Status and Application of the UN Treaties on Outer Space: Rights, Obligations of, and Benefits for States-Parties

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Dear Ladies and Gentlemen, distinguished Colleagues and friends.

I am very happy and also proud as Chairman of the quasi-permanent Working Group of the UN-COPUOS Legal Subcommittee on Status and application of the 5 UN treaties on outer space, to present you in my personal capacity, *i.e.* unofficially, an informal balance-sheet of the activities of our WG during its 8 sessions carried out from its initial establishment in 1999 until today. On this opportunity allow me to say publicly with all due modesty, but also justice that thanks to the efforts of its member-states the results of the work of the WG were very fruitful and constructive. Consequently all of us are hoping that the consenting proposals and recommendations made by our WG will be useful worldwide especially for the prevalence of the rule of law in space activities as well as the wider feasible dissemination of space law not only through education, but also through the provision of technical assistance to Governments for the development of their national space legislation.

The present paper is an almost laconic synthesis of the practical results of the WG contribution in the peaceful uses of outer space by promoting the broader possible participation of states to the 5 UN Treaties on Outer space. Because without an integrated, sure and effective international legal system for space activities, it is impossible to secure the applicability and strengthen the respect of its rules, and then guaranteeing the reign of the common peace over both the Earth and the extraterrestrial cosmic *milieu*.

The following text includes 3 items: a) a general statement-of-accounts on the activities of the WG; b) a reference to the existing legal and political deficit in terms of the tardy universalization of the 5 UN Space Treaties, and the efforts for its mastering; and c) a short description of the advisable remedies to overcome the above shortfall by the complete knowledge of the rights and obligations of, and benefits for states when being parties in the those international legal instruments.

A. The Statement-of-Accounts

1 The United Nations General Assembly (UN-GA) in its so-called «omnibus» space resolutions used to reaffirm the importance of international cooperation in developing the rule of law, including relevant norms of space law, and their important role in international cooperation for the exploration and use of outer space for peaceful purposes. And it had at once urged states that have not yet become parties to the space treaties to give consideration to ratifying or acceding to them, as well as incorporating them into their national legislation, given that each space treaty contains a mechanism for adherence, and states may accede to

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• This paper is a scholastic document, and thus contains facts and opinions which the author alone considered appropriate and correct for the development of his subject. It does not necessarily reflect the policy or the opinion of any agency, including the Government of Greece, the Hellenic MFA and the UN-COPUOS.

some selected or to all those treaties. Also the 3rd UN Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III) in its resolution: «*The Space Millennium: Vienna Declaration on Space and Human Development*»,[1] endorsed by the UN-GA,[2] had called for action to be taken to promote the efforts of the UN Committee on the Peaceful Uses of Outer Space (UN-COPUOS) in the development of space law by inviting states to ratify or accede to the 5 UN Space Treaties. Besides that was the goal of the pertinent provisions of the UN Charter,[3] and the very recent UN Action Plan for the universal application of international law, adopted in 2000.[4]

2 At present the UN space treaties, which constitute the *Corpus iuris cosmici*, are the following:

a) Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, opened for signature on 27.1.1967 and entered into force on 10.10.1967 (*«Outer Space Treaty 1967»*);[5]

b) Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, opened for signature on 22.4.1968 and entered into force on 3.12.1968 (*«Rescue Agreement 1968»*);[6]

c) Convention on International Liability for Damage Caused by Space Objects, opened for signature on 29.3.1972 and entered into force on 1.9.1972 (*«Liability Convention 1972»*);[7]

d) Convention on Registration of Objects Launched into Outer Space, opened for signature on 14.1.1975 and entered into force on 15.9.1976 (*«Registration Convention 1975»*);[8] and

e) Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, opened for signature on 18.12.1979 and entered into force on 11.7.1984 (*«Moon Agreement 1979»*).[9]

3 The participation of states in the above 5 UN Space Treaties *via* the regular engagement process provided for by the international law of treaties, *i.e.* ratification or adherence (acceptance, accession or succession), is neither wide nor total. Therefore each one treaty had already collected from a large to a small number of participations. In particular, after the official data lastly published by the UN Office of Outer Space Affairs (UN-OOSA) (23.3.2009),[10] the status of participation in the 5 UN Space Treaties, *i.e.* legal engagement of states by ratification or adherence as well as initial political rather than plain legal commitment by signature, has as follows:

a) Outer Space Treaty 1967: 126 participations (100 engagements and 26 signatures);

b) Rescue Agreement 1968: 114 participations (90 engagements and 24 signatures);

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[1] UN Doc. A/CONF. 184/6/30.7.1999.

