

AGREEMENT GOVERNING THE ACTIVITIES OF STATES ON THE MOON AND OTHER CELESTIAL BODIES

In 1969, at the eighth session of the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space (hereinafter the “Legal Subcommittee”), Argentina, France and Poland proposed that the Legal Subcommittee should examine the question of the “rules which should govern man’s activities on the moon and other celestial bodies”. The Legal Subcommittee agreed that this issue could be examined under an existing agenda item (Report of the Legal Subcommittee on the work of its eighth session, A/AC.105/58). In 1970, at the ninth session of the Legal Subcommittee, Argentina presented a draft agreement on the principles governing activities in the use of the natural resources of the moon and other celestial bodies. However, preoccupied with other matters, the Legal Subcommittee did not consider the issue at that session (Report of the Legal Subcommittee on the work of its ninth session, A/AC.105/85).

At its tenth session, in 1971, the Legal Subcommittee recommended to the Committee on the Peaceful Uses of Outer Space that the issue of “rules which should govern man’s activities on the moon” be included as one of the important subjects at the eleventh session of the Legal Subcommittee and requested that the Committee considered establishing a priority order for these important subjects (Report of the Legal Subcommittee on the work of its tenth session, A/AC.105/94). In response, at its fourteenth session in 1971, the Committee took into consideration the request of the Legal Subcommittee and recommended that priorities be given to “matters relating to the registration of objects launched into space for the exploration or use of outer space, and to questions relating to the Moon” (Report of the Committee on the Peaceful Uses of Outer Space, A/8420). In parallel, in a letter dated 27 May 1971, addressed to the United Nations Secretary-General (A/8391), the Union of Soviet Socialist Republics (USSR) requested that the issue of preparing an international treaty concerning the moon be added to the agenda of the twenty-sixth session of the General Assembly. A draft treaty concerning the moon, prepared by the USSR, was annexed to the letter.

The item was added to the agenda of the twenty-sixth session of the General Assembly in 1971 and forwarded to the First Committee for consideration. The First Committee proposed a draft General Assembly resolution tasking the Committee on the Peaceful Uses of Outer Space and the Legal Subcommittee with the preparation of an international treaty concerning the moon. The General Assembly unanimously adopted resolution 2779 (XXVI) to this effect on 29 November 1971.

At its eleventh session, in 1972, the Legal Subcommittee added “Questions relating to the moon” as a distinct agenda item. A Working Group was established to consider the provisions of the draft treaty prepared by the USSR the year before, together with a series of proposals submitted by other States. The Working Group prepared a draft treaty on the basis of these materials, which was approved on 4 May 1972 by the Legal Subcommittee as a starting point for further work (Report of the Legal Subcommittee on the work of its eleventh session, A/AC.105/101). At its fifteenth session, in 1972, the Committee on the Peaceful Uses of Outer Space expressed its satisfaction with the work of the Subcommittee. It further expressed hope that progress would be achieved on a number of unresolved issues, particularly whether the treaty should apply only to the moon or also to other celestial bodies, what legal regime should govern the natural resources of the moon, and what information should be furnished on missions to the moon (Report of the Committee on the Peaceful Uses of Outer Space, A/8720).

On 9 November 1972, during its twenty-seventh session, the General Assembly adopted resolution 2915 (XXVII), by which it noted the significant progress made by the Legal

Subcommittee and agreed that further work on the draft treaty relating to the moon should be pursued as a matter of priority at the next session of the Legal Subcommittee.

The Legal Subcommittee continued its consideration of questions relating to the moon at its twelfth session, in 1973. The Working Group was re-established to consider a number of provisions of the draft treaty in light of working papers submitted by several States. The Working Group reached agreement and approved changes to a number of articles. The Subcommittee took note of the text proposed by the Working Group and recommended that the Committee on the Peaceful Uses of Outer Space should make its best efforts to complete the treaty at its sixteenth session in June 1973 so that the treaty could be submitted to the General Assembly for adoption at its twenty-eighth session (Report of the Legal Subcommittee on the work of its twelfth session, A/AC.105/115). Taking note of this recommendation, at its sixteenth session, the Committee established an informal Working Group to try to achieve progress towards agreement on the treaty. Despite negotiations, a final agreement on all outstanding issues could not be reached. Disagreements remained, particularly concerning article X of the draft treaty, dealing with the question of natural resources of the moon. Some delegations considered that a proposal by Austria regarding article X of the draft treaty relating to the moon might be valuable to future negotiations. The proposal was annexed to the report of the Committee (Report of the Committee on the Peaceful Uses of Outer Space, A/9020). The Committee recommended that the Legal Subcommittee make its best effort to complete the treaty at its next session. Likewise, the General Assembly in its resolution 3182 (XXVIII), adopted on 18 December 1973, recommended that the Legal Subcommittee make every effort to complete the treaty.

In the following years, an impasse was reached due to disagreement over the scope of the treaty, information to be furnished on missions to the moon, and the question of the natural resources of the moon. Although the issues continued to be considered, no agreement could be reached by the Working Group during the thirteenth, fourteenth, fifteenth and sixteenth sessions of the Legal Subcommittee (1974-1977). Meanwhile, the Committee on the Peaceful Uses of Outer Space and the General Assembly continued to recommend annually that work on the draft treaty continue.

The Working Group could not reach final agreement at the seventeenth session of the Legal Subcommittee in 1978 either. However, after extensive informal consultations, the Austrian delegation elaborated a compromise tentative draft agreement. Time did not permit consideration of the draft, but the Working Group expressed hope that it could be taken up by the Committee on the Peaceful Uses of Outer Space, or at the next session of the Legal Subcommittee (Report of the Legal Subcommittee on the work of its seventeenth session, A/AC.105/218). The Committee on the Peaceful Uses of Outer Space, at its twenty-first session in 1978, took note of this and established an informal working group to consider the issue. It expressed the view that the Austrian draft proposal could serve as a basis for reaching consensus on an international instrument, and recommended that the Legal Subcommittee should continue to consider the matter at its next session (Report of the Committee on the Peaceful Uses of Outer Space, A/33/20).

At the eighteenth session of the Legal Subcommittee, in 1979, the Working Group considered the Austrian draft proposal article-by-article in a detailed manner, and the points on which the remained disagreement were identified. The Legal Subcommittee recommended to the Committee on the Peaceful Uses of Outer Space that it should consider whether the agreement could be concluded, or further work completed, at the Committee's next session (Report of the Legal Subcommittee on the work of its eighteenth session, A/AC.105/240).

At the twenty-second session of the Committee on the Peaceful Uses of Outer Space, in 1979, the informal working group was re-established and gave consideration to the draft text. A number of amendments were agreed upon, including most importantly an amendment to article XI concerning natural resources. Several amendments were rejected, and some statements of clarification were agreed upon. Having completed its work, the Committee decided to submit the draft agreement governing the activities of States on the moon and other celestial bodies for consideration at the thirty-fourth session of the General Assembly (Report of the Committee on the Peaceful Uses of Outer Space, A/34/20).

At its thirty-fourth session, in 1979, the General Assembly adopted, without a vote, resolution 34/68 on 5 December, commending the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, and requesting that the Secretary-General open the Agreement for signature and ratification at the earliest possible date. The Agreement was opened for signature on 18 December 1979. It entered into force on 11 July 1984, thirty days after the date of deposit of the fifth instrument of ratification, in accordance with article 19, paragraph 3 of the Agreement.