may have been detected.

Where a state questions compliance with provisions of the treaty, it may request consultation with another state in accordance with Article V. Consultation may also take place through suitable international procedures within the framework of the UN including the services of appropriate international organizations. Furthermore, a Consultative Committee of Experts may be convened to deal with compliance matters. It would be

composed of representatives of any state party wishing to participate. The Committee is charged with transmitting to the Depositary, a report of its findings which would then be distributed to all state parties. Finally, any party having reason to believe that another party is in breach of its treaty obligations, may lodge a complaint with the UN Security Council. The Council is empowered to initiate its own investigation and parties to the Convention are obligated to cooperate with the Security Council.

(xvii) Moon Treaty (1979)

The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies[51] is the most recent agreement dealing directly with outer space. A Resolution was adopted by consensus in the UN General Assembly on 5 December 1979 recommending the Treaty for signature and the Treaty came into force on 11 July 1984.[52] It should be noted that as of 31 March 1984 there are only four parties to this Treaty. The result of lengthy discussion and compromise, the Moon Treaty is a composite of general principles and specific provisions outlining permissible activity on the moon and other celestial bodies.[53] The Treaty is a further elaboration of certain concepts in the Outer Space Treaty. While it does not apply to the earth or earth orbits and while few states are party to the Treaty, the principles it contains regarding space conduct are of great interest.

The Moon Treaty is modeled on the Outer Space Treaty; space activities are to be carried out in accordance with international law in the interest of maintaining peace and security and promoting international cooperation and understanding. Exploration and use is to be carried out for the benefit and in the interests of all nations. All of these principles, while general, are of relevance to space law today.

There are several key articles in the Moon Treaty which serve to establish state conduct for the moon and other celestial bodies. Article IV (1) provides that exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries regardless of their degree of economic or scientific development. In carrying out activities, states shall be guided by the principle of cooperation and mutual assistance.[54] Secondly, scientific investigation must be carried out without discrimination and on the basis of equality and in accordance with international law.

While arms control was not a major focus of discussion during the negotiations, some nations did express concern over the military implications of certain space activities. Article III of the Moon Treaty contains the only provision specifically addressed to military activities. Paragraph 1 provides that the moon and other celestial bodies shall be used "exclusively for peaceful purposes". While in this case the language is virtually identical to that found in Article IV (2) of the Outer Space Treaty, the effect is to expand the area of application of the peaceful purposes admonition.[55] Under the Outer Space Treaty only the moon and celestial bodies were specifically limited to peaceful purposes. Because of the definitional concept contained in Article I of the the Moon Treaty, orbits around and other trajectories to and around the moon and other celestial bodies must also be devoted to peaceful purposes.[56] With regard to Article III (2), some nations wanted to assure that this provision did not differ in effect from Article 2 (4) of the UN Charter and did not derogate from the right of self-defence under Article 51 of the UN Charter. Article III (2) of the Moon Treaty prohibits "any threat or use of force or any other hostile act or threat of hostile act" on the moon. Since there is no definition of the term "hostile act", there is no firm understanding as to how a hostile act might differ from the use of force. In this regard, it should be noted that when France signed the Moon Treaty it reported a clarification to the United Nations as follows:

> France is of the view that the provisions of Article 3, Paragraph 2 of the agreement relating to the use or threat of force cannot be construed as anything other than a reaffirmation, for the purposes of the field of endeavour covered by the agreement, of the principle of the prohibition of the threat or use of force, which states are obliged to observe in their international relations, as set forth in the UN Charter.[57]

Article III (2) also prohibits the use of the moon as a base for threatening the earth or spacecraft.

Paragraph 3 of Article III prohibits orbiting of nuclear and other kinds of mass destruction weapons around the moon and any other trajectory to or around the moon. It also forbids the placement or use of such weapons on the moon. It would seem that paragraph 3 attempts to settle the question caused by the omission of the moon from the prohibition contained in Article IV (1) of the Outer Space Treaty regarding placement of nuclear weapons and other weapons of mass destruction.

Paragraph 4 forbids "the establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres" on the moon.

As regards verification, parties to the agreement are allowed to inspect all space vehicles, equipment, facilities stations and installations belonging to any other party. Pursuant to Article XV (1), the Agreement authorizes every contracting state to conduct such inspection "on its own behalf or with the full or partial assistance of any other state party or through appropriate international procedures within the framework of the United Nations and in accordance with the Charter".

If a party believes another party is not fulfilling the obligations incumbent upon it pursuant to the Moon Treaty, it may request consultations with a view to arriving at a mutually acceptable resolution of any controversy (Article XV (2)). Should no settlement be forthcoming, the parties may take measures to solve their dispute by any other peaceful means. The assistance of the Secretary-General may be sought by either party in order to resolve the controversy (Article XV (3)).

(xviii) International Telecommunication Convention (1982)

The presently applicable International Telecommunication Convention was adopted in 1982 in Nairobi.[58] The purposes of the International Telecommunications Union (ITU) are to maintain and extend international cooperation for the improvement and rational use of telecommunications, to ensure the efficient use of the radio spectrum and to harmonize the actions of states in the attainment of these ends.[59] The ITU is also responsible for the allocation of radio frequencies for all outer space activities and for ensuring that the radio spectrum is utilized without harmful interference. With respect to the use of the geostationary orbit, provision is made requesting states to undertake efficient and economical utilization to ensure equitable access for all members (Article 33).

However, the opportunities for an equitable and rational allocation of orbital positions are reduced by Article 38 (1) of the Convention which states:

> Members retain their entire freedom with regard to military radio installations of their army, naval and air forces.

III. United Nations General Assembly Resolutions

The evolution of space law has closely followed space exploration. It should be noted that even prior to the first launchings, it was thought that on the basis of international law, outer space was res communis.[60] Thus, as was the case with the high seas, space was understood to be free for all to use and to be beyond sovereign claims. Even while the use of outer space was at an experimental stage, the need for its regulation was strongly defended. Initial efforts of the United States in early 1957[61] to ban the use of cosmic space for military purposes did not meet with a favourable response from the Soviet Union.[62] However, the twelfth session of the United Nations General Assembly adopted Resolution 1148 calling for the "joint study of an inspection system designed to ensure that the sending of objects through outer space should be exclusively for peaceful and scientific purposes."[63]

Soon after the launching of the first Soviet and American satellites[64] the international legal aspects of outer space activities began to be examined. In 1958, the United Nations General Assembly created an ad hoc Committee on Peaceful Uses of Outer Space by Resolution 1348 entitled "Question of the Peaceful Use of Outer Space.[65] Already at this early stage the Assembly resolved to "promote energetically the fullest exploration and exploitation of outer space for the benefit of mankind".[66] This was to be achieved on the basis of sovereign equality by international cooperation in the study and utilization of space for peaceful purposes. It was thought that the implementation of these aims could best be carried out by the establishment of an appropriate international body within the framework of the United Nations. Consequently, the ad hoc Committee was formed composed of eighteen members and charged with reporting to the General Assembly at its next session, on:

(1) the activities and resources of the U.N. and other international bodies relating to the peaceful uses of outer space;

(2) the area of international cooperation and programs in the peaceful uses of outer space which could appropriately be undertaken within the U.N.;

(3) the future organizational arrangements to facilitate international cooperation in space activities; and

(4) the nature of legal problems which might arise in carrying out space programs.

The ad hoc Committee obtained permanent status, as a Standing Committee, [67] in 1959 by UNGA Resolution 1472 almost one full year later.[68] This resolution recognized the common interest of mankind as a whole in furthering the peaceful use of outer space and, significantly, made mention of the paramount aim to benefit all states "irrespective of their economic or scientific development" through space exploration. The Assembly also noted that the U.N. should promote international cooperation in outer space. The next significant Resolution, 1721, adopted unanimously in December 1961,[69] would serve to guide the subsequent evolution of space law. In addition to reiterating the afore-mentioned principles, the Assembly adopted the guiding principle that outer space and celestial bodies would be "free for exploration and use by all States in conformity with international law and would not be subject to national appropriation".[70] The Assembly called upon states launching objects to furnish COPUOS with information regarding launch details and acquired scientific and technological knowledge. This information was to be communicated through the Secretary-General who was requested to maintain a public registry of all furnished details. COPUOS was instructed to maintain close links with the Secretariat in order to ensure full cooperation and interaction between government and non-governmental organizations concerned with outer space matters.

Thus by 1961 three important themes had emerged:

(1) that exploration was to be according to international law;

(2) that all states would be free to explore and use the outer space environment;

(3) that space could not be subject to claims of sovereignty.

These themes were further elaborated upon in 1963 by the very important Resolution 1962 entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space".[71] The following guiding principles were propounded:

(1) the exploration and use of outer space should be carried on for the benefit and in the interest of all mankind;

(2) outer space and celestial bodies should be free for exploration and use by all states on a basis of equality and in accordance with international law;

(3) outer space and celestial bodies should not be subject to national appropriation;

(4) the activities of states in the exploration and use of outer space should be carried on in accordance with international law, including the Charter of the United Nations;

(5) states should bear international responsibility for national activities in outer space, this responsibility to be borne by the states alone or by the international organizations and by the states participating in them; it was also set forth that national activities should require continuing supervision by the state concerned;

(6) in the exploration and use of outer space, states should be guided by certain principles of responsibility, as well as request consultation between interested parties;

(7) the state on whose registry an object launched in outer space is carried should retain jurisdiction and control over such object and its component parts;

(8) each state which launches or procures a launching of the object into outer space should be internationally liable for damage to a foreign state by such object or its component parts on the earth, in air space or in outer space;

(9) states should regard astronauts as envoys of mankind in outer space and should render to them all possible assistance; the principle of the return of astronauts and their space vehicles to the state of registry was also laid down.[72]

The Declaration of Legal Principles, as well as its precursor Resolution 1721, did not contain any specific controls on military uses of outer space and/or celestial bodies, but did make reference to the general principle that the exploration and use of outer space should be carried on for peaceful purposes.