[2] UN Doc. A/RES/54/68/6.12.1999.

[3] UN Charter, Preamble: *«We the Peoples of the United Nations determined (...) to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.»*, Articles 1, § 1 & 13, § 1, *litt.* a).

[4] UN Action Plan, Strategy for an Era of Application of International Law, *adopted by the Senior Management Group (SMG) and approved by the Secretary-General, June 2000*.

[5] UN Doc. A/RES/2222 (XXI), Annex (UNTS, vol. 610, №. 8843).

[6] UN Doc. A/RES/2345 (XXII), Annex (UNTS, vol. 672, №. 9574).

[7] UN Doc. A/RES/2777 (XXVI), Annex (UNTS, vol. 961, №. 13810).

[8] UN Doc. A/RES/3235 (XXIX), Annex (UNTS, vol. 1023, №. 15020).

[9] UN Doc. A/RES/34/68, Annex (UNTS, vol. 1363, №. 23002).

[10] UN Doc. ST/SPACE/11/Rev.2/Add.2(2009) (Sales № E.08.I.10). And in electronic form: www.unoosa.org/pdf/publications/ST_SPACE_11_ Rev2 _Add2E.

c) Liability Convention 1972: 110 participations (87 engagements and 23 signatures);

d) Registration Convention 1975: 56 participations (52 engagements and 4 signatures);

e) Moon Agreement 1979: 17 participations (13 engagements and 4 signatures).

4 It is worth noting that just in last March the matrix of all space legislation, the Outer Space Treaty had at last obtained its 100th ratification made by the People's Republic of [North] Korea, which had also acceded to the Registration Convention.[11] After that, from all 192 UN member-states only 143 (74%) are participating (even by simple signature) to at least one of the above space treaties while on the contrary the remaining 50 (26%) did not yet had any linkage with them.[12] In addition, apart from states, 3 European intergovernmental functional organisations dealing with commercial space activities had also been legally committed to apply some of the above 5 treaties by signing the pertinent Declaration of acceptance of rights and obligations as provided for in these instruments. Those organisations are Eumetsat, European Space Agency (ESA) and Eutelsat IGO. Amongst them the 2 first had accepted 3 treaties (Rescue Agreement, Liability Convention and Registration Convention), and the third only 1 treaty (Liability Convention). Finally it is also significant mentioning that in contrast to what had happened in UN, in ITU from its 192 member-states only 8 (4%)[13] had not yet ratified the Final Acts of its last 12th Plenipotentiary Conference (Antalya, 2006), that had amended the «Basic Instrument» (Constitution and Convention) of the Union.

B. The Deficit and Efforts for its Mastering

5 It is therefore clear that an important shortfall in terms of real legal and political power of the existing space legislation has been produced. Indeed the present situation concerning the status and application of the 5 UN Space Treaties constitutes the major cause for the institutional as well political handicap of the legal system actually governing space activities. This is chiefly due to the fragmentation of the relevant legislative rules between the above mentioned 5 legal instruments, which had resulted at the considerable retardment of integration of space law and consequently the limited effectiveness of its rules. It is almost certain that this situation never had happened if a single comprehensive treaty has been concluded instead of 5 instruments. But for diverse evident political as well practical impediments that work was not possible to be done in just 9 years from the launching of Sputnik-1. For that reason it has then been chosen by the 2 sole space powers the solution of separate *ad hoc* fragmentary thematic regulations, as in the precedent case of the law of the Sea (1958). And that was also the reason for which the UN-GA had been obliged to recommend on every opportunity the wider participation of states in the 5 Space Treaties, as *e.g.* in 1993 when it had approved the Report of the UN then-Secretary-General Boutros Boutros-Gali on International Cooperation in Space Activities for Enhancing Security in the Post-Cold-War Era.[14]

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[11] UN Doc. V.09-81919-E/23.3.2009 *(Statement by the UN-OOSA Director to the 48th (2009) Session of the Legal Subcommittee)*, p. 3.

