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THE PRESENT DEVELOPMENTS OF LEGAL REGULATIONS OF SPACE ACTIVITIES IN RUSSIA AND COMMONWEALTH OF INDEPENDENT STATES

by

ELENA KAMENETSKAYA *

The interest involving political and economic reform in Russia is growing in the United States of America. Let us hope that the partnership between America and Russia, and America and other former Soviet Republics will increase as well. Exploration and use of outer space is one area of mutually beneficial cooperation. Our two countries have already achieved successful results in this field, and prospects for the future are even better. Joint space activities were indicated as one of the main priorities for a Russian-American partnership at the Summit between Russian President, Boris Yeltsin, and President of the United States of America, Bill Clinton, in Vancouver, April, 1993.¹

The purpose of this article is to give general information about basic legal documents on the exploration and use of outer space which appeared in Russia and the Commonwealth of Independent States in the recent past.

Exploration and Use of Outer Space and International Law

Since the very beginning of the space era, the global character of space activities and universal interest in their consequences have stimulated a rapid development of legal regulation of the exploration and use of outer space at the international level. From the outset of space exploration and extending for many years, only states, not private entities, participated in space activities mainly for two reasons. First, there was the high cost of space research resulting in the need to combine national efforts on the state level; and second, there was a close interdependence of space exploration with the interests of defense, economics and politics. Therefore, international law developed rapidly to meet the challenge of the space age. It brought about the upsurge of international space law as one of the branches of international law. At present, there are more than a thousand bilateral and multilateral agreements among approximately one hundred states and international organizations.

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¹ See Terry Atlas, *U.S., Russia Turn from High Anxiety at Summit*, CHICAGO TRIBUNE, Apr. 6, 1993, at 1.

The fundamental multilateral treaties on space are concentrated within various United Nations Organizations; mainly the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee. This organ of the United Nations General Assembly was established during the end of the 1950s and the beginning of the 1960s. Today, the United Nations Committee on Outer Space and its two subcommittees--Legal, and Technical and Scientific--consists of more than 50 member states.

Up to now, the following five major international agreements have been worked out within the United Nations: Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, January 27, 1967 (effective October 10, 1967);² Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, April 22, 1968 (effective December 3, 1969);³ Convention on International Liability for Damage Caused by Space Objects, March 29, 1972 (effective October 9, 1973);⁴ Convention on Registration of Objects Launched into Outer Space, January 14, 1975 (effective September 15, 1976);⁵ and, Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, December 5, 1979 (effective July 11, 1984).⁶

The Outer Space Treaty contains the fundamental principles of legal regulations of space activities and is considered to be the basic instrument of international space law. Some general principles of the Outer Space Treaty have been detailed and solidified in other above-mentioned international agreements on space formulated within the United Nations after 1967. Other fundamental provisions of this Treaty need to be detailed in the future.

In addition to these five international treaties, the United Nations Committee on the Peaceful Uses of Outer Space has formulated and adopted documents on the use by states of artificial earth satellites for international direct television broadcasting; the remote sensing of the Earth from outer space, and the use of nuclear power sources in outer space.⁷ Having been adopted as United Nations' resolutions, they are not legally binding; but at the same time, they have a strong political and moral force. These documents could contribute to the

² Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Jan. 27, 1967, 18 U.S.T. 2410.

³ Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, Apr. 22, 1968, 19 U.S.T. 7570.

⁴ Convention on International Liability for Damage Caused by Space Objects, Mar. 29, 1972, 24 U.S.T. 2389.

⁵ Convention on the Registration of Objects Launched into Outer Space, Jan. 14, 1975, 28 U.S.T. 695.

⁶ Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, Dec. 5, 1979 (not in force).

⁷ See *Report of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space*, 3 UNITED STATES SPACE LAW §2.C.3 at 93 (1983).

further development of international agreements on the problems of direct television broadcasting, remote sensing and nuclear power sources.

