

CENTRAL INTELLIGENCE AGENCY
NATIONAL FOREIGN ASSESSMENT CENTER

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MEMORANDUM

THE UN SUBCOMMITTEE NEGOTIATIONS ON THE
DEFINITION OF OUTER SPACE

Summary

In our best judgment--based on fragmentary reporting--most nations would favor at some time in the near future an arbitrary definition or delimitation of outer space. Many countries could agree to the Soviet proposal introduced last year that defines outer space as beginning 100-110 kilometers above sea level. It is unlikely, given other pressing matters under consideration in the UN Legal Subcommittee and the general impact of the Afghanistan crisis on UN negotiations, that the matter will receive much attention in the upcoming March session. Nevertheless, certain decisions reached at the World Administrative Radio Conference (WARC) last fall might generate momentum for considering the matter before 1984--at which time a Space WARC will be convened by the International Telecommunication Union (ITU).

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General Positions on Definitions of Outer Space

At last year's session of the UN Legal Subcommittee, the USSR tabled a proposal that;

- (1) Defined outer space as territory 100-110 kilometers above sea level;
- (2) Called for states to confirm this by treaty;

This paper was written for Steve Bond, Chairman, US Delegation to the UN Legal Subcommittee by [redacted] International Issues Division, Office of Political Analysis. It was coordinated with the Office of Scientific Intelligence. Comments are welcome and should be addressed to Chief, Political-Economic Issues Branch, International Issues Division, OPA,

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- (3) Stated that space objects of states should be able to fly over countries at altitudes lower than 100-110 km in order to reach orbit or to return to earth in the territory of the launching state.

We have no insights as to any underlying technical reason why the USSR opted for a 110-110 km definition of outer space. [redacted]

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Other issues--including remote sensing and direct broadcast satellites--pre-empted significant debate on the Soviet proposal and prevented any consideration of other definitions. Nevertheless, reporting at that time suggested that most countries could accept the Soviet definition with modifications. [redacted]

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Only the United States, some US allies such as Great Britain, and the equatorial nations were strongly opposed. The United States maintained that an artificial definition of outer space was unnecessary and, moreover, that it might result in a freeze on technological innovation. The equatorial nations, particularly Colombia and Ecuador, adamantly oppose any definition of outer space that denies their sovereign claim over the geostationary orbit. They are not necessarily opposed in principle to a definition that covers the area that excludes the geostationary orbit region. [redacted]

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Most other developing countries--and a few developed countries--are not opposed to an artificial definition or delimitation of outer space; for the most part, the technical issue is not a high priority item. They maintain that there is a need to clarify the legal issue of outer space and its relationship with national claims on air space. International law regards air space as part of the national territory and as subject to national regulation. Some of the developed countries, including France and Belgium, have signaled that the Soviet proposal is acceptable. [redacted]

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Political Climate for March 1980 Legal Subcommittee Session

By and large, discussions on space issues at the Legal Subcommittee session in Geneva will be insulated from events in Afghanistan. However, the crisis in Afghanistan did contribute to a growing opposition to Moscow as the site of the 1982 Outer Space Committee. A decision on venue will be made this June at the Outer Space Committee. Vienna, or some third world capital such as Nairobi, likely will be selected as the alternate site. [redacted]

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Despite the political climate, the March 1980 UN meeting will debate important issues such as a remote-sensing and direct TV broadcasting from satellite primarily on the basis of national interests, narrowly defined by technical and economic considerations, rather than broad political alliances. It is possible the Soviets will opt to assign the definition issue a low priority during the 1980 session, if they perceive a general erosion of support caused by the invasion of Afghanistan. [REDACTED]

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The Impact of WARC Decisions on Negotiations

Before attacking the issue of a definition of outer space, nations may have to respond to the equatorial countries' claims over the geostationary orbit. The equatorial nations maintain that circumterrestrial territory above the equator rightfully belongs to them, and that they can regulate use of that orbit. At the World Administrative Radio Conference, the equatorial countries reasserted their claim; Brazil recommended that the Legal issue be relegated to the UN Legal Subcommittee for consideration. It is unlikely that the equatorial countries will strongly push for a resolution at the upcoming sessions, but behind-the-scenes they are lobbying for support among the non-equatorial developing countries. [REDACTED]

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The equatorial countries will try to link the sovereignty issue with a priori planning of the geostationary orbit--a proposal, advanced by the developing countries at WARC, which will be discussed in 1984 at the Space WARC. To garner support from other LDCs, the equatorial countries maintain that they will give special privileges to the developing countries in the use of the orbit. [REDACTED]

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Most developing countries will back the establishment of a special legal regime to regulate the geostationary orbit. At this point, they are opposed to the special claims made by the equatorial countries. Most developing countries want a legal regime that would ensure that the orbit is used equitably and efficiently, and that no nation is denied access in the future. [REDACTED]

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Following the 1979 Legal Subcommittee, the Soviet Union indicated a willingness to accept a legal regime regulated by the International Telecommunications Union (ITU). At WARC-79, a consensus emerged favoring a priori planning of the geostationary orbit. The Soviets and the United States strongly opposed any form of planning. Nevertheless, the meeting recommended a special WARC for 1984 to consider a priori planning of the space services. [REDACTED]

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As a result, the Soviets may rethink their position on a legal regime for the geostationary orbit because some developing countries may link a priori planning with a legal regime negotiation in the subcommittee. The Soviet Union has already noted its opposition to the equatorial nation claims, and will continue to promote a definition on Outer Space to stymie the equatorial nation efforts.

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