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A Chronological Survey of the Development of Art. IX of the Outer Space Treaty

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Scope & Methodology

Scope of Article IX Research

This project was undertaken by the National Center for Remote Sensing, Air, and Space Law with the purpose of surveying the positions and intentions of the nation States with regard to the development of Article IX of the Outer Space Treaty. The goal is to provide an overview of the development of the article during the negotiation and drafting process, in order to identify the legal questions and historical context resulting in the final text.

Description of Chart

Article IX is the longest article in the Outer Space Treaty. Moreover, it encompasses several principles of international law and space law. Based on the analysis provided by Professor Sergio Marchisio on Article IX¹, this chart was created by distinguishing the four main legal elements in the Article: *international cooperation*, *due regard*, *harmful contamination*, and *international consultations*. The information provided in the chart lists in chronological order the summarized statements and declarations that each State or organization made to the Legal Subcommittee or Committee on the Peaceful Uses of Outer Space during the drafting years. The legal questions raised in these records of negotiation concerning Article IX began with the Soviet treaty proposal article 6, which then developed into the draft article VIII, and eventually culminated with the Legal Working Group 9 adopting the final text, which made it Article IX.

Methodology and Background

The methodology applied to this survey was formal legal research. A review was conducted of the recorded negotiations of the Legal Subcommittee to the U.N. Committee on the Peaceful Uses of Outer Space. The summarized information provided herein derives directly from the State declarations and statements recorded in the U.N. documents of the various meetings and deliberations. For purposes of collecting the preparatory work of the Legal Subcommittee concerning the final product of Article IX this chart provides a survey of three key years: 1962, 1963 and 1966 respectively.

The year 1962 is significant to the development of Article IX because it was during this time that the United States conducted high altitude nuclear tests, followed by a successful launching of the Project West Ford in May 1963. The West Ford experiment, conducted by the Massachusetts Institute of Technology, placed a belt of copper needles in orbit around the Earth with the objective of establishing global radio

¹ Sergio Marchisio, *Article IX*, in Hobe S., in Cologne Commentary on Space Law. Volume I: Outer Space Treaty, Schmidt-Tedd B., Schrogl K.-U. (eds.), Köln, 2009, pp. 169-182.

communications. These space technologies and activities, along with the fear of nuclear warfare in space, spurred the international community into negotiations to establish legal principles governing the peaceful use of outer space. These experiments also specifically triggered the founding of the four different principles founded in the present text of Article IX of the Outer Space Treaty. In 1966, the work of the Legal Subcommittee was finally concluded and the draft treaty was submitted to the U.N. General Assembly the same year. The Outer Space Treaty entered into force in 1967.

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

Article IX

In the exploration and use of outer space, including the Moon and other celestial bodies, States Parties to the Treaty shall be guided by the principle of ***cooperation and mutual assistance*** and shall conduct all their activities in outer space, including the Moon and other celestial bodies, with ***due regard*** to the corresponding interests of all other States Parties to the Treaty. States Parties to the Treaty shall pursue studies of outer space, including the Moon and other celestial bodies, and conduct exploration of them so as to avoid their ***harmful contamination*** and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose. If a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space, including the Moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the Moon and other celestial bodies, it shall undertake appropriate ***international consultations*** before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the Moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the Moon and other celestial bodies, may request consultation concerning the activity or experiment. [Italics and bolding added for emphasis].

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**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
1962						
USSR	USSR draft proposal Art. 6 - State duty of cooperation and mutual assistance in conquest of outer space	USSR draft proposal Art. 6 - no measures hindering other States' use of space without prior agreement/discussion of States concerned		USSR draft proposal Art. 6 - no measures hindering other States' use of space without prior agreement/discussion of States concerned	28-May to 20-Jun-1962	6/20/1962 A/AC.105/C.2/3
AUSTRALIA		LSC should defer principle making, until it could (w/ COSPAR's help) define principle on prevention of use of space that is harmful to experiments of others.			4-Jun-1962	8/21/1962 A/AC.105/C.2/SR 4
USSR		USSR read statement dated June 3, 1963, criticizing US' high altitude testing			4-Jun-1962	8/21/1962 A/AC.105/C.2/SR 4