Another factor which favoured progress in the enhancement of public order in space during this period could be broadly classified as community concerns. In 1962, within the Eighteen-Nation Committee on Disarmament (ENDC) several countries pressed for priority in the question of the Peaceful Uses of Outer Space.[73] During 1963, a joint draft resolution to ban nuclear and other weapons of mass destruction from outer space was initiated in the ENDC. Following private negotiation and agreement between the United States and the Soviet Union, the draft was referred to the General Assembly. On 13 October 1963, the General Assembly approved the draft as Resolution 1884 (XVIII). In its operative part, the resolution calls upon all states: "(a) to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, installing such weapons on celestial bodies, or stationing such weapons in outer space" or in any way participating in the conduct of the foregoing activities. The substance of this resolution eventually was incorporated into The Outer Space Treaty of 1967 as Article IV (1).

These important concepts formed the basis for conduct in outer space and future space law conventions. It is worthy of note that Resolution 1962 was adopted unanimously. Nevertheless, the adoption of the significant provisions in all the afore-mentioned General Assembly resolutions, while welcomed, were considered only as provisional steps in establishing outer space law.[74] From a legal point of view, General Assembly resolutions do not constitute binding international law, and have the character of recommendations only. However, in some cases certain resolutions, may reflect customary international law or represent a step in the process of the progressive development of the law.

It is noteworthy that as regards Resolution 1962 many states declared, before its adoption, that their governments would consider the resolution as legally binding, or would at least agree to comply with its principles.[75]

However one characterizes the legal impact of General Assembly resolutions, it is evident that subsequent space treaty law has reflected many principles embodied in these early resolutions. More recent resolutions in the General Assembly have had less impact on the development of the law of outer space. They have, however, since 1981, highlighted an apprehension felt by some nations over an apparent trend towards stationing weapons in outer space.

IV. Summary

On the basis of the foregoing review of international law relating to arms control and outer space, certain themes emerge. These may be summarized as follows:

(1) General international legal norms regarding military activities on earth (e.g. the UN Charter) also apply to military activities in outer space (Outer Space Treaty and Moon Treaty).

(2) Outer space and celestial bodies are not subject to national appropriation and are free for non-prohibited uses such as exploration and scientific investigation by all states (Outer Space Treaty and Moon Treaty).

(3) States bear international responsibility for their national activities in outer space and on celestial bodies (Outer Space Treaty, Moon Treaty and Liability Convention).

(4) Certain military activities in outer space are consistent with international law. These include:

(a) The use of military personnel in space (Outer Space Treaty).

(b) The use of space-based remote sensors for military purposes (ABM Treaty, SALT Treaties, Threshold Test Ban Treaty, and Peaceful Nuclear Explosions Treaty).

(c) The use of space-based communications, navigation, meteorological systems.

(5) Certain military activities in space are inconsistent with international law. These include:

(a) Interference with space-based remote sensors used for military purposes as between the USA and USSR (ABM Treaty, SALT Treaties, Threshold Test Ban Treaty and Peaceful Nuclear Explosion Treaty).

(b) Placement of nuclear weapons and other weapons of mass destruction in orbit around the earth and on celestial bodies or in orbit around them. (Outer Space Treaty, Moon Treaty, SALT II). This includes new fractional orbital systems (SALT II).

(c) Hostile acts or use of force on celestial bodies and orbits around them. (Moon Treaty).

(d) Placement of military bases and conduct of military tests or manoeuvres on celestial bodies and in orbits around them. (Outer Space Treaty and Moon Treaty).

(e) Testing of nuclear weapons in outer space (Partial Test Ban Treaty).

(f) Development, testing, deployment of space-based ABM systems or components (ABM Treaty).

(g) Military or hostile use of environmental modification techniques in outer space (Environmental Modification Treaty).

V. Conclusion

Opinions may vary on whether or not each of the five categories outlined above could be extended to encompass other space activities beyond those itemized. Opinions will also differ on the legal status of many of the themes listed. Much of the discussion surrounding what activities are permitted and what are proscribed focusses on certain key definitions such as "peaceful purposes", "free use", "militarization". Consideration of these definitions may facilitate the future deliberation of the CD on arms control and outer space.

NOTES

(1) (1946) no. 67 United Kingdom Treaty Series, Cmd. 7015. Signed 26 June 1945; entered into force 24 October 1945.

(2) (1980) no. 58 United Kingdom Treaty Series, Cmd. 7964. Opened for signature 23 May 1969; entered into force 27 January 1980.

(3) Supra, note 1.

(4) (1961), 402 United Nations Treaty Series 71. Opened for signature 1 December 1959; entered into force 13 June 1961.

(5) The International Geophysical Year (IGY) was organized under the auspices of the International Council of Scientific Unions in 1957-58 and was planned and carried out by more than 50 states. Each participating state planned and developed its own programs, which were coordinated by a special Committee for the International Geophysical Year. See: Buedeler, The International Geophysical Year, UNESCO, (1957); Chapman, IGY-Year of Discovery, (1959).

(6) See also Article IX (1) (a): "use of Antarctica for peaceful purposes only" and the first and fourth preambular paragraphs.

(7) Stein, "Legal Restraints in Modern Arms Control Agreements", (1972), 66 American Journal of International Law, 255, 259; Vlasic, "Disarmament Decade, Outer Space and International Law", (1981), 26 McGill Law Journal 173.

(8) Hanessian, "The Antarctic Treaty", (1959), International and Comparative Law Quarterly 436, 468.

(9) Article II states: "Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical year, shall continue, subject to the provisions of the present Treaty".

(10) Article III states:

"1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the contracting Parties agree that, to the greatest extent feasible and

practicable: (a) information regarding plans for scientific programmes in Antarctica shall be exchanged to permit maximum economy and efficiency of operations; (b) scientific personnel shall be exchanged in Antarctica between expeditions and stations; (c) scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica."

(11) According to Article V (2), if all the contracting parties were to adhere to any broader international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, those agreements would apply to Antarctica.

(12) Article VII (2). This provision was the first time that the two superpowers agreed on an on-site inspection system to ensure against unauthorized military activity.

(13) Antarctica: 10th Meeting of Treaty Consultative Parties, (November 1979), Department of State Bulletin 21.

(14) (1963), 480 United Nations Treaty Series 43. Opened for signature 5 August 1963; entered into force 10 October 1963.

(15) Adopted in UNGA Resolution 2222 (XXI), 19 Dec. 1966. (1967) 610 United Nations Treaty Series 206. Opened for signature 27 January 1967; entered into force 10 October 1967.

(16) Vlasic, supra, note 7, 170.

(17) Goedhuis, "What Additional Arms Control Measures Related to Outer Space Could be Proposed?", in: Jasani (ed.), Outer Space - A New Dimension of the Arms Race, (1982), 297, 299.

(18) UNGA Resolution 1884, 13 October 1963.

(19) Christol, "Article Four and 1967 Principles Treaty: Its Meaning and Prospects for its Clarification", Paper submitted at the XXIXth Congress of the International Institute of Space Law of the IAF, held in Dubrovnik, 1-8 October 1978, 6.

(20) Stein, supra, note 7, 260.

(21) Marcoff, Traité de droit international public de l'espace, (1973), 357.

(22) Christol, supra, note 19, 26.

(23) Ibid.

(24) UN Doc. S/RES/255 (1968). (1967) 634 United Nations Treaty Series 326. Opened for signature 14 February 1967; entered into force 22 April 1968.

(25) (1969) 672 United Nations Treaty Series 119. Opened for signature 22 April 1968; entered into force 3/December 1968.

(26) Articles II, III and IV.

(27) (1970) 729 United Nations Treaty Series 161. Opened for signature 1 July 1968; entered into force 5 March 1970.

(28) (1973) no. 13 United Kingdom Treaty Series, Cmd. 5266. Opened for signature 11 February 1971; entered into force on 18 May 1972.

(29) Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War. (1972), 807 United Nations Treaty Series 57. Signed 30 Sept. 1971; entered into force 30 Sept. 1971.

(30) Agreement on Measures to Improve the Direct Communications Link. (1972), 806 United Nations Treaty Series 402.

(31) Agreement on the Prevention of Nuclear War. (1973), 24 United States Treaties 1478. Signed 22 June 1973; entered into force 22 June 1973.

(32) (1974) no. 16 United Kingdom Treaty Series, Cmd 5551. Opened for signature 29 March 1972; entered into force on 1 September 1972.

(33) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. (1976) no. 11 United Kingdom Treaty Series, Cmd 6397. Opened for signature 10 April 1972; entered into force 26 March 1975.

(34) Treaty between the USA and the USSR on the Limitation of Anti-ballistic Missile Systems. Treaties and Other International Acts, Series 7503, (Washington: US Department of State, 1973). Signed 26 May 1972; entered into force 3 October 1972. Protocol to the Treaty between the USA and the USSR on the Limitation of Anti-ballistic Missile Systems. UN Doc. A/9698, Annex III, 9 August 1974. Signed 3 July 1974; entered into force 24 May 1976.

(35) Interim Agreement Between the USA and the USSR on Certain Measures with Respect to the Limitation of Strategic Offensive Arms. Treaties and Other International Acts, Series 7504 (Washington: US Department of State, 1972). Signed 26 May 1972; entered into force 3 October 1972.

