



**Olga S. Stelmakh, International Relations Department, NSAU  
Presented by Dr. Jonathan Galloway**

**4th Eilene M. Galloway Symposium on Critical Space Law Issues**

**LEGAL REGIME FOR SECURITY OF  
EXPLORATION AND USE OF OUTER SPACE  
FOR PEACEFUL PURPOSES**

# AVANT-PROPOS

The consideration of the necessity to establish on an international legal level a system of global and common security of exploration and use of outer space puts on the agenda the **issue of acceptability for the current world law order of synergetic transgressive international processes towards the creation of this new legal regime**

## MANKIND PROVISION: PRIMACY OF PUBLIC INTEREST OVER THE PRIVATE ONE

As it is mentioned in the majority of space law international legal documents, outer space should be used **exclusively for peaceful purposes and in the interests of all mankind**.

- ✓ Emphasis on “**mankind**” provision as a general category
- ✓ not on the scope of national interests of the world’s independent states due to the legal status of space sphere of regulation defined as “**common heritage of mankind**”.
- Conflict of interests of the leading space-faring countries neglects the **principle of primacy of the general public interest over the private one** and, therefore, jeopardizes the security issue both of the established space order as well as of the ideological and legal fundamentals – guarantees of securing the possibility of using and exploring outer space in the future according to the rules of positive law.

## CRUCIALITY OF SECURITY PROBLEMATIC

- Importance of security problematics in outer space can be observed through wording of dispositions in space law acts, to wit regarding :
  - ✓ **“interest of maintaining international peace and security”**
  - ✓ **“maximum precautions to be taken to assure safety”**
- Preamble to the basic Outer Space Treaty contains the reference to applicability of UN GA Resolution 110 (II) dated 3.11.1947 to the regulation of outer space issues, whose main postulate is to condemn propaganda that directly or indirectly jeopardizes peace or breaking peace.

# PHENOMENON OF MACROPROBLEM & GLOBAL NATURE

- **Phenomenon of macroproblem** of space security for sustainable development
- **Global dimension**

do not enable the solving of current critical issue by the efforts of only certain states



**Regime of international space security cannot be reached unilaterally,  
it requires the reinforcement of international cooperation**

# COLLECTIVE CONTRACTUAL LEGALLY BINDING APPROACH

- **Collective contractual legally binding approach** of space-faring countries to solving the security issue is:
  - ✓ the most expedient from the point of view of its efficiency
  - ✓ a universal mean
  - ✓ could ensure the engagement of a larger number of countries
  
- **Result of applicability of such an approach** – a codified collection of the most effective, viable & approved practices and acquis build on the:
  - principle of reception
  - logical and legal selection
  - empirical implementation in an international legal context of security

# IDEOLOGICAL DRIVER FOR CONCEPT INITIATION

- As ideological driver for concept initiation of the relevant international legal document of binding legal nature could jointly be considered within their competence the UN interested institutions
  - **UN Security Council**
  - **UN COPUOS**
- Empowered on the one hand for supporting the security of the world order, on the other hand for guaranteeing the use of outer space exclusively for peaceful purposes.
  
- **COPUOS Legal Subcommittee** is already involved in the process of establishment of a space security regime:
  - ✓ Makes conceptual proposals towards effective implementation of the Convention on registration 1975 (WG entrusted to elaborate the set of recommendations (2007) on harmonization of state practices regarding the implementation of the Convention provisions, elaboration of the more systematic and standardized method for meeting the requirements).
  - ✓ Develops UN resolutions on issues of international cooperation regarding capacity building of transparency and confidence building measures

**Above proves the necessity of relevant legal assessment of outer space security problem and the urgency to develop reasonable approaches for a security regime, through joint efforts of various states.**

# TOWARDS ESTABLISHMENT OF RELIABLE SPACE SECURITY LEGAL REGIME

- Legal fundamentals for a space security regime in a comprehensive fashion have not yet formulated → could be refined only through analysis of an immense massive of agreements and other instruments of space and adjacent branches.
  
- Concept of international collective security has to become an **strategic vector focused on establishment of reliable legal regime** by means of:
  - ✓ International diplomatic channels
  - ✓ Model of international multilateral dialogue
  - ✓ Clear coordination of efforts
  - ✓ Development and adoption of universal international legal rules
  
- Primary building-block of the considered regime should be the **confidence measures** based on transparency and predictability of space security threats
- Specific instrument – **capacity building of international cooperation and introduction of sustainable mutual guarantees**

The progress to international legal paradigm of security for use and exploration of outer space for peaceful purposes requires comprehensive approach and establishing relevant balance of interrelation and interdependence of its essential elements.