[12] Albania, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Beliz, Bhutan, Brunei Darussalam, Cape Verde, Chad, Comoros, Côte d'Ivoire, Croatia, Djibouti, Dominica, Eritrea, Estonia, Grenada, Guinea, Kiribati, Kyrgyzstan, Latvia, Liberia, Lithuania, Malawi, Marshall Islands, Mauritania, Micronesia, Moldova, Mozambique, Namibia, Nauru, Palau, Paraguay, St Kitts & Nevis, St Lucia, Samoa, Sao Tome & Principe, Solomon Islands, Sudan, Suriname, Tajikistan, Timor-Leste, Turkmenistan, Tuvalu, Uzbekistan, Vanuatu, FYROM, and Zimbabwe. From those states Albania (original member always absent), Chad and Sudan are full members of the UN-COPUOS. On the contrary some other states (Croatia, FYROM *& al.*), especially after 2007, are following the Sessions of the COPUOS with Observer status.

[13] Antigua & Barbuda, Congo (Zaire), Grenada, Liberia, Nauru, Palau, Solomon Islands and Timor-Leste.

[14] UN Doc. A/RES/48/39/22.12.1993, § 2.

6 In view of the foregoing the Legal Subcommittee (LSC) of the UN-COPUOS in order to confront the serious problem of the tardy universalization of the 5 Space Treaties and promote the wider feasible participation to them, had recommended, in 1998, the establishment of a pertinent Working Group (WG), open to all its members. That proposal had been endorsed by the UN-COPUOS,[15] and the LSC had set up, in 1999, a WG on its agenda item 5: «*Review of the status of the five international legal instruments governing outer space*».[16] The WG at its original session had examined a note by the UN-COPUOS Secretariat on the review of the status of the 5 Treaties,[17] and 2 relevant working papers submitted by Germany on behalf of the ESA member-states and its cooperating states,[18] and by the Russian Federation.[19]

7 During the discussion at the WG many delegations had expressed various views on the subject matter. Amongst them the most interesting are the following: a) the 5 Treaties were, by their nature, interdependent and that an overall approach should therefore be taken in their review and analysis in relation to possible future revision and amendment; b) the methodological approach to that review as proposed in the above mentioned working paper of the Russian Federation should be utilized; c) more attention should be paid to the issue of improving compliance with the provisions of the 5 Treaties d) many member-states of the UN, and even of the COPUOS, had not yet become parties to the 5 instruments, while other states might not be in full compliance with some of the provisions of the said instruments or state practice that had developed on the basis of those instruments; e) certain intergovernmental organizations could also be prevented from acceding to some of those instruments as a result of the failure of sufficient numbers of their own member-states to become parties to the same instruments; f) if it was decided that any of the 5 instruments required amendment, such amendment could only be formally proposed by the states-parties to the instruments in question; g) while it might be true that only states-parties to the instruments could formally propose their amendment, the LSC should not be precluded from conducting a discussion on the subject within the terms of its mandate; h) such a discussion should bear in mind that the 5 instruments were closely linked and would be useful for the possible future improvement of the outer space law regime; and, i) it would be preferable not to limit discussions to the concept of «launching State», but rather to compile a list of terms contained in the instruments that might require clarification.