(36) Treaty Between the USA and the USSR on the Limitation of Strategic Offensive Arms, and Protocol. CD/28, 27 June 1979 and CD/29, 2 July 1979. Signed 18 June 1979.

(37) Treaty Between the USA and the USSR on the Limitation of Underground Nuclear Weapon Tests. U.N. Doc A/9698, Annex I and II, 9 August 1974. Signed 3 July 1974.

(38) Treaty Between the USA and the USSR on Underground Nuclear Explosions for Peaceful Purposes. CCD/496, 23 June 1976 and CCD/496/Corr. 1, 5 August 1976. Signed 28 May 1976.

(39) Adopted in UNGA Res. 3235 (XXII), 12 Nov. 1974. (1978) no. 70 United Kingdom Treaty Series, Cmd 7271. Opened for signature 14 Jan. 1975; entered into force 15 September 1976.

(40) UNGA Resolution 1721 (XVI), 20 Dec. 1961.

(41) In Articles V and VIII.

(42) Matte, Aerospace Law: From Scientific Exploration to Commercial Utilization, (1977), 159 and authorities therein cited.

(43) Vlasic, supra, note 7, 190.

(44) Goedhuis, supra, note 17, 298.

(45) (1979) no. 24 United Kingdom Treaty Series, Cmd. 7469. Opened for signature 18 May 1977; entered into force 5 October 1978.

(46) Understanding to Article I reproduced in Agreement Governing the Activities of States on the Moon and other Celestial Bodies, Committee on Commerce, Science, and Transportation, 95th Cong., 2nd Session, May 1980, 250.

(47) Dolman, Resources, Regimes, World Order, (1981), 322.

(48) Krieger, Disarmament and Development. The Challenge of the International Control and Management of Dual-Purpose Technologies, (1981), 41.

(49) In 1975, Canada submitted a working paper to the Conference of the Committee on Disarmament which groups 19 technologies within three main categories: atmospheric modification; modification of the oceans; and modification of the land masses and water systems associated with them. CCD/463, 5 August 1975; see also CCD/465, 8 August 1975 for the Swedish delegation's study.

(50) Jasani, Outer Space: A New Dimension of the Arms Race, (SIPRI), (1982), 111.

(51) UN Doc. A/RES/34, 68, 14 Dec. 1979.

(52) For an analysis of the development of the Treaty, see Matte, "Treaty Relating to the Moon", in: Jasentuliyana and Lee (eds.), Manual on Space Law, vol. I (1979), 253; Reijnen, "The History of the Draft Treaty on the Moon" (1975), 19th Colloq. on the Law of Outer Space 357.

(53) Reference to the moon hereinafter shall include other celestial bodies as well. Article 1(1) states that provisions of the agreement relating to the moon shall also apply to the other celestial bodies within the solar system, other than the earth, except in so far as specific legal norms enter into force with respect to any of these celestial bodies.

(54) Article IV (2). It is stressed that international cooperation in pursuance of the agreement " should be as wide as possible".

(55) Norris and Bridge, "Some Implications of the Moon Treaty with Regard to Public Order in Space", (1979) 23rd Colloquium on the Law of Outer Space 57, 57.

(56) Article I (2) states that reference in the Agreement to the Moon shall include orbits around or other trajectories to or around it.

(57) Supra, note 56.

(58) Final Acts of the Plenipotentiary Conference, International Telecommunications Union, Nairobi, 1982. Opened for signature 6 November 1982; entered into force, 1 January 1984. This Convention replaces the 1973 Malaya-Torremolinos Convention, (1975) United Kingdom Treaty Series, Cmd 6219.

(59) See generally Article IV of the Convention.

(60) Brownlie, Principles of Public International Law, (3rd ed.), (1979), 266-7.

(61) In its Memorandum submitted to the First Committee of the United Nations General Assembly on 12 January 1957, the United States proposed that "the first step toward the objective of assuring that future developments in outer space would be devoted exclusively to the peaceful and scientific purposes would be to bring the testing of such objects under international inspection and participation". UN Document A/C.1/783.

(62) For the position of the Soviet Union see UN Document DC/SC.1.49 (18 March 1957) and DC/SC/1/55 (30 April 1957).

(63) UNGA Res. 1148 (XII), 14 November 1957.

(64) The first Sputnik was launched on 4 October 1957, followed closely by Explorer 1 on 31 January 1958.

(65) UNGA Res. 1348 (XIII), 15 December 1958.

(66) Ibid.

(67) The Committee on the Peaceful Uses of Outer Space or COPUOS as it is commonly termed.

(68) UNGA Res. 1472 (XIV), 12 Dec. 1959.

(69) UNGA Res. 1721 (XVI), 20 Dec. 1961, "International Cooperation in the Peaceful Uses of Outer Space".

(70) Ibid.

(71) UNGA Res. 1962 (XVIII), 13 Dec. 1963.

(72) Matte, Aerospace Law, (1969), 106-7.

(73) United Nations Department of Political and Security Affairs, The United Nations and Disarmament, 1945-1970, 19.

(74) Kopal, "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies", (1966), McGill Yearbook of Air and Space Law 463, 467.

(75) Kopal, supra, note 74, 467.

ANNEX 1

STATUS OF MULTILATERAL AGREEMENTS RELATING TO OUTER SPACE

		Opened for Signature	No. of Parties as of (date)	
1.	Charter of the United Nations	1945	158	31 March 1984
2.	Antarctic Treaty	1959	32	31 December 1984
3.	Partial Test Ban Treaty	1963	111	31 December 1984
4.	Outer Space Treaty	1967	92	31 December 1984
5.	Treaty of Talatelolco	1967	29	31 December 1984
6.	Rescue & Return Agreement	1968	79	31 March 1984
7.	Non-Proliferation Treaty	1968	127	31 December 1984
8.	Seabed Treaty	1971	81	31 December 1984
9.	Convention on International Liability for Damage Caused by Space Objects	1972	72	31 March 1984
10.	Biological Weapons Convention	1972	104	31 December 1984
11.	Registration Convention	1975	32	31 December 1984
12.	Environmental Modification Convention	1977	54	31 December 1984
13.	Moon Treaty	1979	4	31 March 1984
14.	International Telecommunications Convention	(a) 1973	156	31 March 1984
		(b) 1982	8	30 June 1985

Sources:

Bowman, M.J. and D.J. Harris. Multilateral Treaties: Index and Current Status. London: 1984.

United States. Arms Control and Disarmament Agency. 1984 Annual Report. Washington: April, 1985.

CONFERENCE ON DISARMAMENT

CD/637 */
30 August 1985

Original: ENGLISH
CD/OS/WP 7

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Principal international agreements which apply or otherwise relate directly or indirectly to outer space

I. Introduction

1. The agreements discussed in this working paper fall into three main categories:

(a) Those dealing with outer space and containing provisions either directly addressed to or having implications for arms control. Examples are the 1967 Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies (generally known as the Outer Space Treaty) and the 1979 Treaty on principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and other Celestial Bodies (generally known as the Moon Treaty).

(b) Arms control agreements which in part touch on outer space. Examples are the Partial Test Ban Treaty of 1963, the Treaty on the Limitation of Anti-Ballistic Missile Systems of 1972, the SALT I and II agreements of 1972 and 1979, and the ENMOD Treaty of 1977.

(c) Measures which relate to the use of space which could be termed Confidence Building Measures. Examples are the 1971 Agreement between the United States and Soviet Union on Measures to improve the United States/Soviet Direct Communications Link, the 1971 agreements on Measures to Reduce the Risk of Outbreak of Nuclear War, the United States/Soviet Agreement of 1973 on the Prevention of Nuclear War, the 1975 Convention on the Registration of Objects Launched into Outer Space, the agreement which came into force in 1968 on the Rescue of Astronauts, and that on Damage Caused by Space Objects, which came into force in 1972.

II. Initial International Steps to Protect the Space Environment

2. The 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Partial Test Ban Treaty) was the first international Treaty to refer specifically to outer space. In Article I each of the Parties to the Treaty undertakes:

> "to prohibit, to prevent and not to carry out any nuclear weapon test or any other nuclear explosions at any place under its jurisdiction or control: (a) in the atmosphere; beyond its limits including outer space ...".

3. The Treaty is of unlimited duration, and it has over 100 countries as Parties. The reference to outer space in article I of the Treaty has gained greater significance in the intervening years since this Treaty came into force, as the scope and number of activities which are or could be carried out in outer space has greatly increased. Technically, a nuclear explosion would have

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*/ Reissued for technical reasons.

a devastating effect in outer space, destroying or damaging many of the satellites currently in orbit, not only because of the blast from the explosion itself, but also because of the disruption which would be caused by the electro-magnetic pulse (EMP) which a nuclear explosion would produce.

4. Therefore, any call for a new treaty prohibiting nuclear explosion in outer space is countered by the fact that such tests are already prohibited under the 1963 Partial Test Ban Treaty.

III. The Outer Space Treaty

5. The 1967 Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies (The Outer Space Treaty), to which over 100 countries are Party, promotes the peaceful use of outer space. From a disarmament point of view, the key provision is contained in Article IV under which:

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

6. The principal purpose of this provision, at the time of its negotiation by the United States and the USSR, was to prohibit the deployment in space of weapons which might circumvent the elaborate early warning system against attack by ballistic missiles which both countries had developed.