# COMPREHENSIVE CENTRALIZED SYSTEM

- Institutionalization of the global strategy for security and rational use of outer space's resources should become a **comprehensive centralized system rejecting the idea of decentralized levers of influence and centers for control**. It should be based on sustainable development concept.
  
  - ✓ **Overcome the ideological egoistic barrier** of security interests of the world's West and East space giants
  - ✓ **Invoke a “good will” principle** of space-faring countries regarding the cession of priority level of personal interest in favor of the supranational
  
  - On the forefront should appear the **social mission of international law** – promotion of international peace and ensuring of international security and peaceful relationship between states.
    - **General interest** in use of outer space
    - **Imminent consequences** of space security violation
  
  - Should be finally be considered by all leading space stakeholders
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# CORE PILLARS OF INTERNATIONAL SPACE SECURITY SYSTEM

- **Core pillars of international space security system:**
  - ✓ **Principles of general nature and unique security level** for all countries irrespective of their role on the world space arena;
  - ✓ **International cooperation** in solving the security problems and collective efforts regarding mitigation of security threats;
  - ✓ **High level of confidence and transparency** in external relations;
  - ✓ **System and synergetic approach** to security safeguard and reinforcement
- This international initiative should among others **render impossible the monopolization of security levers** in outer space by certain countries exclusively in their own interests.

## BASIS FOR ENSURING THE GENERAL PEACE AND INTERNATIONAL SECURITY IN MODERN LAW DOCTRINE

- ❑ The basis is enshrined in UN Charter with further development in the concept of a comprehensive international security system that appears in UN GA resolutions dated:
  - ✓ 5 December 1986 and 7 December 1987 on **“Establishment of a comprehensive system of international peace and security”**
  - ✓ 7 December 1988 on **“Comprehensive approach to strengthening international peace and security in accordance with the Charter of the United Nations”**
  
- ❑ **Main emphasis**
  - To ensure the organization of international relations that promotes the establishment of sustainable and secured peace.
  - **To project the model of the general world space security system** on the example of the aforementioned concept
  - This will be the mechanism for stabilization for ensuring the security and reinforcement of cooperative elements of space order with **due consideration taken of public security interests**

# INTER-STATE CONSULTATIONS MECHANISM

- Analysis of the practice of elaboration of the new international space instrument shows that the adoption of such documents is preceded by **two essential elements**:
  - ✓ **Diplomatic legal initiative of leading countries**
  - ✓ **Dynamic interstate multilateral dialogue**
- Five core space law treaties contain a series of legal lacuna, however their outstanding acquis is the fact of introduction in international practice of the **inter-state consultations mechanism** that laid down foundations for the model of cooperation in the use and exploration of outer space for peaceful purposes.
- The reason that the international cooperation principle has been developed and served as the basis for security understanding on the onset of space era, explains to a certain extent its **inadaptability to a scale of security problematics in the 21st century**.

## FACTORS THAT AT PRESENT INFLUENCE THE RAISE OF POLITICAL AND LEGAL AWARENESS ABOUT SPACE SECURITY

- **TODAY**
  - ✓ **Economic factor** (as a consequence of commercialization of space activities – creation of space services market, considerable dependence on space commercial applications etc.)
  - ✓ but **not ecological factor** or **security interests** as a prerequisite for sustainable development
  - **Hidden nihilism of the ecological component and security aspect**
  - **Negligence of sustainable and secure development needs** & respect of the balance of state interests and public ones
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- complicate the perspective of progressive advancement in the direction of unique building-blocks of space security and capacity – building of the concept as a such.

Further development of space activities should be considered exclusively in parallel with universal concept of global space security and in no case separately.

# INTERNATIONAL ECOLOGICAL SECURITY OF OUTER SPACE

Using the Rio Declaration on Environment and Development as an example, it would be reasonable to take into consideration the importance of a special principle of preventive nature, namely a **precautionary principle** in the process of the **formation of an "ecological legal space" within the concept of space security**.

