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COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT OF THE LEGAL SUB-COMMITTEE ON THE WORK OF ITS
TWELFTH SESSION (26 MARCH-20 APRIL 1973)

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INTRODUCTION

Opening of the session

1. The Legal Sub-Committee opened its twelfth session at the United Nations Headquarters on 26 March 1973 under the chairmanship of Mr. Eugeniusz Wyzner (Poland).

2. In his opening statement the Chairman noted that remarkable advancements of space technology, exemplified by the launching of Apollo 17 and the accomplishments of Lunokhod 2, gave new urgency to the need for corresponding development of the law of outer space. He was gratified that the Convention on International Liability for Damage Caused by Space Objects, a major accomplishment of the Sub-Committee, had come into effect on 1 September 1972.

3. As to the work of the Sub-Committee at the present session, he reminded members of the approval by the Sub-Committee last year of the texts of the preamble and 21 articles of a draft treaty relating to the moon and elaboration of the text of the preamble and 9 articles of the draft convention on the registration of objects launched into space for the exploration and use of outer space. Thus the Sub-Committee had made significant progress at its previous session. There were, however, some issues which still remained to be resolved in the formulation of the draft treaty relating to the moon and of the draft convention on registration.

4. The Chairman referred to General Assembly resolution 2915 (XXVII) of 9 November 1972, which provided that the Sub-Committee should pursue its work on both the draft treaty on the moon and the draft convention on registration as a matter of priority. In paragraph 7 of the same resolution, the General Assembly also expressed the hope that, as recommended by the Committee on the Peaceful Uses of Outer Space (A/8720, para. 19) the Sub-Committee would give early consideration to matters relating to the definition and/or delimitation of outer space and outer space activities; the various implications of space communications: the report of the Working Group on Direct Broadcast Satellites; and matters relating to the activities carried out through remote sensing satellite survey of earth resources. The Sub-Committee was unable to consider these subjects in any detail at its previous session because of lack of time. In regard to one of these subjects, the Chairman also drew attention to General Assembly resolution 2916 (XXVII) of 9 November 1972. In that resolution the Assembly, noting the draft convention on principles governing the use by States of artificial earth satellites for direct television broadcasting, submitted to the Assembly by the Union of Soviet Socialist Republics, considered it necessary to elaborate such principles with a view to concluding an international agreement or agreements and had requested the Committee on the Peaceful Uses of Outer Space to undertake the elaboration of such principles as soon as possible.

5. A statement was also made by Mr. Sloan, Director of the General Legal Division, Office of Legal Affairs, who welcomed the Sub-Committee on behalf of the Secretary-General and the Legal Counsel.

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Adoption of the agenda

6. At its opening meeting, the Sub-Committee adopted the following agenda for the session (A/AC.105/C.2/L.84 and Corr.1):

1. Statement by the Chairman
2. Draft treaty relating to the moon
3. Draft convention on registration of objects launched into space for the exploration or use of outer space
4. Matters relating to the definition and/or delimitation of outer space and outer space activities
5. The various implications of space communications: report of the Working Group on Direct Broadcast Satellites
6. Matters relating to the activities carried out through remote sensing satellite surveys of earth resources

Organization of work

7. The Sub-Committee at its opening session decided that it would begin its work with general exchange of views. The Sub-Committee also decided to re-establish its two working groups of the whole, open to all members, to consider the provisions of the draft treaty relating to the moon (Working Group I) and the draft convention on registration (Working Group II). Each working group would meet for the same number of days beginning with Working Group I. It was also decided that the Sub-Committee would meet in the mornings and, after the general exchange of views in plenary, adjourn and reconvene as a working group.

8. Working Group I was presided over by the Chairman of the Sub-Committee, and Working Group II by the representative of Austria.

9. At its 200th meeting on 9 April 1973, the Sub-Committee decided to establish a Drafting Group on the draft treaty relating to the moon, consisting of Argentina, Belgium, Bulgaria, France, India, the USSR, the United Kingdom and the United States. Other members of the Sub-Committee were free to attend the meetings of the Drafting Group and to express their views if they so wished. The Drafting Group would examine all the provisions of the treaty relating to the moon, including the title, the preamble, the final clauses and the structure as a whole. No meetings of the Drafting Group were held.