7. The Outer Space Treaty only contains specific verification provision in regard to installations and space vehicles on the moon and other celestial bodies. These facilities are open to inspection by other parties on the basis of reciprocity, but only after reasonable notice has been given and consultations between parties have been held to avoid interference and to assure safety. The closest the Treaty comes to the concept of verification in regard to its most important prohibition, on the stationing of nuclear weapons or any other kinds of weapons of mass destruction in outer space, is in Article X, which states that:

> "In order to promote international co-operation in the exploration and use of outer space, including the Moon and other celestial bodies, in conformity with the purposes of this Treaty, the States Parties to the Treaty shall consider on a basis of equality any requests by other States Parties to the Treaty to be afforded an opportunity to observe the flight of space objects launched by those States".
>
> "The nature of such an opportunity for observation and the conditions under which it could be afforded shall be determined by agreement between the States concerned".

Article XI could also be helpful in this connection.

8. Such provisions do not constitute an effective means of meeting any concerns which one State Party may have with regard to the nature of a space activity being carried out by another State Party. Despite the fact that the Outer Space Treaty does not contain any effective mechanism for verification of the placing in orbit around the Earth of any nuclear weapons or other weapons or other weapons of mass destruction, it does nevertheless contain a basic prohibition on the placing of such weapons in outer space which States Parties are required to observe. The Treaty, therefore, sets a benchmark against which their behaviour and activities can be judged. It is worth noting that the Treaty has no clause specifying the Treaty is of unlimited duration. Any State Party may withdraw.

IV. Bilateral Agreements between the United States and USSR which have relevance to the Space Environment

9. Article I (a) of the September 1971 Agreement between the United States of America and the USSR on Measures to Improve the USA-USSR Direct Communications Link, required the United States and the Soviet Union to establish and maintain two direct communication links by satellite. In Article 2, each Party confirms its intention to take all possible measures to assure the continuous and reliable operation of the communication circuits. Although not directly relevant, the agreement does contain the implicit requirement to maintain the satellite communications system in operational order.

10. Two other agreements appear in the same category. The 1971 agreements on Measures to Reduce the Risk of Outbreak of Nuclear War and the 1973 USA-USSR Agreement on the Prevention of Nuclear War also contain implicit undertakings not to interfere with the satellite early-warning or communications systems needed to ensure effective operation of both agreements. However, while interference with such systems would be incompatible with the purpose of increasing confidence which underpins such agreements, these particular agreements contain no specific prohibition on such interference.

11. Protection for satellites being used as national technical means of verification is written into a number of other bilateral US-Soviet Treaties. The SALT I Interim Agreement of October 1972 sets out in Article V that:

> "Each Party undertakes not to interfere with the National Technical Means of Verification of the other party operating in accordance with paragraph 1 of this Article".

Paragraph 1 in turn states that:

> "For the purposes of providing assurance of compliance with the provisions of this Interim Agreement, each party shall use National Technical Means of Verification ..."

In addition to the above, the Treaty on the Limitation of Anti-Ballistic Missile Systems (also of October 1972), which was negotiated concurrently with the Interim Agreements, contains the same provisions in its Article XII, using identical language. The refusal of the Soviet Union to consider any form of on-site inspection and verification placed the burden of verification on

satellites from which such systems were not to be hidden. However, the Interim Agreement and the ABM Treaty had important additional lines to their verification provision. At Soviet insistence, the phrase

> "in a manner consistent with generally accepted principles of international law"

was added to the ABM Treaty (Article XII.I) to resolve the Soviet refusal to accept the legitimacy of the legal right of the United States to carry out general surveillance tasks not connected with a particular treaty.

12. In the ABM Treaty, in Article V, paragraph I, each Party undertakes not to develop, test or deploy ABM systems or components which are inter alia space-based. It follows from Articles V and XII of the Treaty, read together, that development begins with those types of activities which can be detected by national technical means, that is primarily photo-reconnaissance satellites. It permits laboratory research for space-based BMD systems. It prohibits field testing of prototypes of such systems or components. The Treaty does not prohibit development and testing of fixed, ground-based BMD laser systems and their components. It also permits the development and testing and deployment of space-based laser devices, such as pointing and tracking devices as long as the devices are not capable of countering strategic ballistic missiles or their elements in flight trajectory and as long as they are not tested in ABM mode. The Treaty thus permits testing of sub-components for space-based BMD lasers while prohibiting component or full systems testing, and, more importantly, deployment of such systems. The Treaty also permits research into all types of BMD systems.

13. The Treaty does not define what "space based" actually constitutes because of international difference of opinion as to where the boundaries between national air space and outer space lie. This topic has been under discussion in UNCOPUOS. The ABM Treaty does not restrict development, testing and deployment of space-based ASATs, however armed. In common with other States Parties, however, both the United States and the Soviet Union may not deploy nuclear armed space-based ASATs as they are both parties to the Outer Space Treaty. In addition to this, as part of the provisions of the ABM Treaty, an ASAT system may not be given capabilities to counter strategic ballistic missiles or their elements in flight trajectory and may not be tested in an ABM mode.

14. Although SALT II Treaty (signed at Vienna in June 1979) remains unratified, both the United States and the Soviet Union have stated that they will abide by its provisions as long as its provisions are respected by the other Party. In Article XV, paragraph 2, it repeats the SALT I and ABM Treaties prohibition on interference with NTM. It also states in Article IX, paragraph IC that each party undertakes not to develop, test or deploy systems for placing into orbit nuclear weapons or any other kinds of weapons of mass destruction, including fractional orbital missiles. This represents a more inclusive ban than that contained in the Outer Space Treaty. As a result, the Soviet Union agreed to dismantle its fractional orbital system.

V. Additional Multilateral Treaties which are relevant to the Space Environment

15. 1977 Environmental Modification (ENMOD) Treaty (which entered into force in October 1978), and the 1979 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies ("the Moon Treaty") have implications for weapons and disarmament in space. Article II of the ENMOD Treaty states that:

> "The term 'environmental modification techniques' refers to any technique for changing-through the deliberate manipulation of natural processes - the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space".

The addition of "space" was to make the area of prohibition as extensive as possible. As the prohibited techniques remain largely theoretical, and never seemed usable in or from space, the prohibition at present is also theoretical. The Moon Treaty largely repeats in Article III, the bans on military facilities and manoeuvres on celestial bodies contained in Article IV of the Outer Space Treaty. Both stress that the moon is to be used only for peaceful purposes, but the "Moon Treaty" gives it extra prominence, and stresses that its surface cannot be used to direct any hostile act out into space.

16. 1975 Convention of Registration of Objects Launched into Outer Space requires, in Article IV, that the Secretary-General of the United Nations be provided with information concerning space launches, including the general function of the space object. It is not thought that to date any State has registered a space launch for military purposes, despite the fact that it is believed that well over half of all space launches are primarily for military purposes.

17. There are two other agreements worth noting:

(a) Rescue of Astronauts (which came into force in 1968), providing for assistance to astronauts in the event of accident, distress or emergency landing; their return and that of objects launched into space. About 100 States are parties to this treaty, including the United States and the USSR.

(b) Damage caused by Space Objects (which came into force in 1972) providing for rules and procedures on liability for damage caused by space objects. About 55 States are parties, including the United States and the USSR.

CONFERENCE ON DISARMAMENT

CD/639
21 August 1985

ENGLISH
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LETTER DATED 21 AUGUST 1985 ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT BY THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS TRANSMITTING THE TEXTS OF DOCUMENTS CONNECTED WITH THE USSR PROPOSAL "THE BASIC DIRECTIONS AND PRINCIPLES OF INTERNATIONAL CO-OPERATION IN THE PEACEFUL EXPLORATION OF OUTER SPACE UNDER CONDITIONS OF ITS NON-MILITARIZATION"

I have the honour to transmit herewith the texts of documents connected with the USSR proposal "The basic directions and principles of international co-operation in the peaceful exploration of outer space under conditions of its non-militarization".

I should be grateful if you would arrange to have these texts issued as an official document of the Conference on Disarmament.

(Signed) V. ISSRAELYAN

GE.85-63965

PEACEFUL EXPLORATION OF OUTER SPACE

Letter from the Minister of Foreign Affairs of the USSR to the Secretary-General of the United Nations

Sir,

The Soviet Union proposes that an item entitled "International co-operation in the peaceful exploration of outer space under conditions of its non-militarization" should be included in the agenda for the fortieth session of the General Assembly.

This proposal of the Soviet Union is based on the fact that mankind today is faced with a choice: either outer space will make an ever greater contribution towards improving the living conditions of the inhabitants of our planet or it will become a new source of mortal danger to them. The only intelligent choice worthy of man's space age can and must be to prevent the militarization of outer space and preserve it for peaceful activities.

The issue has become urgent. It must be resolved before weapons penetrate into outer space. The danger of this happening is growing every day. Concrete work is already in progress with a view to developing offensive space weapons. If this process is not halted, the arms race will further expand and intensify in every area, absorbing fresh material and intellectual resources and placing insurmountable obstacles in the path of the joint peaceful space activity of States.

The Soviet Union proposes that the General Assembly should once again resolutely call upon all States, especially those with a major space potential, to reach agreement without delay on effective measures to prevent an arms race in outer space, thus creating the conditions for broad international co-operation in the exploration and use of outer space for peaceful purposes.

The Soviet Union proposes the adoption of a set of concrete measures which would help States to join their efforts in the peaceful exploration of outer space and the utilization of space technology for the good of all States, among other things providing developing countries with all-round assistance in this field. It is obvious that the successful solution of this problem, which affects the whole of mankind, will become possible if agreements can be reached effectively ensuring the non-militarization of outer space.

