



Space Principles Adopted by the U.N. General Assembly



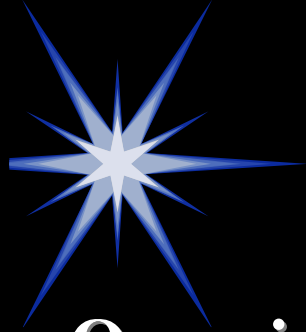
Presented by
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to
**United Nations/Republic of Korea
Workshop on Space Law
3 November 2003**

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University of Mississippi School of Law**

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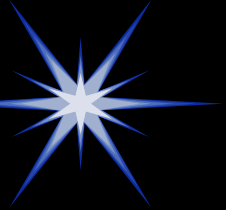


Principles Adopted by the General Assembly



- **Overview**
- **Principles and kinds of resolutions and declarations**
- **Status at international law: scope of possible acceptance**
- **How are they construed?**
- **Overview of the 5 major sets of space law principles**
 - **Legal Principles Governing Space**
 - **International Direct Television Broadcasting**
 - **Remote Sensing**
 - **Nuclear Power Sources**
 - **Cooperation for Benefit and Interest of All States, Particularly Developing Countries' Needs**





Overview



- **Resolutions and declarations**
 - **Post - World War II development**
 - **Principles can be contained in them**
- **Adopted by unanimous vote or consensus**
- **Formulated as norms and requirements of state behavior**
 - **Sometimes in juridical terms of obligations and rights**
- **Controversial**
 - **Can be challenges to the existing order**
 - **Very often regarding resource disparity and wealth distribution**
- **Widely divided opinion regarding nature and status**
- **Very specific case and circumstance dependent**



Different Kinds



- **Purports to state legal rules**
 - **Elaboration of U.N. Charter**
 - Addressed by special committees, subsidiary organs or secretariats
 - e.g., *Declaration of Legal Principles Principles Governing the Activities of States in the Exploration and Use of Outer Space*
 - **Affirmational resolutions not designated as "declarations"**
 - e.g., *Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal*
- **Not intended to express legal rights and obligations**
 - **E.g. Universal Declaration of Human Rights**
 - Expressly stated "as a common standard of achievement"





Status at International Law: Scope of Possible Acceptance

Not legally binding.
(Except when addressed to subsidiary organs or secretariats.)



Express agreed law.
(Particularly if adopted without dissenting votes.)

Authoritative Statement





How Are They Construed?



- **Case-by-case**
- **Each case requires a complex, sophisticated analysis to determine expectations of behavior**
- **Major criteria**
 - **Examination of voting conditions**
 - **Analysis of provisions at issue**





Examination of Voting Conditions



- **How many states supported?**
- **Which states?**
 - **Spacefarers? Non-spacefarers?**
 - **"Important"?**
 - **Mix of developed, developing, newly industrialized?**
- **Extent of interest and involvement?**
- **Precise intent for adoption?**
 - **Recommendation?**
 - **Political statement?**
- **Positions of states taken in other situations?**





Examination of Voting Conditions



- **Pre- and post-adoption state practice?**
- **Reservations or dissent?**
- **Responses?**
- **Counter-claims?**
- **Events in formal fora and the world arena**
- **Conditioning considerations:**
 - **Political**
 - **Economic**
 - **Psychological, etc.**
 - **Changes since adoption**



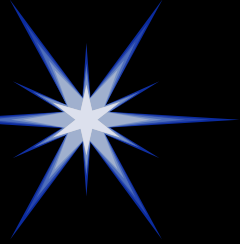


Analysis of Provisions at Issue



- **Existing right?**
- **Introduction of a new principle?**
- **Part of a series of resolutions?**
- **Language**
 - "shall" or "should"?
 - Specific direction to States?
 - Main body text or appendix?
 - Qualifiers: "as appropriate", "if applicable", "as practicable", etc.