10. The Sub-Committee held a total of 16 meetings. The views expressed in the Sub-Committee are summarized in documents A/AC.105/C.2/SR.192-207. Working Group I held 15 meetings and Working Group II held 13 meetings.

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11. At the 206th meeting, on 19 April, the Sub-Committee decided to request its Chairman to attend, if possible, the forthcoming session of the Committee on the Peaceful Uses of Outer Space with a view to assisting the Committee in completing the elaboration of the draft treaty relating to the moon and the draft convention on registration of objects launched into outer space.

12. The Sub-Committee concluded its work on 20 April 1973 by adopting the present report unanimously. A list of the representatives of States members of the Sub-Committee attending the session, of the observers for specialized agencies and of the secretariat of the Sub-Committee, is to be found in document A/AC.105/C.2/INF.5.

Date and place of the next session of the Sub-Committee

13. The Sub-Committee recommended that its thirteenth session be held from 4 to 28 June 1974. This session would take place in Geneva as previously agreed.

I. QUESTIONS RELATING TO THE MOON

14. The Sub-Committee resumed consideration of the draft treaty relating to the moon (agenda item 2) at its 193rd meeting on 27 March 1973. The Chairman made an introductory statement outlining the work previously undertaken in the preparation of the draft treaty.

15. As indicated in paragraph 7 above, the Sub-Committee, on 26 March, re-established Working Group I with respect to item 2. In accordance with paragraph 21 of the report covering its eleventh session (A/AC.105/101), the Sub-Committee pursued its work on the basis of the text which it had approved and which was set out in that paragraph. To facilitate further work on the subject, the Sub-Committee decided to reproduce this text in annex I(A).

16. In the course of the discussions in the Working Group the following working papers were submitted which are reproduced in annex I(B).

A working paper by Bulgaria which contained the text of a draft treaty, consisting of a preamble and 21 articles, based on the text approved by the Sub-Committee at its previous session, together with certain changes and amendments (Annex I(B)(1)).

Two joint working papers by Egypt and India: one relating to article II, paragraph 1 (Annex I(B)(2)) and the other relating to article V, paragraphs 1 and 4 (Annex I(B)(3)).

Two working papers by India: one relating to article IX, paragraph 3 (Annex I(B)(4)) and the other relating to article X (Annex I(B)(5)).

A working paper by Iran relating to the preamble (Annex I(B)(6)).

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A working paper by the USSR relating to the question of "common heritage of all mankind" (Annex I (B)(7)).

Four working papers by Argentina: one relating to article X (Annex I(B)(8)), the second relating to article XVIII, paragraphs 2 and 3 (Annex I(B)(9)), the third relating to article VI, paragraph 4 (Annex I(B)(10)), and the fourth relating to the question of "common heritage of all mankind" (Annex I(B)(11)).

Three working papers by the United States: two relating to the scope of the treaty (Annex I(B)(12) and Annex I(B)(13)), and one dated 17 April 1973 relating to article X (Annex I(B)(14)).

A working paper by the United Kingdom relating to article I (Annex I(B)(15)).

A working paper by Italy relating to article X (Annex I(B)(16)).

A working paper by Sweden relating to article X (Annex I(B)(17)).

17. The Working Group, after consideration approved the texts of six provisions which are reproduced below.

Article II, paragraph 1

All activities on the moon including its exploration and use, shall be carried out in accordance with international law, in particular, the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interests of all other States Parties.

Article IV, paragraph 3

States Parties shall inform the Secretary-General as well as the public and the international scientific community, to the greatest extent feasible and practicable, of their activities concerned with the exploration and use of the moon. Information on the time, purposes, locations, orbital parameters and duration shall be given in respect of each mission to the moon, while information on the results of each mission, including scientific results, shall be furnished upon completion of the mission. In case of a mission lasting more than 60 days, information on conduct of the mission shall be given periodically at 30 days' intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter (points of time of information to the Secretary-General to be resolved).

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Article VI

1. In exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment whether by introducing adverse changes in such environment, its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to prevent harmfully affecting the environment of the earth through the introduction of extra-terrestrial matter or otherwise.

