APPENDIX II

THE BOGOTA DECLARATION

1. The geostationary orbit as a natural resource

The geostationary orbit is a circular orbit in the equatorial plane in which the period of sidereal revolution of the satellite is equal to the period of sidereal rotation of the Earth and the satellite moves in the same direction as the Earth’s rotation. When a satellite describes this particular orbit, it is said to be geostationary; such a satellite appears to be stationary in the sky when viewed from the earth, and is fixed at the zenith of a given point on the Equator, whose longitude is by definition that of the satellite.

This orbit is located at an approximate distance of 35,871 km above the Earth’s Equator.

The equatorial countries declare that the synchronous geostationary orbit is a physical fact arising from the nature of our planet, because its existence depends exclusively on its relation to gravitational phenomena caused by the Earth, and that for that reason it must not be considered part of outer space. Therefore, the segments of the synchronous geostationary orbit are an integral part of the territory over which the equatorial States exercise their national sovereignty. The geostationary orbit is a scarce, natural resource whose importance and value is increasing rapidly with the development of space technology and with the growing need for communication; therefore, the equatorial countries meeting in Bogota have decided to proclaim and defend on behalf of their peoples the existence of their sovereignty over this natural resource. The geostationary orbit represents a unique facility which it alone can offer for telecommunication services and other uses requiring geostationary satellites.

The frequencies and orbit of geostationary satellites are natural resources fully accepted as such under the current rules of the International Telecommunication Union. Technological progress has caused a continuous increase in the number of satellites using this orbit, which could lead to saturation in the near future.

The solutions proposed by the International Telecommunication Union in the relevant documents with a view to achieving a better use of the geostationary orbit and preventing its imminent saturation are at present impracticable, and are also unfair, because they would considerably increase the cost of utilizing this resource, especially for developing countries. Such countries do not have the same technological and financial resources as industrialized countries, which enjoy an evident monopoly in the exploitation and use of the synchronous geostationary orbit. In spite of the principle established by Article 33, paragraph 2, of the 1973 International Telecommunication Convention, that in using frequency bands for space radio services, members shall bear in mind that radio frequencies and the geostationary satellite orbit are limited natural resources and that they must be used efficiently and economically so as to allow equitable access to this orbit and to its frequencies, we can see that both the geostationary orbit and the frequencies have been used in a way that does not allow equitable access to the developing countries, which do not have the technical and financial means that the great Powers have. Therefore, it is essential for the equatorial countries to state their determination to exercise their sovereignty over the corresponding segments of the geostationary orbit.

2. Sovereignty of equatorial States over the corresponding segments of the geostationary orbit.

In describing this orbit as a natural resource, the equatorial States reaffirm "the right of peoples and nations to permanent sovereignty over their natural wealth and resources, which must be exercised in the interest of their national development and of the well-being of the people of the State concerned," as stated in Resolution 2692 (XXV) of the United Nations General Assembly, entitled "Permanent Sovereignty Over Natural Resources of Developing Countries and Expansion of Domestic Sources of Accumulation for Economic Development."

Furthermore, the Charter of Economic Rights and Duties of States solemnly adopted by the United Nations General Assembly in Resolution 3281 (XXIX) natural resources, in Article 2 paragraph 1, reads: "Every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities."

The above-mentioned provisions lead the equatorial States to affirm that the synchronous geostationary orbit, being a natural resource, is under the sovereignty of the equatorial States.
3. Legal status of the geostationary orbit

Bearing in mind the existence of sovereign rights over the segments of the geostationary orbit, the equatorial countries consider that the legal system applicable in this area must take into account the following:

a) The sovereign rights put forward by the equatorial countries are directed towards rendering real benefits to their respective peoples and to the world community, in complete contrast to the present state of affairs, in which the orbit is used primarily for the benefit of the most developed countries.

b) The segments of the orbit corresponding to the areas of the high seas beyond the national jurisdiction of States shall be considered as the common heritage of mankind. Consequently, the competent international agencies may regulate their use and exploitation whenever that is for the benefit of mankind.

c) The equatorial States do not object to free orbital transit of communications requiring satellites covered and authorized by the International Telecommunication Convention, when these satellites pass through their space territory in gravitational flight outside their geostationary orbit.

d) Devices to be placed in a fixed position on an equatorial State’s segment of the geostationary orbit shall require previous and express authorization on the part of the State concerned, and the operation of the device shall be governed by national law of that State. It is to be understood that this authorization is different from the coordination requested in cases of interference among satellite systems, as specified in the Radio Regulations. The authorization in question clearly relates to countries’ right to allow the operation of fixed radio stations within their territory.

e) The equatorial States do not acquiesce in the presence of satellites on their segments of the geostationary orbit and declare that the existence of such satellites does not confer any right to place satellites there or to use the segment unless expressly authorized by the State exercising sovereignty over the segment in question.

4. Treaty of 1967

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, signed on 27 January
1967, cannot be considered as a final answer to the problem of the exploration and use of outer space, particularly since the international community is now calling in question all the terms of international law which were drawn up at a time when the developing countries could not count on adequate scientific advice and were thus not able to detect and assess the omissions, contradictions and inconsistencies in the texts, which were prepared with great ability by the industrialized Powers for their own benefit.

There is no definition of outer space that is valid and satisfactory for the international community such as might be cited to support the argument that the geostationary orbit is included in outer space. The Legal Sub-Committee of the United Nations Committee on the Peaceful Uses of Outer Space has been working for a long time on a definition of outer space but has not yet been able to reach agreement on the matter.

Therefore, it is imperative to arrive at a legal definition of outer space, since to apply the 1967 Treaty without one would merely be to ratify the presence of the states that are already using the geostationary orbit. In the name of the principle of non-appropriation by states, what was actually developed was a technological sharing out of the orbit, which in the end simply comes down to national appropriation, and this must be denounced by the equatorial countries. Experience so far and the developments foreseeable in the years ahead show up the obvious gaps in the 1967 Treaty which force the equatorial states to take the position that the geostationary orbit is not covered by its provisions.

The lack of a definition of outer space in the 1967 Treaty, which has already been referred to, means that Article II can not apply to the geostationary orbit and therefore, does not affect the rights of the equatorial states that have already ratified the Treaty.

5. Diplomatic and political action

While Article II of the aforementioned Treaty does not make an express exception for the synchronous geostationary orbit, as an integral part of the territory of equatorial states, the countries that have not ratified the Treaty should refrain from undertaking any steps to put into effect provisions whose legal invalidity has already been exposed.

The representatives of the equatorial countries attending the meeting in Bogota wish to make clear their position regarding the declarations by Colombia and Ecuador in the United Nations, affirming that they consider the geostationary orbit to be an integral part of their sovereign territ-
ory; this declaration is the historical background for the
defence of the equatorial countries' sovereign rights. These
countries will do their utmost to see that similar declarat-
ions are made in international agencies and to bring their
international policies into line with the principles set
forth in this document."

Signed in Bogota 3rd December 1976 by the Heads of
Delegations.

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