For many years, the Legal Subcommittee has been considering the issue connected with the delimitation of air and outer space which historically was one of the first challenges encountered as a result of man's entry into outer space. Several years ago a new item was included into the agenda of this body, the "[C]onsideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and the interests of all states, taking into particular account the needs of developing countries."⁸

International space law is developing, and it will continue to develop because it will always be necessary to regulate the relations arising in connection with space activities at the interstate level by means of instruments of international law. International space law could be considered a good example of productive and effective cooperation among states. Even in the past, in the time of international tensions and the Cold War psychology, when countries like the two leading space-faring powers--USSR and USA--had serious political and ideological contradictions and disagreements, they nevertheless overcame these differences and found compromise settlements for the legal regulation of space activities for the sake of common interests and humanity.

Domestic Space Regulations: General Approach

At the same time, the necessity to solve different legal problems resulting from space activities on a national level (connected, for example, with the implementation of international obligations, regulation of commercial uses of space technology, management of space activities, etc.) has called forth specially designed domestic space legislation. Several countries, most notably the United States, France, the United Kingdom, Sweden and some others, have adopted national laws and regulations governing space activities.⁹ In a number of other countries, Brazil for example, norms guiding space activities are included in legislation on telecommunications or in other specialized legislation. Other states have adopted provisions regulating the competence and structure of their national space agencies or councils (the majority of state-members of the European Space Agency, some states in central and eastern Europe and others).¹⁰

⁸ *Report of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space*, 3 UNITED STATES SPACE LAW §2.C.3 at 93 (1983).

⁹ Michel Bourelly, *National Space Legislation in Europe*, 30 COLLOQUIUM ON THE LAW OF OUTER SPACE, 197-202 (1988); I.H. Ph. Diederiks-Verschoor, *Domestic Law of the Netherlands Regarding Space Activities*, 27 COLLOQUIUM ON THE LAW OF OUTER SPACE, 33-34 (1985).

¹⁰ See Stephan Hobe, *The New German Space Agency (DARA)*, 17 ANNALS OF AIR AND SPACE LAW (pt. 1), 303 (1992).

The domestic space legislation of the United States is more developed than that of other countries. The first landmark U.S. space legislation was the National Aeronautics and Space Act of 1958 (with amendments).¹¹ Other laws of major importance are the Communications Satellite Act of 1962,¹² the Land Remote-Sensing Commercialization Act of 1984¹³ and the Commercial Space Launch Act of 1984 (with amendments).¹⁴

Some states within the United States have also developed legislation, effective only within that state, to encourage certain types of space activities.¹⁵ In addition to the enacted laws, numerous departments and agencies within the Federal Government have been authorized to issue regulations pertaining to space activities.¹⁶ The President can also issue presidential executive orders, pronouncements, policy statements, directives and determinations. In addition to these laws and regulations relating to space activities, a large number of administrative proceedings going before federal agencies have resulted in decisions with respect to policies, standards, licensing and procedures impacting space activities. There are some cases within federal or state courts as well, but these are not a large number.¹⁷

Generally speaking, the international regulation of space activities is much more developed than domestic space law; although recently, the latter has steadily increased. During the 1980s, state interest in national regulation became acute. During that time, the increased opportunities for commercial usage of space technology and benefits from space activities resulted in participation by a large number of private firms and other nongovernmental entities. Thus, there has appeared the necessity to promote domestic regulation of participation by "private persons" in space exploration, their rights and obligations, their relationship with the state and to ensure the implementation of Art. VI of the Outer Space Treaty which stipulates that states ". . . shall bear international responsibility for national activities in outer space including the Moon and other

¹¹ National Aeronautics and Space Act of 1958, 42 U.S.C. §2451 (1988).

¹² Communications Satellite Act of 1962, 47 U.S.C. §701 (1988).

¹³ Land Remote-Sensing Commercialization Act of 1984, 15 U.S.C. §4201 (1988).