2. States Parties shall inform the Secretary-General of the measures being adopted by them in accordance with paragraph 1 of this article and shall also notify him of all placements by them of radioactive materials on the moon and of the purposes of such placements. (Points of time of information and notification to the Secretary-General to be resolved.)

...

4. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the moon having special scientific interest in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed in consultation with the competent organs of the United Nations.

Article IX, paragraph 3

States Parties shall immediately inform the Secretary-General, as well as the public and the international scientific community, of any phenomena they discover in outer space, including the moon and other celestial bodies, which could endanger human life or health, as well as any indication of organic life.

Article XIII, paragraph 2

States Parties recognize that detailed arrangements concerning liability for damage sustained on the moon, in addition to the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and the Convention on International Liability for Damage Caused by Space Objects, may become necessary as a result of more extensive activities on the moon, and agree that a conference of States Parties to this Treaty for the purpose of elaborating such arrangements shall be convened by the Depositary Governments when one third of the States Parties so request.

The Working Group also agreed to delete article XV of the text approved by the Legal Sub-Committee in 1972.

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18. The Working Group considered the text relating to article X worked out originally in informal consultations but did not reach agreement on it. This text is reproduced in annex I (C).

19. At the 205th meeting of the Sub-Committee, the Chairman reported, in his capacity as Chairman of Working Group I, on the work of that Group. The Sub-Committee took note of the texts set out in paragraph 17 above, and recommended that the Committee on the Peaceful Uses of Outer Space should make its best efforts to complete the treaty relating to the moon at its next session in June 1973 in order that the draft treaty may be submitted to the twenty-eighth session of the General Assembly for adoption.

II. DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO SPACE FOR THE EXPLORATION OR USE OF OUTER SPACE

20. The Sub-Committee resumed consideration of the draft convention on registration (agenda item 3) at its 197th meeting on 2 April 1973. The Chairman made an introductory statement summarizing previous consideration of the draft convention on registration.

21. At the 193rd meeting on 27 March 1973 of the Sub-Committee, during the general exchange of views, the representative of the United States introduced his delegation's proposal containing the text of a "Convention on the registration of objects launched into outer space" (A/AC.105/C.2/L.85). At the 197th meeting of the Sub-Committee on 2 April 1973 the representative of Canada, on behalf of the sponsors, introduced the joint proposal by Canada and France for a "Convention on the registration of objects launched into outer space" (A/AC.105/C.2/L.86) which was based on the text elaborated by the Sub-Committee at its previous session, together with certain changes and amendments.

22. At the request of the Sub-Committee, the Secretariat prepared a comparative table of the provisions elaborated by the Sub-Committee at its previous session (A/AC.105/101, para. 31), the provisions of the United States proposal (A/AC.105/C.2/L.85) and the provisions of the joint proposal by Canada and France (A/AC.105/C.2/L.86).

23. During the discussions in Working Group II, which was re-established by the Sub-Committee on 26 March (see para. 7 above), the following further proposal and working papers were submitted which, together with the proposals referred to in paragraph 21 above, are reproduced in annex II (A) and (B).

A proposal by Argentina to add a new article to the draft convention on registration (A/AC.105/C.2/L.87).

Two working papers by Argentina: one relating to article VII, paragraph 2 of the United States proposal (Annex II(B)(1)), and the other relating to article IV (Annex II(B)(2)).

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Three working papers by France: one relating to article II (Annex II(B)(3)), and the other two relating to article V (Annex II(B)(4) and Annex II(B)(5), with the latter replacing the former).

A working paper by Canada relating to an article on "marking" (Annex II(B)(6)).

24. The Working Group following consideration of the proposals as well as working and informal papers before it, and after substantial informal consultations, particularly among the sponsors of documents A/AC.105/C.2/L.85 and A/AC.105/C.2/L.86, approved the texts of a preamble and 10 articles as well as the title of the draft convention which are reproduced below.