Motivated by the desire to promote rapid progress with regard to ensuring the peaceful exploration of outer space, the Soviet Union submits for consideration at the forthcoming session of the General Assembly a document entitled: "The basic directions and principles of international co-operation in the peaceful exploration of outer space under conditions of its non-militarization (proposals by the USSR)".

I would be grateful if you would consider this letter as an explanatory memorandum as provided for under the rules of procedure of the General Assembly and have it distributed, together with the attached document "The basic directions and principles of international co-operation in the peaceful exploration of outer space under conditions of its non-militarization (proposals by the USSR)" and draft resolution, as official documents of the General Assembly.

(Signed) E. SHEVARDNADZE
Minister of Foreign Affairs
of the USSR
Pravda, 17 August 1985

THE BASIC DIRECTIONS AND PRINCIPLES OF INTERNATIONAL CO-OPERATION IN THE PEACEFUL EXPLORATION OF OUTER SPACE UNDER CONDITIONS OF ITS NON-MILITARIZATION

(Proposals by the USSR)

The breakthrough into outer space and the transition towards the practical utilization of its limitless expanses represents one of mankind's most outstanding scientific and technical achievements.

In the historically brief period which has elapsed since the launching by the Soviet Union of the world's first artificial Earth satellite in 1957 and the launching in 1961 of the space ship "Vostok" piloted by Yuri Gagarin, the planet's first cosmonaut, a gigantic leap forward has been made in the peaceful exploration of outer space.

Man has, in essence, begun to settle in near space. Today, hundreds of satellites are in orbit, along with permanent stations in which teams of scientific and technical experts, including international teams, relieve one another and work for months at a time. Interplanetary scientific stations are venturing out to the depths of the solar system. Systematic studies of the Moon, Venus and Mars are being conducted with the help of spacecraft. Mankind's horizons in space are becoming ever broader and greater.

However, the possibility of outer space being transformed into a source of grave military danger is now growing. Plans are being announced and actions undertaken aimed at the development and deployment of offensive space weapons for the destruction of objects in space and, from space, in the air and on the Earth, including the development of a large-scale anti-missile system with space-based elements.

The implementation of plans for the militarization of space would lead to an abrupt intensification of the nuclear threat and would deprive peoples of any hope that a day might come when nuclear weapons will disappear from the face of the Earth. More than that, the arms race would acquire a qualitatively new and still more dangerous dimension in every respect. It would consume colossal new resources, which could serve the peaceful development of mankind and the solution of the vital problems facing it.

Like a grave, incurable disease, militarization would strike at all spheres of space activity and create insurmountable obstacles blocking the development of international co-operation in the peaceful exploration of outer space.

The peoples and Governments of all countries must realize the scale of the task facing mankind and the full measure of their historical responsibility for resolving it.

We have reached a point in the development of civilization when either an age of large-scale exploration and utilization of outer space for the good of man will begin or outer space will become a source of lethal danger to man.

The Soviet Union is a firm opponent of competition in any arms race, including the space arms race. The efforts at present being undertaken by the USSR to prevent the militarization of outer space represent the continuation of a consistent policy specifically aimed at ensuring the utilization of outer space for the good of mankind. When blazing the first trails in space, as far back as in 1958 the USSR submitted a proposal in the United Nations providing for the prohibition of the utilization of outer space for military purposes.

Although it proved impossible at that time to find a radical solution to the problem of the non-militarization of space, important agreements were concluded in the 1960s and 1970s which substantially limited the possibilities of its military use. We refer to the multilateral treaties on the banning of nuclear weapon tests in the atmosphere, in outer space and under water (1963), the principles governing the activities of States in the exploration and use of outer space, including the Moon and other celestial bodies (1967), the Soviet-United States Treaty on the Limitation of ABM Systems (1972) and a number of other agreements.

These instruments created favourable conditions for the first steps towards the establishment of mutually advantageous co-operation among States in outer space. Today, too, if the entry of weapons into outer space was effectively blocked, States would have an opportunity to unite their efforts and resources so that the results of the space activities of all States might serve not destructive but creative ends and contribute to the development of all peoples of our planet.

The USSR is in favour of such co-operation. It turns to all countries and peoples with a proposal to do everything in order to avert an arms race in space and to work together on its peaceful exploration and utilization for the good of all mankind.

One. The non-militarization of outer space, whereby States would refrain from the development (including scientific research work), testing and deployment of offensive space weapons and unite their efforts in peaceful space activities, would assist the expansion of mutual understanding and co-operation between them and promote the efficient use of mankind's material and intellectual resources. This would give fresh impetus to the development of science and technology and open up truly limitless prospects for the use of developments in space to assist the economic and social progress of peoples and the solution of the global problems facing mankind, including such urgent problems as eliminating famine and disease and overcoming the economic backwardness of developing countries by, among other things, providing them with assistance.

Global peaceful co-operation in space research would be organized and would develop on a rising curve - from the exchange of scientific and technological information and simple forms of co-operation to the pooling of States' existing possibilities for solving large-scale problems of space exploration.

Mankind would thus also be able to attain such long-term goals as the industrialization of near space in the sense of the integration of space complexes designed for various purposes into the terrestrial economies of States and the operation of orbital factories and plants for the manufacture of new materials and industrial products in the high vacuum of zero-gravity. The inexhaustible reserves of outer space, including the resources of celestial bodies and solar energy, would be placed at the service of man.

Two. The USSR considers that international co-operation in the peaceful use of outer space could be pursued principally in the following directions:

1. Fundamental scientific research into outer space, including the Moon and other celestial bodies, and the launching of interplanetary spacecraft for these purposes;

2. The application of the results of space research, experiments and the utilization of space technology, inter alia in fields such as biology, medicine, the study of materials, weather forecasting, climatic and environmental studies, global satellite communications systems, remote sensing of the Earth with a view to obtaining data for geology, agriculture and the exploration of the oceans and seas, and the search for, detection and rescue of victims of accidents at sea and in the air;

3. The development and utilization of space technology, including major international orbital scientific stations, as well as piloted spacecraft of various types.

Three. The peaceful exploration of outer space must be pursued within the framework of the strict observance of previously concluded treaties aimed at the prevention of an arms race in space, as well as on the basis of the following general principles derived from the Charter of the United Nations:

The non-use of force or threat of force, the settlement of disputes exclusively by peaceful means;

Equal rights, respect of sovereignty, and non-interference in the internal affairs of States;

Co-operation in good faith, mutual assistance and due consideration for the interests of other States.

Four. In order to organize and implement co-operation among States, steps could be taken to establish a world space organization for international co-operation in the peaceful exploration and use of outer space under conditions of its non-militarization;

Such an organization would be called upon to:

Ensure that all States without discrimination have access, on the basis of mutual advantage, to the results of scientific and technological developments connected with the study and peaceful exploration of outer space;

Prepare international projects aimed at concerting efforts and resources for the scientific exploration of outer space and the utilization of space technology.

Provide developing countries with all-round assistance in joining in the exploration and use of outer space and in using the practical results of such activities in order to accelerate their economic and social development in accordance with their needs and without any conditions infringing their sovereignty.

Co-ordinate, on an international scale, the activities of other international organizations in the sphere of the peaceful use of outer space;

Assist, where necessary, in monitoring the observance of agreements already concluded or to be concluded with a view to preventing an arms race in outer space.

Five. The USSR proposes that a representative international conference be convened with the participation, inter alia, of States possessing a major space potential for the purpose of considering every aspect of the question of international co-operation in the peaceful exploration of outer space under conditions of its non-militarization and agreeing on the basic directions and principles of such co-operation.

This same conference would also consider the question of setting up a world space organization for international co-operation in the peaceful exploration and use of outer space, bearing in mind that the practical establishment of such an organization can be embarked upon once agreements have been reached effectively ensuring the non-militarization of outer space.

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The peaceful exploration of outer space, as men already know by experience, can yield a great deal for the development and improvement of life on Earth. The Soviet Union is convinced that outer space - part of the common heritage of mankind - must be placed not in the service of war but in the service of peace and security and the economic and social progress of all peoples. The way towards this lies through the combined collective efforts of all States of our planet.

In a spirit of goodwill and a sense of responsibility for the destiny of our planet, the Soviet Union appeals to all countries and peoples to embark together on this historic task. Desirous of making its contribution to the common cause, it submits for the consideration of the United Nations these proposals on the basic directions and principles of international co-operation in the peaceful exploration and use of outer space under conditions of its non-militarization.