8 Finally, the WG agreed on the following recommendations on measures to be adopted in order to achieve the fullest adherence to the 5 Treaties: a) States that have not yet become parties to them should be invited to consider ratifying or acceding to those treaties in order to achieve the widest applicability of the principles and to enhance the effectiveness of international space law; b) States should be invited to consider making a declaration binding themselves on a reciprocal basis to the decisions of the Claims Commission established in the event of a dispute in terms of the provisions of the Liability Convention of 1972;[20] c) The issue of the strict compliance by states with the provisions of the 5 Treaties to which they were currently parties should be examined further with a view to identifying measures to encourage full compliance, taking into account the interrelated nature of the principles and

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[15] UN Doc. A/53/20, § 145

[16] UN Doc. A/AC.105/674, Annex II.

[17] UN Doc. A/AC.105/C.2/L.210 and Add.1.

[18] UN Doc. A/AC.105/C.2/L.211/Rev.1, Chaps. I and II.

[19] UN Doc. A/AC.105/C.2/L.213.

[20] UN Doc. A/RES/26/2777/29.11.1971, § 3.

rules governing outer space. The WG also recommended that the LSC continue to examine agenda item 5 during its 39th Session, in 2000.[21]

9 Because of the great importance of that issue, 2 years later, the UN-GA had resolved to establish again the above WG, and notably for a 3-years term (2002-2004).[22] In accordance to that decision the LSC at its 41st Session, in 2002, had re-established the WG on its agenda item 4: *«Status and application of the 5 UN Treaties on Outer Space»*, the terms of reference of which were: a) the status of the 5 treaties; b) the review of their implementation and the obstacles to their universal acceptance; and c) the promotion of space law, especially through the UN Programme on Space Applications.[23] The chairmanship of the WG has been entrusted, as previously, to the representative of Greece (the author), who since then until now continues to be elected to that function.

10 On this opportunity it is worth noting that the establishment of the WG was not an easy case, as some member-states and mainly the USA, were initially opposed to its formation arguing that its operation might disturb the normal application of the existing 5 international instruments and also provoke especially to third non-parties-states doubts about their legal adequacy and therefore impede adherence to them. To that allegations several other member-states with at the head Greece and Russian Federation had replied sustaining that the WG will be the most appropriate forum in the whole UN system for a free and systematic legal and political dialogue on the problems of applicability and universalization of existing rules of space law. And from the *bona fide* dialogue nobody loose and only democracy and peace are gaining.

11 At its 1st regular session, in 2002, the WG, established in accordance with the relevant UN-GA resolution,[24] had examined the following items: a) The status of acceptance of each of the 5 treaties; b) the problems related to the fact that a number of states were parties to some of the later more specific UN Space Treaties (*e.g.* the Liability Convention), but were not parties to the main Outer Space Treaty; c) the arguments in favour of the participation of states in the above treaties –not only in view of the many immediate practical benefits states would acquire (*e.g.* closer international cooperation, access to space facilities, including uses of data), but particularly in cases where states might be victims of damage caused by space objects or parties in an international dispute concerning such damage, in which specific rules applied that were entirely different from the rules of classic international law applied in other fields such as air law, maritime law and nuclear law; d) the role of the UN Space Treaties as the basis for national space legislation, especially in regulating the involvement of the private sector in outer space activities; e) the legal value of the declaration of acceptance by an international intergovernmental operational organization following its privatization; f) the intensification of relations between the COPUOS and the UN Specialized Agencies dealing with outer space matters (*e.g.* ITU, WMO, UNESCO, FAO and WIPO); and g) the mechanisms for the worldwide promotion of space law, not only through education, but also through the provision of technical assistance to Governments for the development of national space legislation.

12 During the 6 meetings of the WG its member-states had expressed the following views: a) while it might be desirable to promote universal acceptance of the 5 treaties, efforts to that

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[21] UN Doc. A/AC.105/721/30.3.1999, Annex II (pp. 13-14)

[22] UN Doc. A/RES/56/51/10.12.2001, § 5, *litt.* (a), (ii).

[23] UN Doc. A/AC.105/763 & Corr.1, § 118 & Annex I.