¹⁴ Commercial Space Launch Act, 49 U.S.C. app. §2601 (1993).

¹⁵ For example, in 1989 Florida adopted the Spaceport Florida Authority Act to encourage private activities. Fla. Stat. Ann. §331.301 (West 1991). See also James Dennis Leary, Jr. *The Spaceport Florida Authority Act*, 17 J. SPACE L. 167 (1989).

¹⁶ Over eighteen federal agencies are involved in space-related activities, including the National Aeronautics and Space Administration, the Department of Transportation, the Department of State, the Federal Communications Commission, the Department of Commerce, the Treasury Department, the Department of Defense, the Federal Aviation Administration, etc.

¹⁷ On American space legislation, see Eilene Galloway & Jonathan F. Galloway, *United States National Space Legislation on the Exploration and Use of Outer Space for Peaceful Purposes*, 30 COLLOQUIUM ON THE LAW OF OUTER SPACE, 32 (1988); NATHAN C. GOLDMAN, *AMERICAN SPACE LAW, INTERNATIONAL AND DOMESTIC*, 111 (1988); Scott F. March, *The Role of Domestic Law in Resolving Legal Disputes Aboard United States Spacecraft*, 27 COLLOQUIUM ON THE LAW OF OUTER SPACE, 81 (1985).

celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty."¹⁸

Some authors contended that this article limited the realm of subjects of space activities to the states themselves.¹⁹ Clearly, however, the more pragmatic view in line with the wording of the provision, as well as with state practice, is that Art. VI merely requires the state to be assured that activities of private entities comply with international law. Practical experience of some states testifies to the fact that licensing of space activities seems to be one of the most effective methods of the implementation of states' obligations provided for in the Outer Space Treaty.²⁰

The necessity to develop domestic regulations of space activities has stimulated some research on this problem in legal literature. In the last ten years, some articles and books have appeared on national legal problems arising from the exploration and use of outer space and the need to regulate some aspects of space activities within the framework of domestic space legislation,²¹ as well as on interrelations between internal regulations of space activities and international space law.²² Some authors have examined in detail legal problems arising from commercial use of space technology and private activities in space,²³ and in particular, the problems of legal regulation of civil law relations between natural or juridical persons of different nationalities. In this connection, the question of

¹⁸ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Jan. 27, 1967, Art. VI, 18 U.S.T. 2410, 2413.

¹⁹ See: PRAVORYE PROBLEMY POLETOV CHELOVEKA V KOSMOS 176 (V. S. Vereshchetin, ed., 1986).

²⁰ See *The Enforcement of Article VI of the Outer Space Treaty 1967 in the National Legislation of Selected Capitalist States*, V Seminar of Lawyers of States--Participants of the Intercosmos Program, Berlin 7 (1988).

²¹ Phillip Dann, *The Future of Municipal Law Regulating Space-Related Activities*, in *SPACE LAW: VIEWS OF THE FUTURE* 125 (Tanja L. Zwaan et al. eds., 1988); Hamilton DeSaussure & Peter Haanapel, *Determination of Applicable Law to the Living and Working in Space*, 25 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 223 (1983); Elena Kamenetskaya, E. Zhukova, *Osvoenie Kosmosa-natsionalnoe regulizovaniye*, in *Novoe v Kosmicheskoy Prave [Exploration and Use of Outer Space - Domestic Regulation*, in *NEW TRENDS IN SPACE LAW*] 117 (V.S. Vereshchetin ed., 1990).

²² See Katalin Kotai, *Space Law-International Law and Domestic Law*, 27 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 71; V. S. Vereshchetin, *International Space Law and Domestic Law: Problems of Interrelations*, 9 *J. SPACE L.* 31 (1981).