Space Declarations and Resolutions



- **Approximately 72 resolutions since 1958**
- **One clear attempt to make new law**
 - *Declaration of Legal Principles Principles Governing the Activities of States in the Exploration and Use of Outer Space*
- **Others, less clear**
- **5 instruments include principles**
 - 2 have "declaration" in title
 - 3 do not have "declaration" in title
 - 2 have principles in main text
 - 3 have principles in an appendix
 - 1 set specifically identifies principles as "legal"

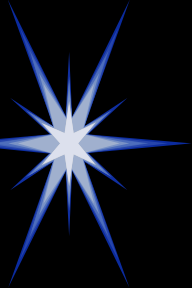


Space Declarations and Resolutions



- **All restate numerous treaty provisions**
 - States internationally responsible for national activities
 - Applicability of international law
 - Nonexclusive right to use space
 - State sovereignty over natural resources
 - Liability as per *Liability Convention*
 - Standard of international cooperation
 - Equality of States
 - Peaceful dispute resolution
 - Etc.
- **Major source of debate: new law or repeat of existing law?**



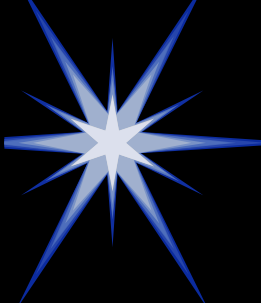


Space Principles Adopted by the General Assembly



- Declaration of **Legal Principles** Governing the Activities of States in the Exploration and Use of Outer Space
- Principles Governing the Use by States of Artificial Earth Satellites for International **Direct Television Broadcasting**
- Principles Relating to **Remote Sensing** of the Earth from Outer Space





Space Principles Adopted by the General Assembly



- Principles Relevant to the Use of **Nuclear Power Sources** in Outer Space
- Declaration on **International Cooperation** in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries






Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space



- **GA Resolution 1962 (XVIII), 13 December 1963**
- **Adopted without vote**
- **"Solemnly declares...States should be guided by" principles later codified in *Outer Space Treaty*:**
 - **Free for exploration and use**
 - **Nonappropriation**
 - **International responsibility for national activities**
 - **Jurisdiction over registered space objects**
 - **Launching state is internationally liable for damages**
 - **Etc.**





Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting



- **Resolution 37/92, 10 December 1982**
- **Vote: 108 for; 13 against; 13 abstentions**
- **Anomaly of space principles instruments**
 - **Only one not adopted without a vote**
 - **Weak instrument**
- **Advent of newer technologies, including Internet may have rendered specific technology provisions less relevant**
 - **Some basic issues still relevant**



Direct Television Broadcasting



- **Addresses**
 - Rights of States including non-intervention
 - Free dissemination of information and knowledge
- **Bilateral and multilateral cooperation for copyright protection**
- **Requires broadcasting State to**
 - Notify receiving State of intention to broadcast
 - Enter into consultation, upon request
 - Conform with ITU instruments
- **Regarding "unavoidable overspill...of signal" ITU instruments "shall be exclusively applicable"**



Remote Sensing Principles



- **Resolution 41/65, 3 December 1986**
- **Adopted without a vote**
- **Negotiated, developed, implemented and interpreted for 25 years**
- **Address access and distribution of data and info**
- **Attempts balance between sensed and sensing states**
- **Segments adopted nationally and internationally**
 - **Twice incorporated by US Congress into US domestic law**
 - **In a number of bilateral and multilateral agreements**





Remote Sensing Principles



- **“Primary data”**
 - raw data in form of electromagnetic signals, photographic film, magnetic tape, and any other means
- **“Processed data”**
 - products resulting from processing primary data
- **“Analysed information”**
 - information resulting from interpreting processed data
- **“Remote sensing activities”**
 - operation of systems, primary data collection and storage stations, and activities in processing, interpreting and disseminating processed data





Remote Sensing Principles



- **Sensing state must avoid harm to sensed state**
 - **Activities not to be conducted in a manner detrimental to legitimate rights and interests of sensed States**
 - **Prohibits economic espionage**
- **Excludes military systems**
- **Data and information availability**
 - **Primary and processed data**
 - **Nondiscriminatory access by sensed state on reasonable terms and conditions**
 - **Analyzed information**