[24] UN Doc. A/RES/56/51/10.12.2001.

end at the present time were likely to meet with limited success; b) recent deliberations within, i.a. the LSC had indicated a possible lack of clarity of the existing treaties on particular issues and concepts and a potential need to amend or supplement the treaties in order to deal with new developments in space activities; c) the continuing uncertainty surrounding the treaties in their current state would result in non-parties taking a cautious approach to their acceptance until the uncertainty had been adequately resolved; d) it would be appropriate to discuss the desirability and feasibility of drafting a universal comprehensive convention on space law and that an ad hoc informal open-ended working group should be convened for that purpose, as had been previously proposed in the working paper submitted by China, Colombia and the Russian Federation;[25] e) the existing treaties provided sufficient framework for current space activities and that seeking to negotiate a universal comprehensive convention on space law would tend to undermine efforts to encourage universal acceptance of those treaties; f) the efforts to encourage universal acceptance of the treaties should be the primary focus of attention of the present Working Group; g) the proposal of China, Colombia and the Russian Federation was only intended to enable a discussion of the desirability and feasibility of drafting a universal comprehensive convention on space law, and not to commence with the drafting of the convention as such, and thus that proposal was not in any way incompatible with efforts to encourage universal acceptance of the existing treaties; h) it might be useful for the WG to engage in a more detailed examination of the possible obstacles to acceptance of each of the 5 treaties in turn, perhaps starting with the Moon Agreement that currently had the least number of states parties; i) it might be useful to direct a request to states that were not parties to the treaties to indicate the possible obstacles to their acceptance of them; j) it might be useful for the WG to prepare a list of national laws that had been developed by various states to implement the provisions of the treaties, as well as a list of benefits that might result from acceptance of those treaties and then to transmit that information to non-parties in order to encourage their acceptance of the treaties; k) certain states that had previously been part of the former USSR might not yet have indicated their positions regarding possible succession to one or more of the treaties to which the former USSR had been a party and that it might be appropriate for the UN-COPUOS Secretariat to transmit a request to the relevant depositaries of the treaties in question to consider seeking clarification from such states in that regard.

13 At the same time the attention of the WG was drawn first to the possibility that the limited practical use of the information provided by states to the UN Secretary-General (UN-SG) under the Registration Convention, in terms of identifying space objects, and the potential confusion regarding the legal effect of registration of space objects might undermine the effective application of that convention, especially in cases that instead of only one there were multiple launching states for a particular space object. And second to the potentially crucial role of operational intergovernmental organizations in promoting the development and acceptance of international space law through their own space-related activities and their interaction with their member-states. Finally the WG had welcomed the contribution to the development and promotion of space law of numerous activities that had been undertaken by intergovernmental and non-governmental organizations around the world.[26]

14 At its 2nd regular session, in 2003, the WG, reconvened in accordance with a new relevant

[25] UN Doc. A/AC.105/C.2/L.226.

[26] UN Doc. A/AC.105/787/19.4.2002, Annex I (pp. 19-21).

UN-GA Resolution,[27] had examined the same items as above. Also pursuant to an agreement of the LSC at its 41st Session, in 2002, the WG had been authorised to review the application and implementation of the concept of the «launching State», as reflected in the relevant conclusions of the LSC,[28] as well discuss any new similar issues that might be raised during its meetings, provided that those issues will fell within its existing mandate.[29] In addition, 3 proposals on matters relating to the mandate of the WG had been announced informally: a) a proposal by the USA for a new agenda item on space objects registration practice; b) a proposal by France for a new agenda item on space debris; and c) a draft resolution proposed by Germany concerning the concept of the «launching State».

15 During its 8 meetings the WG had decided to recommend that: a) the Institutions included in the Directory might participate in an electronic Network of institutions teaching international and national space law, which should take advantage of the institutional framework of the 5 Regional Centres for Space Science and Technology Education affiliated to the UN, and which should be coordinated by Greece (the author); b) Institutions in that Network will exchange information on activities to promote capacity-building in international and national space law, especially in developing countries; and c) above Regional Centres should include a basic course on space law in their curricula.