²³ See Karl-Heinz Bockstiegel, *Legal Implications of Commercial Space Activities*, 24 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 1 (1982); Michel Bourelly, *Rules of International Law Governing the Commercialization of Space Activities*, 29 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 157 (1987); Arthur M. Dula, *Regulation of Private Commercial Space Activities*, 24 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 25 (1982); Valerie Kayser, *Commercial Exploitation of Space: Developing Domestic Regulation*, 17 *ANNALS OF AIR AND SPACE LAW* (pt. 1), 187 (1992); S. Neil Hosenball, *The Law Applicable to the Use of Space for Commercial Activities*, 26 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 143 (1984); Peter D. Nesgos, *The Practice of Commercial Space Law*, 17 *ANNALS OF AIR AND SPACE LAW* (pt. 1), 177 (1992); John T. Stewart, *U.S. Private Enterprise Enters the Space Arena---The Beginning*, 26 *COLLOQUIUM ON THE LAW OF OUTER SPACE*, 149 (1984).

the possibility of formulating "international private space law" has arisen in some publications.²⁴

Despite the huge and impressive space program of the former Soviet Union, that country had no specific non-classified space legislation in the proper sense of the term. The space activities in the USSR "were regulated" by numerous secret decisions adopted by the Central Committee of the Communist Party, by the Government and various ministries and agencies. These "regulations" were inaccessible to the public in the country and abroad.

At the same time, one should take into account that certain relations pertaining to space activities were regulated in the former Soviet Union, like in other countries, by general national legislation. For instance, when it came to labor relations, relevant rules of the USSR federal legislation and the labor codes existing in all constituent republics of the Soviet Union were applied. Tort liability problems, contract matters, and property rights fell within the domain of corresponding Soviet all-Union (federal) and republican laws and civil codes. The general legal position of a space industrial plant was determined by the USSR Act "On Enterprises in the USSR" and corresponding republican legislation.²⁵

For years, Soviet lawyers advocated the passage by the Parliament of a unified space act, but there was no positive reaction on the part of those who governed the country and had legislative authority.

What is the situation now--after the breakup of the USSR, the appearance of a number of new sovereign states, and the creation of the Commonwealth of Independent States? This situation should be considered in two aspects--first, the legal regulation of cooperation of former Soviet republics among themselves in the exploration and use of outer space and, second, the legal and organizational basis of space activities in Russia.

Legal Regulations of Space Activities Within the Framework of the Commonwealth of Independent States

The space industry and ground facilities of the former Soviet Union were spread over almost the whole of its territory. All republics contributed to space activities to some extent. Russia was and is the most important among them. It has the largest part of industry, scientific research institutions, design bureaus, as

²⁴ See *NOVOE V KOSMICHESKORM PRAVE* [New Trends in Space Law] 3 (V. Vereshchetin ed., 1990); V. S. Vereshchetin, *Legal Regulations of Space Activity: Which Way Will It Advance Further?*, 18 J. SPACE L. 11 (1990).

²⁵ See V. S. Vereshchetin, *New Trends in National Regulations of Space Activities in the Soviet Union*, in *SPACE LAW: DEVELOPMENT AND SCOPE* (N. Jasentuliyaha ed. 1992).

well as ground tracking stations and spacecraft control centers. The Ukraine, for example, has a well-developed space industry, and several significant ground tracking stations, including one in Evpatoria. The biggest and best placed cosmodrome Bajkonur is located in Kazakhstan; and although Russia has two launching facilities at Plesetsk and Kapustin Yar, the technological level of the Bajkonur Cosmodrome and its geographical position are much better. The participation of other republics in the development of space activities and science, as well as the application of space technology, was important for the successful carrying out of space activities of the former Soviet Union.

Taking into account the economic, scientific, technical and historical background, it is quite natural for the Commonwealth member states to join their efforts in space activities. The first treaty to this effect--Agreement on Joint Activities in the Exploration and Use of Outer Space--was concluded among nine members of CIS on December 30, 1991, in Minsk²⁶ (the Ukraine and Moldova did not sign it, but later, in July 1992, the Ukraine joined the Minsk Agreement). It is possible to say that this Agreement was the first legally binding document on space for the majority of former Soviet republics.

