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Report on the United Nations/Ukraine Workshop on Space Law on the theme "Status, application and progressive development of international and national space law"

(Kyiv, 6-9 November 2006)

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I. Introduction

A. Background and objectives

1. Growing recognition of the benefits to be derived from the use of space applications is encouraging increasing numbers of States, intergovernmental and non-governmental organizations, as well as entities from the private sector, to conduct space activities. Each year, the General Assembly, in its annual resolutions on international cooperation in the peaceful uses of outer space, reaffirms the importance of international cooperation in developing the rule of law, including relevant norms of space law, and urges States that have not yet become parties to the treaties governing the use of outer space to give consideration to ratifying or acceding to them, as well as incorporating them into their national legislation. The ratification and effective implementation of the five United Nations treaties on outer space, as well as the elaboration of national space laws and policies, have become priorities for the increasing number of States participating in space activities.

2. In addition, the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III),[1] held in Vienna from 19 to 30 July 1999, called for action to promote the development of space law to meet the needs of the international community. The importance of the development of space law was reaffirmed by the Committee on the Peaceful Uses of Outer Space in its report to the General Assembly on the occasion of the Assembly's review of the implementation of the recommendations of UNISPACE III, in 2004 (A/59/174). In its Plan of Action to further develop space capabilities to meet the development goals emphasized by UNISPACE III (A/59/174, chap. VI.B), the Committee agreed that the Office for Outer Space Affairs should strengthen its capacity-building activities in space law and should continue to organize the series of workshops on space law. The Plan of Action was endorsed by the General Assembly in its resolution 59/2 of 20 October 2004.

3. The successful implementation and application of the international legal framework governing space activities depends on the understanding and acceptance by policy- and decision-makers of the United Nations treaties and principles on outer space. The development of space law and policy in a country relies on the presence of professionals able to disseminate information and knowledge on the existing legal framework governing activities in outer space. The availability of such professionals is determined by the existence of educational opportunities and institutions that address the subject of space law and policy.

4. In order to promote the ratification of the five United Nations treaties on outer space and assist States in building capacity in space law, the United Nations, together with the Government of Ukraine, through its national space agency, and in cooperation with the International Center for Space Law, organized a Workshop on Space Law in Kyiv from 6 to 9 November 2006 for the benefit of countries of Central and Eastern Europe and of the Central Asian and Caucasus regions. The main objectives of the Workshop were:

[1] See *Report of the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space, Vienna, 19-30 July 1999* (United Nations publication, Sales No. E.00.I.3).

(a) To promote understanding, acceptance and implementation of the United Nations treaties and principles on outer space;

(b) To promote the exchange of information on national space laws and policies;

(c) To consider legal aspects of the commercialization of space activities;

(d) To consider the development of university-level studies and programmes in space law, with a view to promoting national expertise and capability in this field.

5. The Workshop was the fifth in a series of workshops organized by the United Nations to build capacity in space law, and the first for countries of Central and Eastern Europe and of the Central Asian and Caucasus regions.

6. The present report was prepared for submission to the Committee on the Peaceful Uses of Outer Space at its fiftieth session and to its Legal Subcommittee at its forty-sixth session, both in 2007.

B. Programme

7. Representatives of the secretariat of the President of Ukraine, the Cabinet of Ministers of Ukraine, the National Space Agency of Ukraine, the International Center for Space Law and the United Nations Office for Outer Space Affairs of the Secretariat opened the Workshop with introductory and welcoming statements.

8. The Workshop focused on the following areas:

(a) Promoting understanding of the United Nations treaties and principles on outer space;

(b) Promoting adherence to the United Nations treaties on outer space;

(c) Promoting and facilitating the creation of national space institutions;

(d) Promoting the development of national space policies and space legislation;

(e) Improving the availability and development of education programmes in space law;

(f) Improving the legal framework for international cooperation between States in the peaceful use of outer space;

(g) Considering legal issues related to private and commercial space activities;

(h) Considering the current status of development of international space law;

(i) Considering the relationship between the provisions of international space law and national space law.

9. Over 30 papers and presentations were delivered by invited speakers from the countries of the region, as well as from Brazil, Canada, France, the Netherlands, Nigeria and the United States of America.

C. Attendance

10. Legislators, government officials, practitioners and educators, holding positions in governmental departments, space agencies, international organizations, national universities, research institutions and the private sector, participated in the Workshop.