16 The WG had also suggested that the UN-SG might write letters to the Ministers of Foreign Affairs of all UN member-states that had not yet become parties to the 5 treaties, as well invite them to participate in a session of the COPUOS. It had agreed too to invite Institutions in member-states, as well as organizations with observer status with the COPUOS, to submit on a voluntary basis unofficial, informal short background papers on specific issues falling within its mandate, aimed at promoting discussion, under the condition that they would not be considered as representing the official position of any member-state or organization. Finally it had been argued that it was difficult for legal experts in states that had not yet ratified the Liability Convention and the Registration Convention to recommend to their Governments to become parties to those treaties, since the concept of the «launching State», might still be reformulated.[30]

17 At its 3d regular session in 2004 the WG, reconvened in accordance with the relevant UN-GA Resolution,[31] had examined the same items as above, as well as the following i.a. documents: a) the Proposal submitted by Germany on behalf of a group of countries, containing a draft resolution on the application of the legal concept of the «launching State», for consideration by the UN-GA;[32] b) the Model letter of the UN-SG to the Ministers for Foreign Affairs of states that have not yet become parties to the 5 Treaties;[33] and c) the working paper submitted by Ukraine and co-sponsored by Kazakhstan and the Russian Federation, entitled: «*Questionnaire on possible options for future development of international space law*».[34]

18 During its 9 meetings the WG had decided on the following: a) to approve the text of the above model letter of the UN-GA to the Ministers of Foreign Affairs, together with the informational material to be attached thereto. And also to sent a similar letter

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[27] UN Doc. A/RES/58/89/9.12. 2003.

[28] UN Doc. A/AC.105/787, § 122 and Annex IV, Appendix.

[29] *Ibid*. §§ 138, 140.

[30] UN Doc. A/AC.105/805/10.4.2003, Annex I (pp. 26-29).

[31] *Ibid*.

[32] UN Doc. A/AC.105/L.249 and A/AC.105/C.2/L.251.

[33] UN Doc. A/AC.105/C.2/2004/CRP.12.

[34] UN Doc. A/AC.105/C.2/2004/CRP.14.

to intergovernmental organizations that had not yet signed a declaration of acceptance of the rights and obligations under the 4 thematic treaties (Rescue Agreement, Liability Convention, Registration Convention and Moon Agreement); b) to approve the text of a draft resolution on the application of the concept of the «launching State», for consideration by the UN-GA; and c) to transfer the above «*Questionnaire*» to the plenary of the LSC in order to be considered at its 44th session, in 2005. Finally it has also been observed that one of the tasks of the WG should be to develop model guidelines that could be made available to states seeking to develop national space legislation. Such guidelines could be similar to those already developed by the ITU in the context of the world telecommunications development programme in order to assist its member-states to introduce national legislation to re-regulate their local telecommunications markets.[35]

19 After conclusion of its 3-year mandate, the WG has not been reconvened again the following year, because the LSC had decided that it would have been premature for the WG to meet during its next 44th session, in 2005, as member-states and international organizations needed time to respond to the above UN-GS letters and to the parallel recommendation of the UN-GA,[36] concerning voluntary submission by member-states of information on their current practices regarding on-orbit transfer of ownership of space objects.[37] Therefore the LSC had agreed to reconvene the WG at its next 45th session, in 2006, and also review the need to extend its mandate beyond that session.[38] That was also the case and in the subsequent years from 2006 to 2009, when the WG has been reconvened by the LSC, in accordance with pertinent UN-GA resolutions,[39] and had carried out its following 4 other regular sessions.

20 In particular, the WG at its 4th (2006) regular session had carried out 6 meetings, during which had continued to examine the same main items of its previous agendas. Following the discussion, it had agreed to: a) recommend to the LSC that member-states be requested to provide information on any action that might have been taken at the national level as a result of receiving the above letter from the UN-SG; b) transfer to the WG on the Practice of States and International Organizations in Registering Space Objects the issue of member-states providing information on a voluntary basis on their current practices regarding on-orbit transfer of ownership of space objects; c) continue the discussion on the above Questionnaire in the LSC at its 46th (2007) session; d) postpone the discussion of all other matters (except for the review of the need to extend its own mandate beyond 2006) to the said session of the LSC.[40] In addition the WG had agreed on the text of a document on advantages of adherence to the Liability Convention and had recommended that the UN-OOSA send it to all states that had not yet become parties to that Convention.[41]

21 At its 5th (2007) regular session the WG had carried out 5 meetings during which had mainly discussed on the above Questionnaire on the possible options for future development of international space law, as well as on the issue of the low participation of states in the Moon Agreement. Concerning the first topic some delegations (Russia *& al.*) had ex-

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[35] UN Doc. A/AC.105/826/16.4.2004 (pp. 24-31).

