

POSITION PAPER  
US Delegation

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September 23, 1963

NEGOTIATIONS WITH THE SOVIETS  
ON THE LEGAL PROBLEMS OF OUTER SPACE.  
September 24, 1963, New York

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By 10 NARA Date 10-3-90

1. Introduction

This paper deals with the Soviet draft declaration of general principles tabled at the Legal Subcommittee meeting (A/AC. 105/12, Annex I) (Attachment A) as amended by the recent Soviet memorandum (Attachment B) and the US memorandum of July 26, 1963 (Attachment C).

2. Strategy and Tactics

A. The USG objective in these negotiations is to establish the widest possible area of consensus with the Soviets consistent with US interests. A comprehensive agreement is the goal, but, barring that, an understanding reflecting the widest area of agreement.

B. The negotiations should begin with the less contentious points and should only move into the more difficult areas, such as harmful effects and observation from space, after as much agreement as possible has been recorded.

C. Negotiations should be on the basis of both the Soviet and US drafts. Tactically, it may be expedient to use Soviet language early in the negotiations as noted below, but this should not cause the delegation to take up the subjects in the order they appear in the Soviet draft. The delegation should follow insofar as possible the subject order set out below.

D. The Delegation should not agree finally on a text until there has been an opportunity for approval by the Department and an opportunity for consultations with the UK and other countries.

3. Negotiations on the Preamble

The US and the USSR are nearly agreed on this language which makes it a natural starting point. The Soviet note deleted paragraph 5 of their preamble and substituted language

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### 5. Negotiations on the More Contentious Issues

The Soviet note linked an American concession on other unresolved problems, such as, for example, the principle of banning the use of satellites for purposes of war propaganda, with a Soviet concession on private companies in outer space. These two principles may be taken up next, but the US delegation should avoid any implication of a quid pro quo such as the Soviet note suggests. A subsequent speech by Federenko appeared, however, to "decouple" the two issues, by suggesting that the Soviets might be willing to consider them separately and moreover, reach acceptable positions on both.

→ A) Private enterprise - The US delegation should avoid linkage of these problems because it appears that the Russians are virtually prepared to accept some form of US principle g and drop the first part of their principle 7! Moreover, if the Soviet principle restricting participation to states was an attempt to extend Communist principles to outer space, then the US should not waste negotiating capital appeasing a stand taken, perhaps, purely for the purposes of appearing to make a concession at a later time. If, however, the Soviets feared private enterprise activity in space and principle 7 was a means of establishing responsibility and liability through governments, then the US principle g meets this point squarely.

The delegation might point out to the Soviets that the issue is not who uses space, but how space is used and who is responsible. The US principle insures that each national government accepts responsibility for its activities and those of its nationals, and is internationally liable for them. This principle can and should command itself on its own merits and should not be linked to any package deal.

B) War propaganda - The US delegation should take a forth-right line with the Soviets explaining that the USG has always opposed propagating war, national or racial hatred or enmity among nations, but sees certain practical problems with the Soviet position. For example, the difficulty of defining what is propaganda within the meaning of this declaration is almost insuperable. The US and other governments have constitutional guarantees on free speech and while this does not permit slander, governments differ as to the character of comments which one nation or another might consider creating enmity.

7-G ARE  
ATTACHED

UNION OF SOVIET SOCIALIST REPUBLICS: DRAFT DECLARATION OF  
THE BASIC PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN  
THE EXPLORATION AND USE OF OUTER SPACE\*

The Governments of the States whose representatives have signed this Declaration,

Inspired by the great prospects opening up before mankind as a result of penetration into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to promote broad international co-operation in the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between nations and peoples,

Taking into consideration General Assembly resolutions 1721 (XVI) and 1802 (XVII), approved unanimously by all the States Members of the United Nations,

Noting the interrelationship of the technical and legal aspects of the activities of States in outer space,

Solemnly declare that in the exploration and use of outer space they will be guided by the following principles:

1. The exploration and use of outer space shall be carried out for the benefit and in the interests of the whole of mankind.
2. Outer space and celestial bodies are free for exploration and use by all States; sovereignty over outer space or celestial bodies cannot be acquired by use or occupation or in any other way.
3. All States have equal rights to explore and use outer space.

\* This document replaces document A/5181, Annex III, A (A/AC.105/L.2).

4. The activities of States pertaining to the conquest of outer space shall be carried out in accordance with the principles of the United Nations Charter and with other generally recognized principles of international law in the interests of developing friendly relations among nations and of maintaining international peace and security.

5. The use of outer space for propagating war, national or racial hatred or enmity between nations is inadmissible.

6. Co-operation and mutual assistance in the conquest of outer space shall be a duty incumbent upon all States; any measures that might in any way hinder the exploration or use of outer space for peaceful purposes by other countries may be implemented only after prior discussion of and agreement upon such measures between the countries concerned.

→ 7. All activities of any kind pertaining to the exploration and use of outer space shall be carried out solely by States. If States undertake activities in outer space collectively, either through international organizations or otherwise, each State participating in such activities has responsibility to comply with the principles set forth in this Declaration.

8. States shall retain their sovereign rights over objects they launch into outer space. Rights of ownership in respect of objects launched into outer space and their components remain unaffected while they are in outer space and upon their return to the earth.

9. The use of artificial satellites for the collection of intelligence information in the territory of a foreign State is incompatible with the objectives of mankind in its conquest of outer space.

10. States shall regard cosmonauts as envoys of mankind in outer space and shall render all possible assistance to spaceships and their crews which may make an emergency landing on the territory of a foreign State or on the high seas; spaceships, satellites or capsules found beyond the limits of the launching State shall be returned to that State.

11. A State undertaking activities in outer space bears international responsibility for damage done to a foreign State or to its physical or juridical persons as a result of such activities.

The Governments of the States signatories to this Declaration call upon all the States of the world to accede to it.

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Annex A  
July 26, 1963

Suggestions for Dealing with Legal Problems  
Arising from the Exploration and Use of Outer Space

1. There should be prepared a declaration of general principles containing the following elements:
  - a. A statement that the exploration and use of outer space shall be carried out for the benefit and in the interests of all mankind;
  - b. A statement on the freedom of outer space and celestial bodies for exploration and use by all States [on a basis of equality and in accordance with international law];
  - c. A statement that outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means;
  - d. A statement that the activities of States in the exploration and use of outer space shall be carried out in accordance with the Charter of the United Nations and relevant principles of international law;
  - e. A statement that States shall render all possible assistance to the personnel of space vehicles who may be the subject of accident

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accident or experience conditions of distress, or who may land by reason of accident, distress or mistake, and that space vehicle personnel who make such a landing shall be safely and promptly returned to the launching authority;

f. A statement that States shall return to the launching authority any space vehicle or part that has landed by reason of accident, distress, or mistake, the launching authority to furnish identifying data upon request prior to return;

(l) g. A statement that States bear international responsibility for national activities in space, whether carried on by government authority or by other entities, and that the operations of such entities would require authorization and continuing supervision ←  
by the State concerned; ]

h. A statement that a State or States or international organization which effect or procure the launching of a space vehicle, or from whose territory or facility a space vehicle is launched, are internationally liable for personal injury, loss of life, or property damage caused by such vehicle on the earth or in airspace;

i. A statement that a State shall conduct all its activities in outer space with due regard to the interests of other States in the exploration and use of outer space, and that, if a State has reason to believe that a space activity or experiment planned by it

or

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