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USA		US response to USSR criticism on US' high altitude nuclear tests; US thought USSR statement was political not legal			4-Jun-1962	8/21/1962 A/AC.105/C.2/SR 4
BULGARIA	Bulgaria thought in spirit of international cooperation LSC should discuss US/USSR issue; as issue is political but with legal implications				4-Jun-1962	8/21/1962 A/AC.105/C.2/SR 4

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
UNITED ARAB REPUBLIC	UAR gratified that both USSR and US draft treaties concurred with peaceful cooperation in outer space; referred to joint resolution on peaceful uses proffered by Burma, India and UAE (1958)				5-Jun-1962	8/21/1962 A/AC.105/C.2/SR.5
ALBANIA	Albania supported USSR statement against US' high altitude nuclear tests and copper needle experiment; called for frank and earnest international cooperation		Albania considered the copper needle experiment harmful to space and humanity		5-Jun-1962	8/21/1962 A/AC.105/C.2/SR.5

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
HUNGARY		Hungary stated State experiments must not impede other's use of space	Hungary's position was that no high altitude nuclear testing should occur	Hungary stated testing that would hinder other States' cosmic studies should require sanctioning by competent international body; also LSC should clearly define "free [use]" to avoid harmful experiments	5-Jun-1962	8/21/1962 A/AC.105/C.2/SR.5
USSR	USSR stated that cooperation in space is a duty incumbent on all States			USSR proposal recommended req of prior agreement before a State could use space in manner which hinders other States' use	7-Jun-1962	8/21/1962 A/AC.105/C.2/SR.7

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USA				USSR proposal Art. 6 - preliminary discussion and agreement clause - introduces a veto on space activities	7-Jun-1962	8/21/1962 A/AC.105/C.2/SR.7
USSR				USSR proposal Art. 6 is not a veto and can be amended; it was desirable to reach agreement	7-Jun-1962	8/21/1962 A/AC.105/C.2/SR.7
CZECHOSLOVAKIA		CZ stated that <i>res communis omnius</i> implies State freedom of use, but the use cannot interfere with other States' freedom of use		CZ stated USSR proposal does not infer veto--nor is one feasible; prior discussion/ agreement before enacting experiments is acceptable	8-Jun-1962	8/21/1962 A/AC.105/C.2/SR.8

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
FRANCE				France held that the USSR proposal Art. 6 requiring pre-consultation for space activities was unacceptable	12-Jun-1962	8/21/1962 A/AC.105/C.2/SR.9
CANADA				Canada thought USSR proposal Art. 6 was ambiguous; subject not ripe for formulating a principle	12-Jun-1962	8/21/1962 A/AC.105/C.2/SR.9
UNITED KINGDOM		UK stated need to further consider basic freedoms of use and exploration of space, in general interests of all States		UK thought international cooperation and consultation among scientists/technicians (e.g. COSPAR) was okay; but as a principle needed further legal consideration	13-Jun-1962	8/21/1962 A/AC.105/C.2/SR.10

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USSR		USSR wanted US to renounce intentions for further high altitude nuclear testing			19-Jun-1962	8/22/1962 A/AC.105/C.2/SR.14
1963						
USSR	USSR reiterated its Art. 6 in a Draft Proposal	USSR reiterated its Art. 6 in a Draft Proposal	USSR reiterated its Art. 6 in a Draft Proposal	USSR reiterated its Art. 6 in a Draft Proposal	16-Apr-1963	4/16/1962 A/AC.105/C.2/L.6
LSC Report	<i>See Annex I - USSR Proposal for Principles Governing the Activities of States in the Exploration and Use of Outer Space</i>	<i>See Annex I - USSR Proposal for Principles Governing the Activities of States in the Exploration and Use of Outer Space</i>	<i>See Annex I - USSR Proposal for Principles Governing the Activities of States in the Exploration and Use of Outer Space</i>	<i>See Annex I - USSR Proposal for Principles Governing the Activities of States in the Exploration and Use of Outer Space</i>	16-Apr to 3-May-1963	5/6/1963 A/AC.105/12
USSR		USSR letter criticized the US for allegedly not heeding international scientists' protests re: space tests/experiments	USSR statement criticized the US West Ford Experiment (copper needles) as threat to peaceful exploration of space		#####	5/28/1963 A/C.105/13