Draft resolution of the General Assembly

INTERNATIONAL CO-OPERATION IN THE PEACEFUL EXPLORATION OF OUTER SPACE UNDER CONDITIONS OF ITS NON-MILITARIZATION

The General Assembly,

Determined to ensure that the exploration and use of outer space constitutes a sphere of broad, equitable and mutually advantageous international co-operation in conditions of peace,

Recognizing the vital need, before it is too late, to prevent an arms race in outer space which would lead to a sharp increase in the danger of nuclear war, undermine prospects of arms limitation and reduction in general and create insuperable obstacles to the development of international co-operation in the peaceful exploration of outer space,

Guided by the desire to ensure that the exploration and utilization of outer space should as effectively as possible serve the scientific, technical, economic and social progress of all peoples and help solve the global problems facing mankind, including problems of development and the eradication of economic backwardness,

1. Calls upon all States, especially those with a major potential in the space field, to do everything for the adoption of effective measures to prevent an arms race in outer space, thereby creating the conditions for broad international co-operation in the exploration and use of outer space for peaceful purposes;

2. Expresses the conviction that, given effective guarantees of the non-militarization of outer space, a major practical step towards its peaceful exploration and the development of international co-operation in this field would be the establishment of a world space organization for concerting, co-ordinating and uniting the efforts of States in peaceful space activities, including the provision of assistance to developing countries in this field, and also for assisting in the necessary monitoring of the observance of agreements already concluded or to be concluded with a view to preventing an arms race in outer space;

3. Resolves to convene, not later than in 1987, an international conference with the participation of States possessing a major space potential and other interested countries for the purpose of considering every aspect of the question of international co-operation in the peaceful exploration and utilization of outer space under conditions of its non-militarization and agreeing upon the basic directions and principles of such co-operation. The conference would also consider the question of the establishment of a world space organization, bearing in mind that the practical establishment of such an organization could be embarked upon when agreements have been reached effectively ensuring the non-militarization of outer space;

4. Establishes an open-ended preparatory committee with the participation of States possessing a major potential in the field of space for the purpose of convening the international conference;

5. Proposes to the preparatory committee that it submit a report on its work and appropriate recommendations to the General Assembly at its forty-first session;

6. Invites all States to communicate any views or proposals relating to the convening of the international conference to the Secretary-General not later than 1 March 1986 for transmission to the committee;

7. Decides to include in the provisional agenda of its forty-first session an item entitled "International co-operation in the non-militarization and peaceful exploration of outer space".

CONFERENCE ON DISARMAMENT

CD/641
26 August 1985
Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON PREVENTION OF AN ARMS RACE IN OUTER SPACE

I. Introduction

1. At its 304th plenary meeting on 29 March 1985, the Conference on Disarmament adopted the following decision:

In the exercise of its responsibilities as the multilateral disarmament negotiating forum in accordance with paragraph 120 of the Final Document of the first special session of the General Assembly devoted to disarmament, the Conference on Disarmament decides to establish an Ad Hoc Committee under item 5 of its agenda entitled "Prevention of an arms race in outer space".

The Conference requests the Ad Hoc Committee, in discharging that responsibility, to examine, as a first step at this stage, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space.

The Ad Hoc Committee will take into account all existing agreements, existing proposals and future initiatives and report on the progress of its work to the Conference on Disarmament before the end of its 1985 session.

II. Organization of work and documents

2. At its 314th plenary meeting on 20 June 1985, the Conference on Disarmament appointed Ambassador Saad Alfarargi (Egypt) as Chairman of the Ad Hoc Committee. Miss Aida Luisa Levin, United Nations Department of Disarmament Affairs, served as the Committee's Secretary.

3. The Ad Hoc Committee held 20 meetings between 24 June and 26 August 1985.

4. At their request, the Conference on Disarmament decided to invite the representatives of the following States not members of the Conference to participate in the meetings of the Ad Hoc Committee: Austria, Denmark, Finland, Greece, Ireland, New Zealand, Norway and Spain.

5. The Ad Hoc Committee had before it the following documents relating to the agenda item submitted to the Conference on Disarmament during the 1985 session:

CD/579 China's Basic Position on the Prevention of an Arms Race in Outer Space;

CD/584 Decision on the establishment of an Ad Hoc Committee on Item 5 of the Agenda entitled: "Prevention of an Arms Race in Outer Space";

CD/606 Letter dated 2 July 1985 from the Permanent Representative of Canada transmitting a two volume compendium of CD Verbatim Records and Working Papers submitted to the Conference on the subject of the Prevention of an Arms Race in Outer Space;

CD/607 "Prevention of an Arms Race in Outer Space", Working Paper of a group of socialist countries (also issued as CD/OS/WP.3);

CD/611 Letter dated 9 July 1985 addressed to the President of the Conference on Disarmament from the Representative of the USSR transmitting the text of the reply of the General Secretary of the Central Committee of the Communist Party of the Soviet Union, Mr. Mikhail Gorbachev, to the Union of Concerned Scientists, published on 6 July 1985;

CD/618 "Survey of International Law Relevant to Arms Control and Outer Space", submitted by Canada (also issued as CD/OS/WP.6);

CD/637 "Principal international agreements which apply or otherwise relate directly or indirectly to outer space", working paper submitted by the United Kingdom (also issued as CD/OS/WP.7);

CD/639 Letter dated 21 August 1985 addressed to the President of the Conference on Disarmament by the Representative of the Union of Soviet Socialist Republics transmitting the texts of Documents connected with the USSR proposal "The basic directions and principles of international co-operation in peaceful exploration of outer space under conditions of its non militarization".

In addition, the Committee had before it the following working papers:

CD/OS/WP.1	List of documents of the Conference on Disarmament relating to agenda item 5: "Prevention of an Arms Race in Outer Space";
CD/OS/WP.2	List of General Assembly resolutions relating to agenda item 5 transmitted by the Secretary-General of the United Nations to the Conference on Disarmament;
CD/OS/WP.3	Prevention of an Arms Race in Outer Space, Working Paper of a group of socialist countries (also issued as CD/607);
CD/OS/WP.4	Programme of work for the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space, proposed by a group of socialist countries;
CD/OS/WP.5	1985 Programme of Work;
CD/OS/WP.6	"Survey of International Law Relevant to Arms Control and Outer Space", submitted by Canada (also issued as CD/618);
CD/OS/WP.7	"Principal international agreements which apply or otherwise relate directly or indirectly to outer space", working paper submitted by the United Kingdom (also issued as CD/637);
CD/OS/WP.8	Proposals of Sweden relating to prevention of an arms race in outer space;
CD/OS/WP.9	Conclusions drawn by a group of socialist countries from the consideration by the Ad Hoc Committee of the issues included in its programme of work.

III. Substantive work during the 1985 Session

6. Following an initial exchange of views, the Ad Hoc Committee, at its sixth meeting, adopted a programme of work for the 1985 session (CD/OS/WP.5) containing the following points:

(a) Consideration of issues relevant to the prevention of an arms race in outer space;

(b) existing agreements relevant to the prevention of an arms race in outer space;

(c) proposals and future initiatives on the prevention of an arms race in outer space.

In order to give equal treatment to those subjects, the Committee further decided to allocate three meetings to each.

7. In accordance with the programme of work, delegations exchanged views regarding issues relevant to the prevention of an arms race in outer space.

8. Some delegations stressed that outer space was the common heritage of mankind and that, consequently, the exploration and exploitation of outer space should be preserved for exclusively peaceful purposes to promote the scientific, economic and social development of all countries. Some of the above delegations noted that up to the present, outer space had been an area free of weapons but that there was a growing threat of the emergence of "active" space systems, mainly for anti-ballistic and anti-satellite warfare. In their view, such developments posed an imminent risk that the military competition between the two major nuclear-weapon States would extend into outer space. All the above delegations expressed concern at the extensive use of outer space for military purposes that was already taking place. They pointed out that the majority of space objects now in orbit, while not meant as weapons or as weapons platforms, served military functions and constituted integral parts of weapons systems on earth and of strategic doctrines associated with the use of nuclear weapons.

9. Some delegations emphasized that the development of new space weapon systems will lead to an acceleration of the arms race, both horizontally and vertically, at the cost of existing legislation relating to outer space, arms limitation agreements and the disarmament process as a whole; amplify prevailing military assymetries between the two major space Powers and their allies, on the one hand, and the non-aligned and neutral States, on the other; and will lead to the

introduction of new weapon technologies into regions not directly concerned with either of the two major space Powers, further undermining their security.

10. There was also criticism by some delegations concerning the use of reconnaissance and surveillance satellites by space Powers to monitor strategically-vital information about countries that have no way of controlling or having access to such information. Furthermore, the attention of the Committee was drawn to the fact that there had been instances where satellites had been used in support of military operations against developing countries. In this view, that situation, which had important implications for the security of most countries, did not reflect recognition of the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes, as stated in the preamble of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

11. Delegations of the group of socialist countries fully shared the view that outer space is the common heritage of mankind and that, consequently, its exploration and use should be preserved for exclusively peaceful purposes in order to promote scientific, economic and social development of all countries. They noted that up to the present, outer space has been an area free of weapons and that urgent measures have to be taken in order to prevent the extension of the arms race to outer space.

12. The same delegations emphasized that there was increasing concern at the threat of the spread of the arms race to outer space. In their view, this threat stemmed from the programme known as the "Strategic Defence Initiative", which is not a research programme as it is stated but aimed at the development and deployment in space of a new class of armament - attack space weapons.

13. These delegations elaborated on the adverse political,military,economic and other consequences that, in their opinion, an arms race in space would have. These consequences included destabilization of the strategic situation; increased threat of the outbreak of nuclear war; acceleration of the arms race in all

directions and growth of nuclear arsenals; undermining of existing treaties and of the prospects for arms limitation and reduction, and increase of military tension; vast unproductive expenditures; damage to the peaceful use of space and obstacles to international co-operation in the peaceful use of space.

14. Some other delegations shared the view that outer space was the common heritage of mankind and that, consequently, the exploration and use of outer space should be preserved for exclusively peaceful purposes to promote the scientific, economic and social development of all countries. They also shared the genuine concerns expressed on the part of many countries on the subject of the prevention of an arms race in outer space. They noted, however, that outer space is presently not, in fact, an area free of weapons. They stressed that the first task of the Ad Hoc Committee was to clarify ambiguities surrounding the existing legal régimes in outer space in terms of what was permitted, what was prohibited, what grey areas might exist and what gaps required attention. They pointed out that there was no agreement on the meaning of such basic terms as "peaceful purposes" or "militarization". It was noted that many activities in space, while of a military character, served a variety of functions that contributed tc stability and to monitoring the implementation of disarmament agreements. In that context, these delegations mentioned the problem of the protection of satellites and pointed out that there were differing views regarding the protection already afforded by the existing legal régime, whether that protection needed to be strengthened and, if so, what scope it should be given. In their view, the consideration of proposals for additional measures to prevent an arms race in outer space presupposes that the Committee reaches a prior common understanding of what is permitted and what is prohibited.