11. Approximately 85 participants from the following 21 countries attended the Workshop: Azerbaijan, Belarus, Brazil, Canada, Czech Republic, France, Italy, Kazakhstan, Kyrgyzstan, Latvia, Moldova, Netherlands, Nigeria, Poland, Romania, Russian Federation, Thailand, Turkey, Ukraine, United States and Uzbekistan. Representatives of the International Organization of Space Communications also attended the Workshop.

12. Funds provided by the United Nations and the Government of Ukraine were used to cover the travel and living costs of participants from the countries of the region. A total of 22 participants were sponsored after selection on the basis of their experience and potential to influence the development of space law and policy in their countries, build capacity and promote education in space law in the countries of Central and Eastern Europe and of the Central Asian and Caucasus regions.

II. Summary of presentations

13. The first session of the Workshop focused on international space law. Participants were provided with a comprehensive overview of the United Nations treaties and principles on outer space and the work being conducted by the Legal Subcommittee, as well as with information on the United Nations Register of Objects Launched into Outer Space, the mechanism provided by the General Assembly in its resolution 1721 B (XVI) of 20 December 1961 to States not yet party to the Convention on Registration of Objects Launched into Outer Space (the "Registration Convention")[2] to provide voluntary information. Participants were also briefed on the function of the web-based online index of objects launched into outer space maintained by the Office for Outer Space Affairs. In addition, participants discussed and identified the benefits for States of becoming party to the treaties and conducting their space activities in accordance with the United Nations principles on outer space.

14. During the second session, dedicated to the status and application of international space law in the countries of the region, participants considered the practice of development of national space laws and policies in countries of the region. Special attention was paid to the regulation of national space activities and the implementation of the provisions of the United Nations treaties on outer space.

15. The third session focused on ways and means of promoting education in space law, in particular in countries of Central and Eastern Europe and of the Central Asian and Caucasus regions. Participants examined the experience of educators in promoting education in space law and developing courses and considered mechanisms for overcoming regional challenges. The Workshop also discussed core elements to be included in education curricula on space law.

[2] United Nations, *Treaty Series*, vol. 1023, No. 15020.

16. Aspects related to the relationship between international space law and national space legislation were the focus of the fourth session. Participants considered ways of developing a national regulatory framework in various countries, taking into account the specific nature of their national space activities.

17. The fifth session was devoted to consideration of legal issues arising from the growing number of commercial space activities. The Workshop considered, inter alia, legal aspects of the organization of national commercial space activities, the legal regulation of space assets in the light of developments in international space law and the role of international private law in the regulation of international commercial space projects. Participants also heard presentations on the legal aspects of commercial space activities, such as insurance, protection of intellectual property rights, and so forth.[3]

III. Recommendations, observations and conclusions

18. Participants of the Workshop recognized that this was the fifth in the series of workshops on space law that the Office for Outer Space Affairs had organized with the intention of building capacity in space law, increasing awareness and knowledge of the international treaties and principles on space law developed under the auspices of the United Nations and providing a basis for their implementation on a practical level through the development and administration of domestic legislation and regulatory regimes.

19. Participants further recognized that the objective of the workshop was to study the specific requirements and conditions for the development of national space legislation in the Central and Eastern European region, as well as in the Central Asian and Caucasus regions, taking into account that the successful implementation and application of the international legal framework governing space activities was dependent on the understanding and acceptance of those legal treaties and principles by policy- and decision-makers.

20. Participants acknowledged that it has become increasingly important to ensure that space law and policy, including adherence to the United Nations treaties on outer space, are considered matters of priority by countries involved in space activities. The United Nations treaties and principles on outer space provide a legal framework for the exploration and use of outer space, and the treaties offer numerous benefits to States parties.

21. Participants agreed that universal acceptance and compliance with the United Nations treaties on outer space would contribute to the orderly use of outer space and ensure the strengthening of the rule of law in this field. The Workshop further agreed that by becoming parties to the space law treaties, States could better protect and defend their legitimate rights and interests, could take legal actions in accordance with the treaties and could also propose new agreements, declarations and other instruments to regulate new areas or activities, including the use of new technologies.

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[3] Papers presented at the Workshop are available on the website of the Office for Outer Space Affairs (http://www.unoosa.org/oosa/SAP/act2006/ukraine/presentations.html) and will be published as proceedings of the United Nations/Ukraine Workshop on Space Law.