DRAFT CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED
INTO OUTER SPACE

Draft articles approved by Working Group II

Preamble

The States parties to this Convention,

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

Recalling that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, affirms that States shall bear international responsibility for their national activities in outer space and refers to the State on whose registry an object launched into outer space is carried,

Recalling also that the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space provides that a launching authority shall, upon request, furnish identifying data prior to the return of an object it has launched into outer space which has come into the possession of another State party,

Recalling further that the Convention on International Liability for Damage Caused by Space Objects elaborates international rules and procedures concerning the liability of launching States for damage caused by their space objects,

Taking note of the treaty relating to the moon /and other celestial bodies/, concerning an international legal régime for the exploration and use of the moon /and other celestial bodies/,

Desiring, in the light of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, to make provision for the registration by a launching State of space objects launched into outer space,

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Desiring further to establish, on an obligatory basis, a central register of objects launched into outer space to be maintained by the Secretary-General of the United Nations,

Desiring also to provide for States parties additional means and procedures to assist in the identification of space objects for the purposes set out in this Convention,

Believing that a mandatory system of registering objects launched into outer space would, in particular, assist in their identification and would contribute to the application and development of international law governing the exploration and use of outer space,

Have agreed as follows:

Article I

For the purpose of this Convention:

(a) The term "launching State" means

(i) A State which launches or procures the launching of a space object;

(ii) A State from whose territory or facility a space object is launched.

(b) The term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof.

(c) The term "State of registry" means a launching State on whose registry a space object is carried in accordance with article II.

Article II

1. When a space object is launched into earth orbit or beyond,* the launching State shall register the space object by means of an entry in an appropriate registry which it shall maintain. Each launching State shall inform the Secretary-General of the United Nations of the establishment of such a registry.

* The expression "into earth orbit or beyond" as used in the various articles of this draft convention reflects the terminology used in General Assembly resolution 1721 B (XVII). One delegation, however, was of the view that further consideration should be given to the rendering of this expression in all official languages.

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2. Where there are two or more launching States in respect of any such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this article, bearing in mind the provisions of article VIII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and without prejudice to appropriate agreements concluded or to be concluded between the launching States on jurisdiction and control over the space object and over any personnel thereof.

3. The contents of and conditions under which each registry is maintained shall be determined by the State of registry concerned.

Article III

1. Each State of registry shall furnish to the Secretary-General, as soon as practicable, the following information concerning each space object launched into earth orbit or beyond:

- (a) Name of launching State or States;
- (b) An appropriate international designator or registration number;
- (c) Date and territory or facility of launch;
- (d) Basic orbital parameters, including:
 - (i) Nodal period,
 - (ii) Inclination,
 - (iii) Apogee, and
 - (iv) Perigee;
- (e) General function of the space object.

2. A State of registry may, from time to time, provide the Secretary-General with additional information in relation to a space object it has launched into earth orbit or beyond.

3. Each State of registry shall notify the Secretary-General, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in earth orbit.

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Article IV

1. The Secretary-General shall maintain a central register in which the information furnished in accordance with article III shall be recorded.

2. There shall be full and open access to the information in this register.

Article V

Where the application of the provisions of this Convention has not enabled a State party to identify a space object which has caused damage to it or to any of its natural or juridical persons, or which may be of a hazardous or deleterious nature, other States parties, including in particular States possessing space monitoring and tracking facilities, shall respond to the greatest extent feasible to a request by that State party, or transmitted through the Secretary-General on its behalf, for assistance under equitable and reasonable conditions in the identification of the object. A State party making such a request shall, to the greatest extent feasible, submit information as to the time, nature and circumstances of the events giving rise to the request. Arrangements under which such assistance shall be rendered shall be the object of agreement between the parties concerned.

Article VI

1. With the exception of articles VII through XI of this Convention, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are States parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the preceding paragraph.

Article VII

1. This Convention shall be open to all States for signature. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited

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with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the depositary Governments.

3. This Convention shall enter into force on the deposit of the fifth instrument of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices.

6. This Convention shall be registered by the depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article VIII

Any State party to this Convention may propose amendments to this Convention. Amendments shall enter into force for each State party to the Convention accepting the amendments upon their acceptance by a majority of the States party to the Convention on the date of acceptance by it.

Article IX

Any State party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article X

This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the depositary Governments. Duly certified copies of this Convention shall be transmitted by the depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Convention.

Done in _____, at the cities of _____,
this _____ day of _____, one thousand nine hundred and seventy-
_____.