15. With respect to the question of whether there was a threat of an arms race in outer space, one delegation noted that it believed that outer space should only be used for peaceful purposes and to that end it was engaged in bilateral negotiations. It was ready in the Ad Hoc Committee to discuss issues relating to outer space in a manner consistent with, and complementary to, the bilateral negotiations. It stressed that the Strategic Defence Initiative was only a research programme that was consistent with all international obligations of

its country, including existing treaties. It pointed out that one country possessed currently operational capabilities in this area and, for many years, had been conducting research into advanced technologies for strategic defence.

16. One delegation answered that its country had not been conducting research into advanced technologies for strategic defence.

17. Some delegations stressed that the ambiguities surrounding the existing legal régime could only be resolved or clarified in the process of elaboration of new agreements, as none other than States Parties to existing treaties had the competence to interpret those legal instruments. Those delegations believed that as far as the international community was concerned, the calling into question of the meaning of the terms in international instruments by States Parties themselves, placed these instruments in jeopardy. Therefore, these delegations emphasized that reference to ambiguities in existing legal instruments would be devoid of meaning and even have the effect of diverting attention if made outside the framework of negotiations of further agreement or agreements to prevent an arms race in outer space. In this context they expressed the need to engage in the preliminary task of clarifying ambiguities surrounding weaponization of outer space and the "state of art" in space weapons within the context of negotiation. In particular, the need to reach agreement on the meaning of such basic terms as "peaceful purposes", "militarization", or "weapons of mass destruction", especially since recent developments in weapon technology have blurred the traditionally accepted interpretation of those terms among the space powers.

18. All delegations welcomed the initiation of bilateral negotiations on space and nuclear arms and recognized their importance. At the same time, they stressed the importance of, and need for, a multilateral approach to issues relating to the prevention of an arms race in outer space.

19. Many delegations considered that the two negotiating parties should bear constantly in mind that not only their national interests but also the vital interests of all the peoples of the world are at stake and, accordingly, should keep the General Assembly and the Conference on Disarmament duly informed of the progress of their negotiations, without prejudice to the progress of the negotiations. These delegations further believed that bilateral negotiations do not in any way diminish the urgent need to initiate multilateral negotiations in the Conference on Disarmament on the prevention of an arms race in outer space.

20. With respect to existing agreements, multilateral as well as bilateral, relevant to the prevention of an arms race in outer space, the Group of Socialist delegations emphasized that there exists already an international legal régime which places certain limitations on various arms and military activities in outer space. In their view, however, all the agreements are not sufficient to put an effective barrier against the extension of the arms race into space, as they leave open certain channels, such as the development and deployment in outer space of weapons or systems of weapons not defined as weapons of mass destruction, or the deployment of certain weapons-systems to be used against objects in space, or used from space against objects on Earth. They have concluded, therefore that concrete measures are needed urgently to prevent such developments as they would entail dangerously destabilizing consequences.

21. Some delegations answered that there already exists a substantial body of law - both customary and treaty law - that is applicable to activities in space. Adherence to this body of law provides assurance that outer space will only be used for peaceful purposes.

22. With respect to the legal régime applicable to outer space, it was stressed that, as affirmed in the 1967 Outer Space Treaty, activities in the exploration and use of outer space should be carried out in accordance with international law, including the Charter of the United Nations. In this connection, some delegations noted the relevance of the provisions of Article 2 (4) of the United Nations Charter concerning the non-use of force.

23. Some delegations considered that those provisions constituted a central element of the legal régime in outer space. They noted that the prohibition of the use of force was subject to Article 51 of the Charter, which recognizes the inherent right of individual and collective self-defence in case of armed attack. They expressed the view that Article 2 (4) of the Charter already afforded protection to space objects and that, therefore, this should be taken into account when considering the need for additional measures for the protection of satellites against the use of force.

24. Other delegations, while recognizing the importance of the general principle on the non-use of force, as laid down in the United Nations Charter, noted that it did not preclude the militarization of outer space, as evidenced by the conclusion of international agreements specifically relating to outer space,

inter alia, the 1967 Outer Space Treaty. It was also noted that Article 2 (4) did not prohibit the development, testing and deployment of strike space weapons. Furthermore, in regard to the reference to Article 51 of the Charter, they reiterated that this Article could not be invoked to justify the use or threat of use of force from outer space.

25. In the consideration of existing agreements, delegations discussed a number of multilateral and bilateral instruments, inter alia, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (1963), the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967), the Convention on Registration of Objects Launched into Outer Space (1975), the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (1977), the Agreement Governing the Activities of States on the Moon and other Celestial Bodies (1979) and the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems (1972). In this connection, reference was made to documents CD/OS/WP.6 and CD/OS/WP.7.

26. Considerable attention focused on the 1967 Outer Space Treaty and the significance of the Treaty was generally underlined. At the same time, various delegations stated that the Treaty contained terms that lent themselves to different interpretations. In addition, a number of delegations believed that, because of its limited scope, the Treaty was not sufficient to prevent an arms race in outer space. They pointed out that, while the Treaty, together with the Moon Treaty, provided for the complete demilitarization of the moon and other celestial bodies, as well as for their orbits and trajectories, as far as the orbit around the Earth was concerned, it only prohibited the placement there of any object carrying nuclear weapons or any other kind of weapons of mass destruction, or the stationing of such weapons in outer space in any other manner. In their view, therefore, there was a risk that the Treaty could be considered by some to leave open a number of options for the military use of outer space. This, however, in the judgement of these delegations, would run counter to the spirit of the Treaty, since its Preamble sets down that outer space should be used for peaceful purposes. Two delegations held that the arms control régime

applicable to outer space was far more comprehensive than the arms control régime on Earth. In this view, the Outer Space Treaty, together with the Partial Test Ban Treaty which, inter alia, prohibited nuclear explosions in outer space, had the effect of making outer space a nuclear-weapon-free zone.

27. Various delegations referred to the 1975 Registration Convention requiring States of registry to furnish to the Secretary-General of the United Nations information concerning space objects, including their general function. Those delegations felt that this Convention, if adequately implemented, could serve as a valuable confidence-building measure in that it would give greater transparency to outer space activities.

28. Some delegations held that the examination of the existing legal régime undertaken by the Ad Hoc Committee had confirmed the need to clarify ambiguities and arrive at consensus interpretations of what was permitted and what was prohibited. Many delegations held that the work of the Committee would be most successful if it proceeded by undertaking a complete examination of the present legal régime aimed at a common understanding of that régime. Other delegations believed that the discussion had shown that the existing body of international law applicable to outer space contained many loopholes to prevent effectively an arms race in outer space. Therefore, they believed that it was imperative to commence negotiations immediately with a view to arriving at agreement or agreements that will prevent such an arms race in outer space. Many other delegations pointed out that the Committee should instead direct its work towards practical measures preventing an arms race in outer space in all its aspects as recommended by United Nations General Assembly resolution 39/59.

29. A number of views and proposals were brought to the attention of the Committee (CD/274, CD/476, A/39/243, CD/607; CD/357, CD/PV.263, CD/540, para. 109; CD/540, para. 110; CD/579; CD/PV.252, CD/PV.301, CD/OS/WP.8; CD/PV.279; CD/PV.318; CD/PV.325).

30. Stressing the need to block all channels for the extension of the arms race into outer space, delegations of the group of socialist countries drew attention to the draft treaties on the prohibition of the stationing of weapons of any kind in outer space, submitted in 1981, contained in document CD/274, and on the prohibition of the use of force in outer space and from space against the Earth, submitted in 1983, contained in document CD/476, and to the proposal on the use

of outer space exclusively for peaceful purposes for the benefit of all mankind, submitted in 1984. They also referred to their proposal, which called for an agreement on the prohibition and elimination of an entire class of weapons, namely, attack space systems of any kind - conventional, nuclear, laser, particle-beam or any other form - whether manned or unmanned. Such space systems should not be developed, tested or deployed, either for anti-missile defence or as anti-satellite systems, or for use against targets on Earth or in the air and systems that had already been developed should be destroyed. In their view, all these proposals provided a constructive basis for working out an agreement or agreements for the prevention of an arms race in outer space. In their opinion, which was shared by other delegations, a first step in that direction would be for other States to join in the unilateral moratorium already declared by one State on the launching of anti-satellite weapons in outer space, which would be in force as long as other States acted in the same way. These delegations were of the view that the 1983 draft treaty submitted to the Conference in document CD/476 was a good basis for conducting negotiations on the problem under consideration.

31. In connection with the latter proposal, some delegations observed that the text concerned had serious deficiencies, inter alia, because of its unequal approach, the imprecision of its definitions, and its lack of effective verification proposals.

32. Some other delegations rejected those assertions and pointed out that, if such preliminary observations had any ground at all, they could be considered in the course of the negotiations with a view to elaborating a generally agreed comprehensive agreement to prevent an arms race in outer space.

33. Various delegations referred to suggestions or proposals concerning the prohibition of anti-satellite systems and the protection of satellites. The view was expressed that the main task should be to negotiate an international treaty banning all space weapons, including weapons directed against targets in space. Such a ban should cover the development, testing and deployment of ASAT weapons on Earth, in the atmosphere and in outer space and should include the destruction of existing ASAT systems. Furthermore, in this view, damage, disturbance and harmful interference in the normal functioning of permitted space objects should be forbidden in international agreements in order to strengthen the Outer Space Treaty and confirm the International Telecommunications Convention.