[36] UN Doc. A/RES/59/115/10.12.2004.

[37] UN Doc. A/AC.105/850, § 29.

[38] *Ibid.*, § 30.

[39] UN Docs A/RES/60/99/8.12.2005, § 6; A/RES/61/111/14.12.2006, § 6; A/RES/62/217/22.12.2007, § 6; A/RES/63/90/2008, § 6.

[40] UN Doc. A/AC.105/871/24.4.2006, Annex I (pp. 25-27).

[41] *Ibid.*, Appendix (pp. 27-29).

pressed the view that responses to the Questionnaire would provide useful information for the future development of international space law and a consolidation of the divergent positions of states on that issue. On the contrary, other delegations (USA *& al.*) questioned the utility of the Questionnaire, particularly as it was a collection of multiple choice questions, and were of the view that such an endeavour would make less clear the message of increasing adherence to the existing outer space treaties and improving their implementation. Then the WG agreed to continue to debate on that issue in an open and flexible manner the next year within the 47th (2008) session of the LSC.

22 Regarding the second point, the WG had agreed that during also the next session of the LSC, member-states, could: a) address activities currently being carried out, or to be carried out on the Moon and other celestial bodies in the near future; b) identify the benefits of adherence to the Moon Agreement; c) identify the international and national rules governing activities on the Moon and other celestial bodies; and d) assess whether existing international rules adequately addressed activities on the Moon and other celestial bodies. In addition the WG had agreed that the Secretariat should prepare a background paper on activities being carried out or to be carried out on the Moon and other celestial bodies, international and national rules governing those activities and information from states parties to the Moon Agreement about the benefits of adherence to that agreement.[42]

23 At its 6th (2008) regular session the WG had carried out 7 meetings during which had continued to discuss on the above two issues. In view of the divergence of opinions on the first one it had decided not examine during its next session, in 2009, the list of questions in the Questionnaire but instead converse on the current state of international space law and possible options for its future development, as necessary. Concerning the second issue on the Moon Agreement, the WG after an extensive exchange of views had decided to continue its discussion on that problem, including the four issues referred to in previous paragraph, at its next session in 2009. Also it had expressed its appreciation to 7 member-states parties to the Moon Agreement (Austria, Belgium, Chile, Mexico, Netherlands, Pakistan, Philippines) for their joint statement on the benefits of adherence to it.[43]

24 Finally, the WG at its last 7th regular session, in 2009, had carried out 6 meetings almost exclusively consecrated to the destiny of the Moon Agreement. A comprehensive discussion had taken place on various legal problems arising out from the provisions of the Agreement as well as on the reasons of the low participation to it. Two main antithetic views had been expressed sustaining on the one hand that the reasons preventing states from becoming parties to the Moon Agreement needed to be explored more fully in order to find appropriate solutions to overcome those obstacles (Russian Federation *& al.*), and on the other hand that it was premature to arrive at any conclusions on the adequacy of existing international rules governing the Moon and other celestial bodies, as a fuller picture was needed of the activities concerning the Moon and of the relevant national legal frameworks (USA *& al.*). In view of the foregoing the WG had agreed to continue its discussion on the above mentioned four specific issues, at its next meetings during the following 49th session of the LSC, in 2010. At the same time the WG had recommend to the LSC to reconvene it, in 2010, and review the need to extend its mandate beyond that session (2011 *& seq.*). Lastly it had requested the UN-OOSA to retransmit the above UN-SG letter to the Ministers of Foreign Affairs, dated 9.12.2004, encouraging Governments adhering to the 5 treaties, as well as sent a similar letter to intergovernmental organizations conducting