22. Participants noted that, although Central and Eastern European countries and those of the Central Asian and Caucasus regions have been increasingly involved in space activities and have become more dependent on space applications and technologies, the level of their adherence to the space law treaties remains relatively low. Given the growing role that space technology applications play in improving the overall quality of life of people in these regions, adherence to the space law treaties and the creation of a proper national legal framework should become a priority. Participants further noted that regional organizations, as well as the Commonwealth of Independent States, could play an active role in increasing awareness among decision-makers of the benefits of States adhering to the legal regime of outer space.

23. Participants noted that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, in particular articles VI, VII and VIII,[4] the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space,[5] the Convention on International Liability for Damage Caused by Space Objects (the "Liability Convention"),[6] and the Registration Convention facilitated the establishment of national space legislation, in particular where private entities become involved. Participants further noted that the changing nature of space activities, in particular the commercialization and privatization of outer space activities, presented new challenges, in particular to the Liability Convention. In that regard, participants noted that the Liability Convention established one of the most victim-oriented international liability regimes in existence. This regime benefits all parties to the agreement, since space objects can cause damage in any country, whether spacefaring or not.

24. Participants recognized the need for the progressive development of international space law and national space law to address contemporary questions relating to the exploration and use of outer space, including issues arising from the increasing involvement of private and other commercial entities in space activities. It was therefore important that States consider the development of national space legislation and regional agreements to enable them to offer entities involved in space activities legal certainty and transparency, and to provide a reliable legal framework for private space activities.

25. Participants noted that national space laws should establish a legal regime, inter alia for the licensing and registration of space objects launched into outer space, that would adequately address liability and safety, as well as a system for financial responsibility, including indemnification and insurance, that would take into account respect for foreign interests and that would establish mechanisms that would enable cooperative efforts among States.

26. Participants agreed that when a State chose to enact national space laws it was obliged to do so in compliance with international obligations and the national requirements of its existing legal system.

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[4] United Nations, *Treaty Series*, vol. 610, No. 8843.
[5] United Nations, *Treaty Series*, vol. 672, No. 9574.
[6] United Nations, *Treaty Series*, vol. 961, No. 13810.

27. Participants agreed that information concerning existing international space law should be widely disseminated to professionals in the legal, scientific and technological fields, as well as to the general public. It was considered important that States ensure the participation of key stakeholders in the development of their national space policies in order to promote a better understanding and knowledge of international space law. Multilateral and bilateral cooperation among States in space law and space activities were considered a practical means of allowing full access to information.

28. Participants recommended that space law capacity-building efforts take into account individual differences among States, in particular those relating to the stage of economic and social development, the legal tradition and the specific nature of the space activities carried out by the State and its nationals.

29. Participants agreed that it was essential for educators, space law practitioners, legislators and policy- and decision-makers to remain engaged in space law networks. It was regarded as important that the participation of youth in conferences, symposiums and workshops addressing space science, technology and law should be encouraged and facilitated. Participants recommended that educational programmes in space law be developed in response to long-term needs. It was also recommended that capacity-building activities focus on educating all levels of society on how space activities could further national development goals and international cooperation in this field.

30. Participants recommended that short, intensive workshops and regular training courses be held in specific States and regions in order to build capacity in space law and related fields. The workshops should be open to policy- and decision-makers, students, educators and professionals involved in space activities. They also recommended that initiatives to create space law databases include information on institutions that provided courses in space law and policy.

31. Participants recommended that the Office for Outer Space Affairs pursue the possibility of identifying fellowship opportunities for students from developing countries to undertake studies in space law and recommended that the Office develop a baseline course on space law, in accordance with the recommendations made at previous United Nations workshops on space law. In that sense, the regional centres for space science and technology education, affiliated to the United Nations, could play an important role in building capacity in space law by including a basic course on space law in their curricula.

32. Participants recognized the valuable public service provided by the website of the Office for Outer Space Affairs and recommended that the Office further develop its site, in particular the section on space law.[7]

33. Participants recommended that the Office for Outer Space Affairs continue organizing workshops on space law in cooperation with Member States.

34. Participants expressed their deep appreciation to the Government of Ukraine, the National Space Agency of Ukraine, the International Center for Space Law and the Office for Outer Space Affairs for organizing the Workshop.

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[7] The website of the Office for Outer Space Affairs can be accessed at www.unoosa.org.