34. Some delegations noted that there were a number of questions that would have to be addressed in the consideration of a ban on ASAT systems, inter alia, the definition of anti-satellite weapons, the problem of dual-purpose space craft and the problems posed by the fact that ABM and ASAT technologies shared common elements. It was suggested that, taking into account the need to assure the verifiability of eventual treaty commitments, the first objective should be to prohibit untested anti-satellite systems, i.e., systems capable of hitting satellites in high orbit. The desirability of a ban on such systems was stressed on the grounds that high altitude satellites performed a number of stabilizing functions. The view was expressed that an agreement banning the development, testing and deployment of high-altitude ASAT systems should be regarded as a first step towards more comprehensive agreements to prevent an arms race in outer space.

35. Various delegations noted that bilateral agreements, such as the 1972 ABM Treaty and the two SALT agreements, provided protection for satellites of the parties that served as national technical means of verification and suggested the desirability of multilateralizing that immunity to cover the satellites of third countries.

36. On this question, the view was also expressed that the Conference on Disarmament should, in its exploration of issues relevant to arms control in outer space, consider the possibility of the protection from attack of all satellites which contributed to the preservation of strategic stability and which were instrumental in monitoring arms control and disarmament agreements. Furthermore, this same protection should be extended to the ground stations essential for the operation of those satellites.

37. One delegation, recalling that nuclear-weapon States had used military satellites in support of military actions against developing countries, held that this was a major consideration to be taken into account in connection with the question of the protection of satellites. It further stated that international peace and security could not be allowed to depend on such concepts as strategic stability for they lay at the heart of the action/reaction process that perpetuated the nuclear arms race and with it the danger of the annihilation of mankind.

38. In connection with the statement in the paragraph above, some delegations pointed out that strategic stability is an objectively important factor in maintaining and strengthening peace and international security, and that they continued to strive to maintain military balance at the lowest possible level.

39. Other delegations added that the concept of strategic stability and the means of its implementation employed by their countries were fully consistent with the obligations of all States to settle international disputes by peaceful means and to refrain from the use or threat of use of force against the territorial integrity or political independence of any State.

40. Some delegations were of the opinion that all aspects of the arms race in outer space should be dealt with in order to achieve a comprehensive régime to prevent an arms race in outer space. In their view, the principles of demilitarization should be extended to encompass outer space as a whole.

41. Various delegations held that verifiability was a fundamental criterion that should be applied in the consideration of proposals relating to the prevention of an arms race in outer space. They pointed out that, as discussed in document CD/OS/WP.7, in the case of most existing agreements, for example, the ENMOD Convention and the Outer Space Treaty, verification provisions were limited. They suggested that, at the present stage of technical development, some sort of international direct inspection should be applied, including on-site inspection, whenever feasible. Some delegations believed that consideration should be given to the establishment of an international agency to verify compliance so that all Parties may have access to the results of verification. In that connection, a number of delegations referred to the proposal for the establishment of an international satellite monitoring agency. Many delegations supporting the proposal for the establishment of an international satellite monitoring agency, pointed out that it would, inter alia, overcome the credibility gap that besets the existing national technical means of verification. They, however, held that an imposition of verifiability as a fundamental criterion would have the effect of creating an insurmountable obstacle to all attempts at negotiating agreements to prevent an arms race in outer space. They alluded in this context to the relevant paragraphs of the Final Document of the first special session of the General Assembly devoted to disarmament. Other delegations noted in the same

context that one relevant paragraph of the Final Document of the first special session of the General Assembly of the United Nations devoted to disarmament (paragraph 31) states that "Disarmament and arms limitation agreements should provide for adequate measures of verification satisfactory to all parties concerned in order to create the necessary confidence and ensure that they are being observed by all parties. The form and modalities of the verification to be provided for in any specific agreement depend upon and should be determined by the purposes, scope and nature of the agreement. Agreements should provide for the participation of parties directly or through the United Nations system in the verification process. Where appropriate, a combination of several methods of verification as well as other compliance procedures should be employed".

42. Some delegations, noting the inadequacy of the information furnished to the Secretary-General of the United Nations under the 1975 Convention on the Registration of Objects Launched into Outer Space, suggested the need to consider ways and means of improving the implementation and, as appropriate, augmenting the provisions of the Convention so that the international community may have detailed information on the nature and purposes of space activities. They believed that this would be a valuable confidence-building measure and would facilitate verification.

43. Some delegations also mentioned suggestions concerning the possibility of developing, as a confidence-building measure, "rules of the road" for space objects.

44. Some delegations believed that, in view of the advanced technology involved in the exploration and use of outer space, and the fact that only a few States were in a position to benefit therefrom, it was necessary in the consideration of proposals to contemplate ways and means of strengthening international co-operation in the peaceful uses of outer space, so that all States would have access to all areas of space technology without discrimination to promote their economic and social development according to their needs, interests and priorities. It was also suggested that surveillance and reconnaissance activities by satellite should be entrusted to an international body that could set up data banks from which any country would be able to obtain information relevant to its needs. Such a body could also be used to provide advance information on crisis situations, so as to enhance the crisis management role of the United Nations.

45. Some delegations, outlining their general approach to the consideration of proposals relating to the prevention of an arms race in outer space, stated that, in their view, a proposal should meet three criteria. First, the proposal should apply equally to all parties. Second, it should be verifiable. Third, there was the question whether the proposal, even if it applied equally and was verifiable, would, if implemented, enhance stability and security. These delegations were of the opinion that all of the proposals on this subject must meet those criteria.

46. Some delegations questioned the validity of the notion of stability put forward by nuclear-weapon States and their allies as a criterion to assess the need for and desirability of measures to prevent an arms race in outer space. In their view, it was an integral element of strategic concepts and doctrines that reflected the narrow security perceptions of the two alliances vis-à-vis each other. These delegations believed that questions relating to the prevention of an arms race in outer space should be considered in a much broader perspective taking full account of the concerns and interests of non-aligned and neutral countries.

47. In connection with this statement, some delegations recalled that their position concerning the prevention of an arms race in outer space takes fully into account the interests of all countries and peoples and had nothing to do with the "narrow security perceptions" mentioned above.

48. Other delegations reiterated that the criteria used by them in implementing their efforts for the prevention of an arms race in outer space were as follows:

- that outer space is the common heritage of all mankind;
- that the exploration and use of outer space should be preserved for exclusively peaceful purposes in order to promote the scientific, economic and social development of all countries.

Furthermore, in their view, none of their strategic concepts or doctrines were at variance with these criteria.

49. In the opinion of many delegations, the consideration of the proposals put forward before the Ad Hoc Committee had shown that there were areas of agreement on a number of major aspects of the problem and that, consequently, there was a good basis for pursuing the elaboration of an agreement or agreements to prevent an arms race in outer space. Many other delegations were of the view that the discussion, while useful, had been general and preliminary in nature. Some pointed out that for future discussions proposals should be elaborated and refined.

50. A number of delegations emphasized the need for the space powers to demonstrate the necessary political will, not only to avoid further militarization of outer space, but also to recognize that the pursuit of their interests in this sphere cannot take precedence over the interests of the international community.

51. Various delegations believed that, in view of the complexity and technical nature of the subject, the work of the Ad Hoc Committee would benefit greatly from the participation of experts. Accordingly, they suggested that at an early stage during the next session consideration should be given to ways and means of organizing that participation.

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52. Many delegations stressed that they had accepted the mandate because it expressly indicated that there would be a first exploratory stage and that "as a first step at this stage", it would be necessary to examine, "through substantive and general consideration, issues relevant to the prevention of an arms race in outer space". In their view, it was clear from the explicit reference in the last line in the mandate, that the stage referred to must end at the same time as the 1985 session of the Ad Hoc Committee and that next year negotiations should begin with a view to the "conclusion of an agreement or agreements", as appropriate, to prevent an arms race in outer space, as specifically stated in resolution 39/59 approved by 150 votes in favour and none against.

53. Other delegations stressed that in their view, the accepted mandate was a relevant and realistic one that permitted a considerable amount of concrete work which would not interfere, undercut or in any way prejudge the bilateral negotiations under way between the United States of America and the USSR on this issue. Furthermore, those delegations made clear their hope that the mandate would not expire at the end of the 1985 session should the Committee not have completed the kind of exploratory work envisaged by those delegations in the mandate.

54. Delegations of the socialist countries, fully sharing the opinion expressed in paragraph 52 above, upheld the view that the Conference on Disarmament should re-establish the Ad Hoc Committee at the beginning of its 1986 session with an appropriate mandate enabling it to start negotiations on concrete

practical measures urgently needed to prevent an arms race in all its aspects in outer space, as recommended by the relevant resolution of the United Nations General Assembly. Furthermore, the group of socialist countries proposed that Ambassador L. Bayart (Mongolia) be appointed as Chairman of the Ad Hoc Committee on Prevention of an Arms Race in Outer Space for its 1986 session.

55. Other delegations, taking note of the above-mentioned proposal of the socialist countries, stated that further consultations would be necessary in order to examine this matter.

IV. Conclusion

56. The Ad Hoc Committee had a wide-ranging discussion that contributed to clarifying the complexity of a number of problems and to a better understanding of positions. The importance and urgency of preventing an arms race in outer space was recognized by the Committee and, consequently, all efforts should be made to assure that substantive work on the agenda item entitled "Prevention of an Arms Race in Outer Space" will continue at the next session of the Conference.