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[42] UN DOC. A/AC.105/891/2.5.2007 (pp. 24-26)

[43] UN DOC. A/AC.105/917/18.4.2008 (pp. 27-30) and A/AC.105/C.2/L.272, Annex.

space activities to possibly make a declaration of acceptance of rights and obligations.[44]

C. The Advisable Remedies

25 Coming now to the end of this paper, instead of concluding remarks suggesting the most appropriate remedies to overcome the low level of participation to the 5 UN Space Treaties, it seemed to me more useful to repeat in brief the text of the indicative list of rights and obligations of, and benefits for states parties to the said treaties, which was attached to the above mentioned letter of the UN-SG to the Ministers of Foreign Affairs, dated 9.12.2004.[45]

26 *The Principles*

The rights and obligations of every state –space-faring and non-space-faring– in connection with outer space, including the Moon and other celestial bodies, correspond to the fundamental legal principles governing space activities, which are: a) the freedom for exploration and use by all on an equal basis, for exclusively peaceful purpose and for the benefit and in the interests of all Humanity; b) the interdiction of national appropriation by any means; c) the maintenance of international peace and security; d) the promotion of international cooperation and understanding; and e) the respect of international law, including the UN Charter.

27 *The Rights*

All states are entitled to participate in further law-making to develop the existing international legal regime, and upon registration on their national registry of an object launched into outer space to retain jurisdiction and control over it, and over any personnel thereof, while in outer space or on a celestial body.

28 *The Obligations*

Apart from the respect and application of the above mentioned principles, all states parties to the 5 UN Space Treaties are bound: a) to respect the principle of cooperation and mutual assistance; b) to conduct all their space activities with due regard for the corresponding interests of other states; c) to avoid the harmful contamination of outer space and precipitous adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter; and d) to abstain placing in orbit around the Earth any objects carrying nuclear weapons or any other kind of weapon of mass destruction, install such weapons on celestial bodies or station such weapons in outer space in any other manner.

Also states bear international responsibility for their national space activities, whether they are carried out by government agencies or by non-governmental entities, and for ensuring that national activities are carried out in conformity with the principles set forth in the above international instruments. And furthermore they bear international liability for damage to a foreign state or to its natural or juridical persons by an object launched into outer space or its component parts, on the Earth, in airspace, or in outer space.

29 *The Benefits*

Adherence of a state to the UN 5 Space Treaties is most advisable because it provides: a) international rules and procedures for the peaceful settlement of disputes and for claiming compensation and guarantees; and b) the protection of its interests and its nationals who fall victim to damage caused by space objects of third states. Also it could increase a) its at-

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[44] UN Doc. A/AC.105/935/20.4.2009, § 39 and Annex I (pp. 28-30), §§ 11, 16-18.

[45] UN Docs A/58/20, § 153 and A/AC.105/826/16.4.2004 (pp. 29-30).

tractiveness to potential foreign partners seeking international cooperation in the exploration and use of outer space; b) its involvement in international cooperation mechanisms and, as a consequence, improve its access to scientific, meteorological and other space-related data; c) its confidence in the safety of space activities as the treaties in addition to the international responsibility and liability for national space activities impose too the provision of authorization and the supervision of such activities.

Dear Ladies and Gentlemen, distinguished Colleagues and friends.

I am persuaded that the outcome of our Workshop in Tehran will be particularly constructive and helpful in furthering the universalization of the 5 UN Space Treaties as a pivotal means for friendly and sincere cooperation between space-faring and non-space-faring nations, common peace and security around the world and a terrestrial and extraterrestrial cosmic ecosystem clean from any kind of pollution. That is to say for the benefit and in the interests of all present as well future generations of the Humanity. And that, because as the famous Persian lyric poet Sa'di (or Saadi) (*ca.*1213-1292 A.D.) rightly said in his didactic verses: «*All Humankind are limbs of the same tree, for in Creation they have one pedigree. When by hard times one limb is put to test, the other limbs are made restless and depressed. If you are heedless of your fellow man's suffering, you're not fit to be called a human being.*».