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USA		US response to USSR letter argues that US space programs are open, and US had obtained international scientific consultation	US letter further stated scientific results of West Ford Experiment/ high altitude tests are public (not USSR's); to be no further copper belts until prior test results analyzed; US intended to continue consults re: experiments to avoid harmful side effects		6-Jun-1963	6/7/1963 A/AC.105/15
INDIA			India stated it has offered suggestions in STC re: formulating a principle on experiments and harmful effects, but while supported they were not finally accepted.		#####	10/10/1963 A/AC.105/PV.22

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
ITALY			Italy thought groundwork progress was initiated by recommendations from STC and COSPAR re: preventing space activities which may be harmful to space research and exploration		#####	10/10/1963 A/AC.105/PV.22
CZECHOSLOVAKIA			CZ thought STC was partially responsible for preventing harmful experiments in space; nuclear explosions in space should be stopped		#####	10/10/1963 A/AC.105/PV.22
USSR			USSR thought a lot had been said on issue of harmful experiments in space; while there was no joint approach, a solution was desirable		#####	10/10/1963 A/AC.105/PV.22

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
AUSTRALIA			Australia thought there was a need to consider further the question of potentially harmful experiments	Australia thought all should consider whether duty to consult on potentially harmful experiments could be limited to consultative COSPAR group.	#####	10/10/1963 A/AC.105/PV.22
COSPAR	COSPAR will continue to publish national reports on space research that it receives		COSPAR group initiated concerning potentially harmful experiments in space		#####	10/10/1963 A/AC.105/PV.22

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CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USSR			USSR Art. 6 is apparent in COSPAR study on harmful effects of experiments in space; and Inter-Parliamentary Union resolution to refrain from experiments/activities that could interfere with peaceful uses of space	USSR proposal Art. 6 consultation clause was meant as extension of international cooperation in peaceful use of outer space	17-Apr-1963	6/27/1963 A/AC.105/C.2/SR.17
UNITED ARAB REPUBLIC			UAR recommended finding procedure to prevent further experiments that have harmful effects or prejudice to science research in space (e.g. nuclear tests)		18-Apr-1963	6/27/63 A/AC.105/C.2/SR.18

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
POLAND	Poland thought USSR draft Art. 6 duty towards cooperation and mutual assistance is logical extension of UN Charter to cooperate in solving international problems			Poland held close cooperation and consultation between States concerned was necessary to avoid harmful results of certain space experiments in the future	19-Apr-1963	6/27/1963 A/AC.105/C.2/SR.19
USA	US draft declaration (A/C.1/881) incorporated: freedom of use of outer space; equal rights of States; compliance with international law	US noted that UK draft declaration included duty that States use and explore space with due regard to interests of other States	US noted in April, 1962, COSPAR consultative group started to study the issue of interference and contamination in space; US practiced international scientific consultations so welcomed this group		22-Apr-1963	6/27/1963 A/AC.105/C.2/SR.20

**OUTER SPACE TREATY
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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
CANADA		Canada approved of the UK formula for exercising freedom of outer space	Canada believed agreement could be reached to establish principle on preventing potentially harmful experiments in space to either Earth or space	Canada noted COSPAR had acknowledged the desirability for consultations	23-Apr-1963	6/27/1963 A/AC.105/C.2/SR.21
1964						
POLAND	Poland noted preamble to the draft principles, as yet agreed, stressed the need for legal and scientific cooperation in exploration / use of space		Poland thought draft principle 6 incorporated STC's last session request that COPUOS heed urgency of problem of preventing potentially harmful interference with peaceful use of space		#####	3/20/1964 A/AC.105/PV24