The Minsk Agreement is a rather general and somewhat vague document. Its many provisions require further elaboration and clarification. But the importance of this document consists in the fact that it shows the readiness of the former Soviet republics to cooperate in the exploration and use of outer space and to develop their relations in this field on the basis of international law. The Agreement emphasized the significance of space science and technology for the development of the Commonwealth member states, the need for joint efforts for effective space research and exploration in the interests of the national economy, science and defense.²⁷

The Agreement is aimed at the regulation of joint space activities among States Parties to this treaty.²⁸ Such activities should be effected on the basis of interstate programs of space research and exploitation.²⁹ The implementation of these programs should be coordinated by a special organ--The Interstate Space Council (Art. 2).³⁰ The fulfillment of interstate programs of space research and exploration in the area of military and dual purpose (military and civilian) space facilities should be ensured by the Joint Strategic Armed Forces (Article 3).³¹

²⁶ Agreement Establishing the Commonwealth of Independent States, Dec. 8, 1991, 31 I.L.M. 143; ROSSISKAYA GAZETA, Jan. 1, 1992; AEROSPACE DAILY, Jan. 7, 1992, at 31.

²⁷ See Frans G. von der Dunk, *The Minsk Space Agreement: A 'Commonwealth in Space'?* 20 J. SPACE L. 179, 180-81 (1992).

²⁸ Dunk, *supra*, note 27, at 181-82.

²⁹ *Id.* at 181.

³⁰ *Id.*

³¹ *Id.*

According to the Minsk Agreement, interstate programs are financed by proportionate contributions by the states participating in this Agreement.³² As to the expenditures on the exploration of existing and the setting up of new space systems for economic, scientific and military purposes and the maintenance of the testing base, they will be distributed in accordance with the proportionate participation of the States Parties to this Agreement.³³

The use of space infrastructure facilities for conducting the independent programs of the States Parties to the Agreement is not prohibited but is to be determined by separate agreements by the interested parties.³⁴ According to Art. 6, the States Parties to the Minsk Agreement undertake to develop their activities in the exploration and use of outer space in compliance with the existing international legal norms.³⁵ They will also coordinate their efforts aimed at resolving international legal problems of space activities.³⁶

On May 15, 1992, a new multilateral agreement was signed in Tashkent by all CIS member states except Moldova.³⁷ It develops some provisions of the Minsk Agreement and is aimed at the regulation of the utilization of ground-based facilities of space infrastructure for the purposes of the fulfillment of space programs.³⁸ Art. 1 of the Tashkent Agreement stipulates that ground-based facilities of space infrastructure (for example, the Bajkonur and Plesetsk cosmodromes, technical, launching and landing complexes, space flight control centers, the astronauts training center, etc.), situated on the territories of Azerbaijan, Belarus, Kazakhstan, Russia, Turkmenistan, Uzbekistan and the Ukraine are declared to be the property of the corresponding states.³⁹ The right to use these facilities is transferred to the Strategic Forces of CIS or other interested parties on the basis of special agreements.⁴⁰

Coordination of the utilization of space infrastructure facilities for the purpose of interstate and independent space programs is carried out by the Interstate Space Council.⁴¹

³² *Id.* at 182.

³³ *Id.* at 183.

³⁴ *Id.* at 184.

³⁵ *Id.* at 183.

³⁶ See also Frans G. von der Dunk, *The Minsk Space Agreement: A 'Commonwealth in Space'?* 20 J. SPACE L. 179-89 (1992).

³⁷ See Dunk, *supra* note 27, at 187. This agreement was never made public, and is therefore unavailable.

³⁸ *Id.* at 187.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 181.