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25. At the 205th meeting of the Sub-Committee, the Chairman of Working Group II reported on the work of that Group. In his statement the Chairman drew attention to the following matters which the Working Group considered should be reflected in the Sub-Committee's report:

(a) The Working Group agreed to the following explanation of the term "damage":

"The term 'damage' as used in article V of the Draft Convention is used in the same sense as in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies."

(b) The question of the inclusion of a provision requiring States parties to notify the Secretary-General of the United Nations of the presence of personnel on board a space object was considered but was not agreed upon.

(c) Several delegations, believing that marking of space objects was an essential element of registration, requested that a specific provision dealing with this question be included in the text of the Convention. Other delegations, while not attaching the same importance to marking, admitted none the less the possibility of including a reference to voluntary marking in the text of the Convention. Some delegations, considering that marking would not further the better implementation of the Convention and was not technically feasible, were of the opinion that no reference to marking should be included in the text of the Convention.

(d) The question of the inclusion of a review clause was discussed. Although there was wide support for such a provision, no agreement was reached for its inclusion.

(e) Many delegations expressed support in principle for a proposal making the Secretary-General of the United Nations the sole depositary of the Convention. A number of delegations which agreed with the proposal in principle felt, however, that the three depositary system previously used in international instruments on outer space concluded under the auspices of the United Nations should be retained, at least at the present time, in the Convention; others expressed the view that this system had its intrinsic merits and should not be changed.

26. The Sub-Committee took note of the texts set out in paragraph 24 above, and recommended that the Committee on the Peaceful Uses of Outer Space should make its best efforts to complete the draft convention relating to registration at its next session in June 1973 in order that the draft convention may be submitted to the twenty-eighth session of the General Assembly for adoption.

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III. OTHER QUESTIONS

27. The Sub-Committee because of lack of time was not able to consider agenda items 4, 5 and 6. However, some delegations recorded their views on those questions in the general exchange of views.

28. With respect to agenda item 5 (The various implications of space communications: report of the Working Group on Direct Broadcast Satellites) the delegation of the USSR submitted a proposal (A/AC.105/C.2/L.89) which is reproduced in annex III (A).

29. With regard to agenda item 6 (Matters relating to the activities carried out through remote sensing satellite surveys of earth resources) a proposal entitled "Model draft principles governing the use of space technology by States for the study of earth resources" was submitted by the USSR (A/AC.105/C.2/L.88). This proposal is reproduced in annex III (B).

30. In this connexion, after a discussion of the question of altering the priorities of items on its agenda, the Sub-Committee was of the view that the Committee on the Peaceful Uses of Outer Space may itself wish to consider this question in light of the discussions in the Legal Sub-Committee and of any subsequent developments prior to the meeting of the Committee in June 1973 and in light of developments during the next session of the Committee.

31. Certain delegations also drew attention to the desirability of early ratification of the Convention on International Liability for Damage Caused by Space Objects.

Annex I

DOCUMENTS RELATING TO AGENDA ITEM 2

(DRAFT TREATY RELATING TO THE MOON)

(A) Text contained in 1972 report of the Sub-Committee
(document A/AC.105/101, paragraph 21)

The States Parties to this Treaty,

Noting the achievements of States in the exploration and use of the moon
/and other celestial bodies/, a/

Recognizing that the moon, as a natural satellite of the earth, has an
important role to play in the exploration of outer space,

Determined to promote on the basis of equality the further development of
co-operation among States in the exploration and use of the moon /and other
celestial bodies/,

Desiring to prevent the moon /and other celestial bodies/ from becoming an
area of international conflict,

Recalling the Treaty on Principles Governing the Activities of States in
the Exploration and Use of Outer Space, including the Moon and Other Celestial
Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts and
the Return of Objects Launched into Outer Space, and the Convention on
International Liability for damage caused by space objects,

Taking into account the need to define and develop the provisions of these
international instruments in relation to the moon /and other celestial bodies/
having regard to further progress in the exploration and use of outer space,

Have agreed on the following:

a/ A suggestion was made that, with a view to deleting references to
"other celestial bodies" the treaty might contain a provision along the following
lines:

The provisions of this Treaty shall apply to celestial bodies in addition
to the moon until such time as provision is made by other treaties in
relation to specific celestial bodies. To the extent that provision is so
made, this Treaty shall then cease to apply to those bodies.

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