**OUTER SPACE TREATY
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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USA				US notes on principle 6: 1) State planning potentially harmful activity/ experiment must first get appropriate international consult 2) other concerned States can request consult; US believes COSPAR is appropriate consulting forum and wants to solidify mode of consult	#####	3/20/1964 A/AC.105/PV24
CANADA				Canada thought draft principle 6 - duty to consult - should also specifically include planned experiments that would affect/ influence Earth's environment	#####	3/20/1964 A/AC.105/PV24

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CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
BRAZIL				Brazil thought draft principle 6 - system of consultation - should be made more precise and binding	#####	3/20/1964 A/AC.105/PV24
1966						
USSR	USSR letter to UN Sec Gen proposing Draft Treaty - Art. 6 now principle VIII	USSR letter to UN Sec Gen proposing Draft Treaty - Art. 6 now principle VIII	USSR letter to UN Sec Gen proposing Draft Treaty - Art. 6 now principle VIII	USSR letter to UN Sec Gen proposing Draft Treaty - Art. 6 now principle VIII	16-Jun-1966	6/16/1966 A/6352
USA			US letter to COPUOS Chairman proposing Draft Treaty - Art. 10 States should take steps to avoid harmful contamination		16-Jun-1966	6/17/1966 A/AC.105/32
USA			US Draft Treaty proposed to LSC - Art. 10 States should take steps to avoid harmful contamination		11-Jul-1966	7/11/1966 A/AC.105/C.2/L.1 2
USSR	USSR letter proposing Draft Treaty to LSC	USSR letter proposing Draft Treaty to LSC	USSR letter proposing Draft Treaty to LSC	USSR letter proposing Draft Treaty to LSC	11-Jul-1966	7/11/1966 A/AC.105/C.2/L.1 3

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
Chair's Interim Report, LSC	Working group L.9 accepted text of Article (essentially USSR principle VIII)	Working group L.9 accepted text of Article (essentially USSR principle VIII)	Working group L.9 accepted text of Article (essentially USSR principle VIII)	Working group L.9 accepted text of Article (essentially USSR principle VIII)	2-Aug-1966	9/6/1966 A/AC.105/C.2/L.1 6
LSC Report to COPUOS	Submitted US Draft treaty text, USSR treaty text, L.9 Working group accepted text [all include the principle text]	Submitted US Draft treaty text, USSR treaty text, L.9 Working group accepted text [all include the principle text]	Submitted US Draft treaty text, USSR treaty text, L.9 Working group accepted text [all include the principle text]	Submitted US Draft treaty text, USSR treaty text, L.9 Working group accepted text [all include the principle text]	#####	9/16/1966 A/AC.105/35
USSR			USSR Art. IV was to estb international rule of law on space /celestial bodies for peaceful purposes, and as such testing of weapons and military maneuvers should be banned in space; States must also avoid harmful contamination	USSR draft treaty Art. VIII intended to expand on international cooperation and to provide machinery for consultation to ensure State activities don't interfere with other States activities in space	12-Jul-1966	10/20/1966 A/AC.105/C.2/SR. 57

**OUTER SPACE TREATY
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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
INDIA		India hoped that US and USSR would be guided in their space activities by a consideration for humanity's welfare	India noted that in 1964 COSPAR adopted provision on non-contamination of the Moon. The space treaty should also ensure (scientifically based) precautions re: no harmful effects to celestial bodies explored		12-Jul-1966	10/20/1966 A/AC.105/C.2/SR.57
UNITED ARAB REPUBLIC			UAR was gratified to see both USSR and US draft treaties contained provisions to avoid harmful contamination, both for humankind and celestial bodies		19-Jul-1966	10/24/1966 A/AC.105/C.2/SR.62

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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
CANADA	Canada stated that landing a staffed spacecraft on the Moon required international and scientific cooperation; it was time to solidify the treaty principles		Canada stated that the space treaty would complete partial nuclear-test ban treaty forbidding nuclear testing in certain environments		19-Jul-1966	10/24/1966 A/AC.105/C.2/SR.62
USA			US stated there was debate between USSR and US drafts- US draft included provision on avoiding both contamination of celestial bodies and adverse changes in Earth's environment from extraterrestrial matter		20-Jul-1966	10/20/1966 A/AC.105/C.2/SR.63