Expenditure on the exploitation and utilization of space infrastructure facilities is distributed in accordance with the proportionate participation of the States Parties to this Agreement, financial participation of the Strategic Forces of CIS and other sources.⁴² The Interstate Space Council determines the proportionate participation in the financing of space infrastructure facilities and submits its proposals to the Council of the Heads of States members of CIS.⁴³

Notification on the launches of rockets with the utilization of space infrastructure facilities is carried out by the Strategic Forces of CIS in accordance with the procedure adopted by Strategic Forces and governments of the Commonwealth member states.⁴⁴

On May 25, 1992, two member states of CIS--Russia and Kazakhstan--signed a bilateral agreement on the utilization of the Bajkonur cosmodrome which is situated in Kazakhstan.⁴⁵ This Agreement confirms that Bajkonur cosmodrome is the property of Kazakhstan and sets forth rights and obligations of Kazakhstan and Russian Federation in the utilization of these facilities.⁴⁶ The right to use particular facilities of the Bajkonur cosmodrome, which are to be specified by separate agreements, is transferred by Russia and Kazakhstan to the Strategic Forces of CIS or other concerned parties upon the mutual decision of Russia and Kazakhstan.⁴⁷

This Agreement also regulates some financial, ecological and social problems arising from the utilization of the Bajkonur Cosmodrome. For example, the Agreement stipulates that the coordination of scientific and production activities aimed at the fulfillment of space programs will be carried out by national space agencies of Russia and Kazakhstan. Commercial uses of the facilities of the Bajkonur cosmodrome will be jointly carried out by Russia and Kazakhstan upon a mutually agreed basis. (Article 7) The distribution of profit gained from commercial activities are to be determined by space agreements.

According to Article 5 of the Agreement, the proportionate contribution of Kazakhstan to the financing of the Bajkonur cosmodrome would not exceed 6% of the Russian financial contribution aimed at the same purposes.

A precise list of the facilities of the Bajkonur cosmodrome transferred by Russia and Kazakhstan to the Strategic Forces of CIS (Military Space Forces) is

⁴² *Id.* at 182.

⁴³ *See id.*

⁴⁴ *See id.* at 181.

⁴⁵ *See id.* at 181. This agreement was never made public, and is therefore unavailable.

⁴⁶ *See id.* at 187 n. 44.

⁴⁷ *See id.* at 187 n. 44.

contained in the intergovernmental Russian-Kazakhstan Agreement signed on October 2, 1992.⁴⁸ This document, which clarifies some provisions of the bilateral agreements between the Russian Federation and Kazakhstan on the utilization of Bajkonur cosmodrome, prohibits, in particular, privatization of the facilities of the Bajkonur cosmodrome, the establishment of joint ventures, or other forms of the transformation of property rights to these facilities.

On November 13, 1992, two new multilateral agreements aimed at detailing the Minsk Agreement were concluded. The first, the Agreement on the Financing of the Joint Activities in the Exploration and Use of Outer Space,⁴⁹ determines the financial background of the interstate space programs of concerned CIS states; and second, the Protocol⁵⁰ confirms the Statute of the Interstate Space Council.

The first Agreement stipulates that the financing of joint activities in the exploration and use of outer space is carried out in accordance with the interstate space programs which could include space communication, remote sensing of the Earth, meteorology, space technology and medicine, defense and collective security, manned space flights and international cooperation (Article 2).

Interstate space programs are financed by means of proportionate contributions from States Parties to the Agreement, and the contributions themselves are determined by the governments of states in accordance with their obligations arising from interstate space programs (Article 3). National space programs are financed by appropriate states.

States Parties to the Agreement contributing to the creation and utilization of space facilities in accordance with interstate space programs have the right to receive information from these facilities and to use it in their interests.

States not parties to the Agreement may receive information through the Interstate Space Council on a commercial basis. The distribution of benefits received in this connection is to be carried out in accordance with the proportionate contributions of States Parties to the Agreement.

The Interstate Space Council is a coordinating body which is in charge of the formulation and implementation of interstate space programs (Article 1 of the Statute of the Interstate Space Council).

