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Long-term sustainability of outer space activities

Technology safeguards associated with cooperation in the field of the exploration and use of outer space for peaceful purposes and in the development and operation of space rockets and rocket equipment

Working paper submitted by the Russian Federation and Ukraine*

1. The Committee on the Peaceful Uses of Outer Space, at its fifty-fourth session, in June 2011, made informed and competent decisions that integrate consolidated ideas and proposals of different States and groups of States on the terms of reference and methods of work of the Working Group on the Long-term Sustainability of Outer Space Activities in the context of multilateral space diplomacy conducted in the framework of the United Nations.
2. The Russian Federation and Ukraine support the elaborated procedure for further work and the practical agenda for consultations in this field and express the hope that the decisions made will lead to a pragmatic analysis of trends and factors that can promote the sustainable development of outer space activities.
3. A long-term priority for the international community is to strengthen mechanisms for fair and mutually beneficial international cooperation on outer space activities in order to ensure the efficient management, at the national and international levels, of logistical, technological, financial and other resources related to space activities.

* The present document was made available as a conference room paper at the forty-ninth session of the Scientific and Technical Subcommittee of the Committee on the Peaceful Uses of Outer Space (A/AC.105/C.1/2012/CRP.21).



4. Enhancing the political means and legal methods for the organization and development of international cooperation in outer space will be one of the factors for ensuring the sustainability of outer space activities, including security.
5. The decisions of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III), reflected in the resolution entitled “The Space Millennium: Vienna Declaration on Space and Human Development”, focus on a wide range of issues related to the strengthening and qualitative upgrading of space activities within the United Nations and elaborating a coordinated global basis for the development and consolidation of joint capacity-building in the utilization of space technologies.
6. In the context of cooperation in outer space, it is useful to analyse the current mechanisms for aligning, under conditions that benefit all States and groups of States, the requirements for scientific and technical development with objective security and non-proliferation considerations. In order to achieve that goal, discussion should be held within the Scientific and Technical Subcommittee, in accordance with the decisions of the Committee on the Peaceful Uses of Outer Space, on the thematic aspects of the sustainability of outer space activities related to the review of the regulatory framework and the tools for the use and transfer of space technologies within the framework of international cooperation and international trade in controlled space-related goods.
7. Consideration of policies and methods contributing to the lawful and safe use of technological products within the framework of outer space cooperation should objectively serve the purpose of enhancing mutual understanding of recommended practices for ensuring the legal and physical protection of such products in the territory of the importer.
8. The text of the Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on Technology Safeguards Associated with Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes and in the Development and Operation of Space Rocket and Rocket Equipment of 11 June 2009, made available to the Scientific and Technical Subcommittee in a conference room paper, belongs to a special category, ensuring the regulation of the export of protected technological products and their handling under conditions that could be of interest for the international community.
9. Each of the two countries has accumulated its own experience in concluding agreements on technology safeguards. The 1994 trilateral intergovernmental agreement between Kazakhstan, the Russian Federation and the United States of America on these issues with regard to the launch from the Baikonur Cosmodrome of the United States-manufactured INMARSAT-3 satellite — the satellite marking the beginning of the Russian commercial space launch programme — commenced a new treaty practice providing the basis for cooperation in the area of the protection of sensitive space technologies. (Subsequently, that Agreement was applied to launches of a number of other satellites through separate agreements between the three Governments.) In order to improve the institutional foundations of cooperation in this area, general-purpose agreements were concluded later: a tripartite intergovernmental agreement between Kazakhstan, the Russian Federation and the United States on technology safeguards associated with the launch by the Russian Federation of United States-licensed spacecraft from the

Baikonur Cosmodrome; and a similar Russian-United States agreement applying to the Plesetsk and Svobodny cosmodromes and the Kapustin Yar test site. Under the “Sea Launch” project involving the use of the Zenit launch vehicle (manufactured by Ukraine using Russian components), Ukraine and the Russian Federation concluded separate technology safeguards agreements with the United States. Similar target agreements were concluded between Ukraine and Brazil for the project of the launch of the Tsyklon launch vehicles from the Alcântara Launch Centre and between the Russian Federation and France for the launch of the Soyuz-ST launch vehicles from the Guiana Space Centre.

10. The Agreement of 11 June 2009 provides a comprehensive and systemic solution with respect to a whole range of issues concerning treatment regulations for protected items and related technologies originating in the Russian Federation and Ukraine, exported or temporarily exported, in the territory of the importing State (importer) and in third countries where such sensitive objects of cooperation might be delivered on legal grounds as part of jointly manufactured products. The Agreement consolidates the set of balanced and well-reasoned principles, norms and procedures.

11. The regulations governing the treatment process for controlled products are operationally viable in the light of all the relevant conditions and are conducive to the further strengthening of the institutions involved in the end use of those products, thus providing the basis for mutually advantageous conditions for international trade in specialized services, the international implementation and exchange of advanced technologies and the creation of qualitatively new partnerships and technological alliances in that domain.

12. The Agreement of 11 June 2009 is characterized by its unique approach to jurisdictional immunity in the framework of international scientific and technological cooperation: all goods declared by the exporting party as protected shall not be subject to any seizure or executive action in the territory of the importing State.

13. A precedent in that regard was established by the similar — in terms of form and content — Agreement between the Government of the Russian Federation and the Government of the Republic of Korea on Technology Safeguards Associated with Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes of 17 October 2006, which made it possible, for the first time in the practice of international scientific and technological cooperation, to fully implement the norm on immunity, including in relation to commercial operations and export items that are not State property. From the standpoint of international standards, such a pragmatic application of principles and norms related to immunity in the interests of cooperation on outer space activities appears to be an innovative idea. Such application makes it possible, on the one hand, to take into account considerations related to the security and safety of controlled high-technology goods and, on the other hand, enhance the capacity to achieve goals and objectives in outer space cooperation, providing for practical ways and means of involving interested States in space activities.

14. To date, the Russian Federation has applied the same model of addressing the issues of protection of technologies in its relations with, in particular, Belarus,

Brazil and Kazakhstan. There is a realistic prospect of achieving the full promotion of this practice.

15. The Agreement of 11 June 2009, like all similar agreements, prioritizes the interests of the bona fide end-user of controlled products. In addition, it contains a full exposure of all the required procedures for preventing any abuse of rights and privileges by any State or non-State (commercial) entity involved in legal relationships in the field of technology protection. Both States assume significant obligations to ensure the required legal, administrative and organizational conditions that would exclude cases where the exported (imported) products are objects of challenged authority and jurisdiction or any malpractice.

16. A number of political and legal, organizational and technical solutions (e.g. concerning the use of the immunity principle) implemented in the Agreement of 11 June 2009 could be embodied in the relevant model guiding conditions within the framework of the guidelines related to the sustainability of outer space activities.

17. The text of the Agreement of 11 June 2009 is available on the website of the Office for Outer Space Affairs (www.unoosa.org/oosa/en/SpaceLaw/national/state-index.html).