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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
USSR			USSR stated that Art. 3 of US draft was covered already by the USSR Articles III and VIII		20-Jul-1966	10/20/1966 A/AC.105/C.2/SR.63
JAPAN			Japan placed great importance on USSR draft Art. VIII req international consultation prior to enacting potentially harmful activities/ experiments		21-Jul-1966	10/24/1966 A/AC.105/C.2/SR.64
USSR		USSR reiterated its draft Art. VIII - State activities that hinder the exploration and use of space by other States req prior consultation with concerned States - a shared opinion with US draft	USSR draft Art. VIII sentence on harmful contamination could be aligned with US draft Art. 10; USSR liked Japan's amendment re: 'contamination to [outer space including] celestial bodies' and would change text		26-Jul-1966	10/21/1966 A/AC.105/C.2/SR.68

**OUTER SPACE TREATY
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State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
CANADA	Canada stated duty to cooperate linked to 'due regard' principle, and stipulated in UN Charter and fundamental to idea of space for "betterment of mankind"	Canada thought the USSR draft Art. VIII and Declaration of Legal Principles para 6, most important - on due regard for corresponding States' interests				
Chairman's Statement, COPUOS			One of the 9 important legal principles that was agreed on: in carrying out space activities States should avoid harmful contamination of Earth or interference with activities of other States		#####	10/25/1966 A/AC.105/PV.44

**OUTER SPACE TREATY
CHRONOLOGICAL SURVEY OF ARTICLE IX DEVELOPMENT**

State	International Cooperation	Due Regard	Harmful Contamination	International Consultations	Date of Meeting	Document no. and Release Date
UN General Assembly	Passed Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies - Art IX	Passed Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies - Art IX	Passed Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies - Art IX	Passed Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies - Art IX	#####	GA Res. 2222 (XXI)
GLOSSARY						
COSPAR	Committee on Space Research					
CZ	Czechoslovakia					
LSC	UNCOPUOS Legal Subcommittee					
STC	UNCOPUOS Scientific and Technical Subcommittee					

SELECTED DOCUMENTS FOR FURTHER READING

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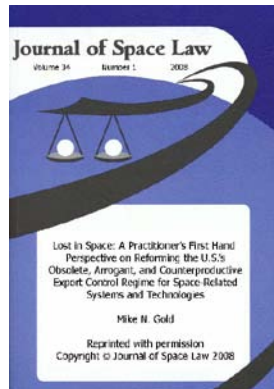
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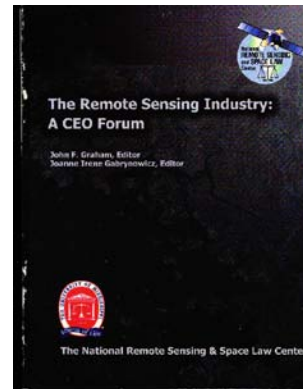
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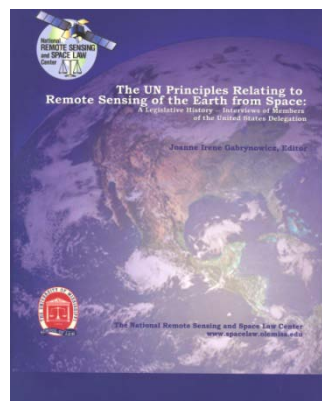
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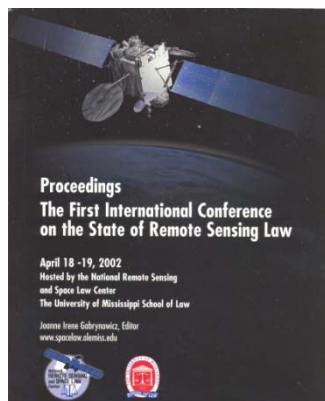
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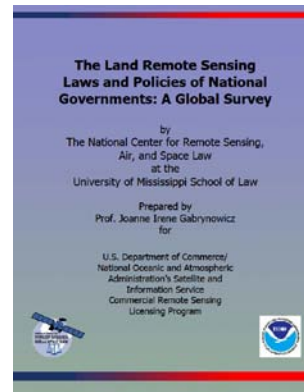
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