⁴⁸ This agreement was never made public, and is therefore unavailable.

⁴⁹ This agreement was never made public, and is therefore unavailable.

⁵⁰ This agreement was never made public, and is therefore unavailable.

In particular, the tasks of this body are:

- 1) to formulate interstate space programs based on proposals made by member states of the Council and to submit these programs for the approval of the Council of the Heads of the States of CIS;
- 2) to prepare and submit the proposals to the Council of Heads of States of CIS for its approval concerning the proportionate contributions by states for the financing of interstate space programs;
- 3) to coordinate the fulfillment of the interstate space programs;
- 4) to formulate annual interstate space plans on the basis of interstate space programs;
- 5) to prepare proposals concerning questions of exploration and use of outer space which are to be considered by the Council of Heads of States of the CIS;
- 6) to elaborate recommendations and adopt decisions on cooperation in the exploration and use of outer space within the framework of the agreements and interstate space programs; and
- 7) to determine the financial policy and adopt financial regulations, annual budgets and accounts.

The Interstate Space Council convenes its sessions at least twice a year and adopts its decisions on the basis of a consensus. The Executive Committee is considered to be the permanent working organ of the Interstate Space Council.

Logically speaking, one could expect the conclusion of new multilateral and bilateral agreements among member states of CIS which, in fact, create a legal foundation of their joint efforts in the exploration and use of outer space and a kind of "regional international space law" in the territory of the former Soviet Union. It seems that these agreements will have to be more concrete and detailed because when legal documents do not regulate minutely all necessary relations, it could impede their implementation and give rise to disputes and disagreements in practice. Of course, the future agreements will have to avoid gaps and contradictions among their different provisions, a fact which, unfortunately, one can see in the agreements already concluded among member states of CIS. And finally, one of the most important problems of the present and future space cooperation of member states of the CIS is the real implementation of the agreements, which have already been signed or will be signed by these states, because there is still a certain gap between decisions fixed in the agreements,

rights and obligations provided for in these legally binding documents, and their efficient observation and implementation.

Legal Regulations of Space Activities in Russia

As pointed out, although all of the former Soviet republics have contributed to space activities of the USSR, Russia was, is and will be the most important among them. It has one of the greatest space capabilities in the world. As to the creation of the legal foundation of its space activities, Russia, as a new independent state, has acted rather quickly and differently from its Soviet predecessors.

On 27 February 1992, President Yeltsin issued a Decree for the Creation of the Russian Space Agency.⁵¹ Later, in April, the Russian Government adopted the Statute creating this body.⁵² According to these documents, the Russian Space Agency (RSA), which could, to a certain extent, be considered the Russian analogy to the American NASA, is a state administrative body which develops and implements State policy on the exploration and use of outer space.

The tasks of RSA include the following:

- 1) to formulate, in conjunction with the Russian Academy of Sciences, the Unified Armed Forces of CIS and other ministries and agencies concerned, and submit to the Government of Russia a draft of the State space program of the Russian Federation;
- 2) to carry out general procurement for the development of space systems, complexes and scientific and industrial facilities envisaged under the State space program;
- 3) to participate in the development and use of dual-purpose (civilian and military) space systems and complexes developed under defense contracts in accordance with the State space program, and also in the preparation and launching of space systems for scientific and economic purposes;
- 4) to develop, in conjunction with industrial organizations and enterprises, a scientific research and testing base for space activities;
- 5) to cooperate with the relevant bodies of member states of CIS and other countries in the exploration and use of outer space;

⁵¹ See ROSSIISKAYA GAZETA, Feb. 27, 1992.

⁵² This document was never made public and is therefore unavailable.

6) to coordinate work on commercial space projects and promote their implementation; and

7) to coordinate work on the preparation and conduct of manned space flights and on securing safety of cosmonauts.