If legally unavailable to a state, then unavailable for the *Principles*



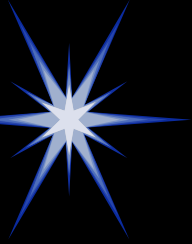


Remote Sensing Principles



- **Obligation to Disclose**
 - **“Information”**
 - to avert “any phenomenon harmful the the Earth’s natural environment”
 - **“Processed data” and “analyzed information”**
 - to “promote the protection of mankind from natural disasters”
- **Not an obligation to constantly monitor**





Principles Relevant to the Use of Nuclear Power Sources in Outer Space

- **Resolution 47/68, 14 December 1992**
- **Adopted without a vote**
- **Major areas**
 - **Safety**
 - **Notification and kind of information required**
 - **Emergency assistance**
 - **Identification, search and recovery**
 - **Damages**



Principles on Nuclear Power Sources



- **General goals**
 - **Protection of populations and biosphere**
 - **Observe Commission on Radiological Protection recommendations**
 - **High degree of confidence and reliability**
- **Specifies launching state obligations**
 - **Safe use guidelines and criteria**
 - ***Liability Convention* "fully applies"**
 - **Includes compensation for search, recovery, clean-up operations and third party assistance**
 - **Must conduct comprehensive safety assessment**
 - **Reentry notification and radiological risk information**





Principles on Nuclear Power Sources



- **Relationship between degree of accident probability and required action**
 - "High degree of confidence" required to restrict radiation exposure for other than "low-probability accidents"
- **Specified design requirements, e.g.**
 - Safety systems according to "defence-in-depth"
 - Failures/malfunctions must be automatically correctable
 - Reactors unable to become critical before operating orbit
 - Radioisotope generators to withstand re-entry forces





Principles on Nuclear Power Sources

- **Nuclear reactors**
 - Interplanetary missions
 - Earth orbits that allow
 - enough time for fission products to decay
 - Sufficiently high storage orbits after operations
- **Radioisotope generators**
 - Interplanetary missions
 - Missions leaving Earth gravity field
 - Earth orbit if stored I high orbit after operations



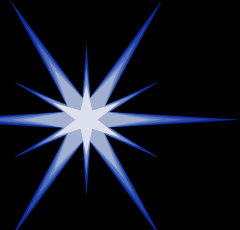
Principles on Nuclear Power Sources

Assistance to States



- **Tracking and monitoring States**
 - Shall communicate relevant information to Secretary General and State concerned
- **Launching State**
 - Shall promptly offer and if requested
 - Promptly provide assistance to eliminate actual and possible harmful effects
- **All states/international organizations with relevant technical capabilities**
 - Shall provide assistance to extent possible
- **Developing countries special needs shall be taken into account**

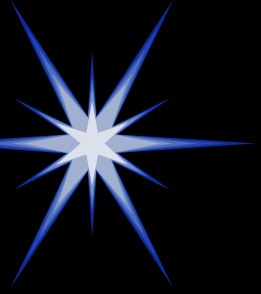




Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries

- **Resolution 51/122 , 13 December 1996**
- **Adopted without vote**
- **Reflects UNISPACE II recommendations**





Declaration on International Cooperation



- **Cooperation shall be conducted according to international law**
 - For benefit and interest of all States
 - "It shall be...the province of all mankind"
 - "It" is cooperation?
- **States free to determine all participation aspects**
 - Equitable and mutually acceptable basis
 - Full compliance with rights and interests of parties
 - E.g.: intellectual property rights





Declaration on International Cooperation



- **All States, particularly space capable ones, should contribute to promoting and fostering cooperation**
 - Particular attention to "countries with incipient space programmes"
- **Most effective and appropriate modes, among others**
 - Governmental and non-governmental
 - Commercial and non-commercial
 - Global
 - Multilateral
 - Regional or bilateral





Declaration on International Cooperation



- **Goals, among others:**
 - Promote space science, technology, applications development
 - Foster relevant and appropriate space capabilities in interested States
 - Facilitate expertise and technology exchange on a mutually acceptable basis
- **Agencies, development organizations, research institutions should consider space applications in goals**
- **COPUOS information exchange role should be strengthened**
- **States should be encouraged to contribute to UN Space Applications Programme**



Questions, Comments?