There is one more legal document on space in Russia which is worth mentioning. This is the Temporary Legal Regulations on the Issue of Licenses for All Types of Activities in the Exploration and Use of Outer Space and the Provision of Space Services in the Russian Federation approved by the General Director of the Russian Space Agency and then registered by the Ministry of Justice of the Russian Federation in October of 1992.⁵³ The purpose of this document is, in particular, to introduce licensing procedures for space activities and space services in Russia, to make licensing obligatory, to determine the body which is in charge for the issue of licenses, to indicate what kinds of space activities and space services are subject to licensing and to determine when applications for licensing can be rejected.

Thus, the Temporary Regulations confirms that the Russian Space Agency (RSA) is the only body which is authorized to issue licenses for all types of activities in the exploration and use of outer space and the provision of space services in the Russian Federation. (paragraph 1)

In accordance with the Temporary Regulations, licensing of space activities and space services is obligatory. Licenses are necessary for activities of enterprises, institutions and organizations, irrespective of forms of property, as well as entrepreneurs and citizens performing:

1) all types of activities in the exploration and use of outer space, including creation, production, utilization and modernization of rocket and space technology, as well as utilization of ground-based infrastructure facilities;

2) space services, including leasing, selling, and buying of rocket and space technology, infrastructure facilities and information from space organizations;

3) industrial activities in outer space; and

4) other types of activities in the exploration and use of outer space and the provision of space services.

⁵³ This document was never made public and is therefore unavailable.

Scientific researches in the field of space activities for the exploration and use of outer space and the provision of space services, as well as new investigations which are not connected with the launch or installation of space objects in outer space or the fulfillment of different experiments and tests of extreme danger on the Earth, are not subject to licensing.

As one can see, the Temporary Regulations give a rather broad interpretation for classifying activities within the exploration and use of outer space and services and allows not only state enterprises but other different enterprises and organizations, irrespective of forms of property, and citizens to carry out space activities.

Paragraph 8 of the Temporary Regulations determines the reason for the rejection of licensing. Accordingly, the applications for licensing will be rejected if, for example:

- 1) the necessary documents for obtaining a license are not submitted or if they contain wrong information;
- 2) an applicant does not have facilities necessary to carry out declared activities;
- 3) legitimate interests of consumers are not ensured;
- 4) industrial facilities used by an applicant do not meet the technological and environmental requirements;
- 5) realization of activities subject to licensing would violate the provisions of international treaties or agreements of Russia;
- 6) activities subject to licensing are not in compliance with Russian legislation; and
- 7) activities which are subject to licensing may do harm to the Russian Federation in technical or military fields.

If the holder of the license does not observe its provisions, the RSA may suspend or cancel its authorization (paragraph 10).

As pointed out, the document on the regulation of the issue of licenses is of a temporary character. So in the future, it will be replaced by permanent legislation, and some provisions could be changed, developed or canceled. However, it seems that the general approach to licensing will remain the same.

One of the main problems which stands ahead of Russia in developing the legal regulations of space activities concerns the drafting and adoption by the Parliament of the first domestic Russian Space Act of fundamental character.

In August of 1992, upon the request of the President of Russia, several ministries and agencies of the Russian Federation (Russian Space Agency, Ministry of Defense, Ministry of Foreign Affairs, Academy of Sciences) submitted to the Russian Parliament for its consideration a Draft Bill on Fundamentals of Space Activities. Several committees of the Parliament are engaged in the drafting of their own versions of the Draft Bill. This law, if passed by the Parliament, would determine the goals and guiding principles for conducting space activities in Russia, the competence of the President, Parliament, Government, Russian Space Agency and other bodies of the Russian Federation engaged in the exploration and use of outer space, the process of the formation of the State space program, the principles of financing, and licensing space activities. It also could regulate such issues as legal status of Russian space objects, astronauts and ground-based facilities of space infrastructure, and the allocation of liability and responsibility for the exploration and use of outer space. This law will form the basis for further and more specific space legislation of the Russian Federation.