The **international ecological security of outer space** implies such a state of outer space that would secure the preservation, rational use, reproduction and improvement in quality of the space environment

Additional requirements to the legal regime of space security requires a **special emphasis on the implementation of a number of principles already at the preliminary stage** of space activities

- ✓ **principle of preliminary assessment of impact of space activities on the environment**
- ✓ **principle of information exchange**
- ✓ **principle of timely notification and consultations on any activities posing a potential threat to a security regime in outer space**

These principles should be prioritized within a system of means for the international legal protection of the outer space security regime

## INTERNATIONAL MEANS FOR STRENGTHENING SECURITY IN OUTER SPACE, MAINTAINING THE SECURITY AND RENEWAL OF SECURITY REGIME

- **Space activities should primarily be realized in a manner that excludes any potential harm not only to other states but also to the whole world community.**
  
- **In light of this, the international means for strengthening security in outer space, maintaining the security and renewal of security regime, as well as a number of special foundations and principles, gain a special meaning load:**
  - ✓ Principle of **international cooperation** for the promotion of international space security and prevention of situations posing a potential threat to the regime;
  - ✓ Principle of **integral security** (taking into due consideration the interrelationship and interdependence of states the security should be the same for all and equal for all; the security of certain states should not be built at the cost of security of other states);
  - ✓ Principle of **equal security** and **not to cause harm for security** (right of each state to security and the establishment of security for all on the basis of equality without any unilateral preferences);
  - ✓ Principle of **collective** and **individual responsibility** for violation of international security rules of law;
  - ✓ Principle of **protection of the space environment** in favor of contemporary and future generations for securing of sustainable development (measures to protect and improve quality of the space environment and rational management of natural resources, creation of an extensive system for international control and monitoring of the space environment based on world-recognized criteria, parameters and standards).

# PRIMARY STRUCTURAL FOCUSES OF SPACE SECURITY PARADIGM

Consequently, primary structural focuses in the process of elaboration of conceptual foundations of the paradigm for the legal regime of space security should be:

- **Purpose:** to establish the regime for an international collective security of outer space, in order to secure a threat-free outer space and sustainable development;
- **Method:** strengthening the potential of international cooperation; elaboration of a single integral ideological and legal concept with substantial analytic approbation of its empirical implementability (securing proactive the function of the law); elaboration and adoption of a universal international legally-binding document; and initiation of the centralized system of global collective security;
- **Limitations:** taking into consideration the security of the whole of mankind and the principle of peaceful purposes.

## DEFINITIONS OF "INTERNATIONAL SPACE SECURITY" AND "INTERNATIONAL LEGAL REGIME OF SPACE SECURITY"

Unambiguous interpretation of key categories of space law and in some cases lack of key legal definitions raises the issue of coordinating the legal essence of a number of phenomena at an international level. In turn, it would contribute to their proper implementation and avoid conflicts of law.

Taking into consideration that in the context of this research "**international space security**" and "**international legal regime of space security**" are those categories and their official definition is not offered by the space community at the moment, it seems reasonable to provide the author's versions of their definitions.

- **International state security** – is a state of international political and legal, economic (and other) relationships between states that excludes the possibility to break peace and real threat for existing space order in particular and secures use and exploration of the outer space in accordance to the norms of international law.

It should be reached exclusively by peaceful means through international cooperation, deepening mutual understanding and confidence between states, implies coordinated actions of states, supranational structures and international governmental organizations concerning the upkeep of this state, a universal system of cooperation mechanisms and stable mutual means to guarantee the confidence.

- **International legal regime of space security** – is a combination of international legal provisions purported to establish a global collective integral system of security for use and exploration of outer space exclusively for peaceful purposes and for interests of all mankind according to the norms of international law.

## ESSENTIAL COMPONENT - "PEACEFUL PURPOSES"

- An obligation established by the Outer Space Treaty regarding the use of outer space in the **interests of all mankind** is in mutual dependence and compatibility with an essential component - "**peaceful purposes**" that jointly with **international cooperation** form an axis of **collective common security of the outer space**.
- The **legal essence of the "peaceful purposes"** should be examined in a **system** with above components, not to be mixed with **maximalistic** (imperative on prohibition of military use of outer space, including that of unilateral nature without coordination with the international community) or **minimalistic determinism** (mere confirmation of the prohibition to apply military force in outer space) of this legal category.
- Principle of "exclusively peaceful purposes" that was observed by rivals even during the "cold war" should be supported by the world space community now in order to **avoid crossing the border of destroying nature of use of the outer space and secure peaceful non-aggressive prospects for its further conquering**.

# AUTHOR'S CONCEPT OF "THEMATIC INTERNATIONAL LEGAL AGREEMENT"

## Preamble

### I. General Part

- Definition of terms "international space security", "peaceful purposes", "outer space", "public order in outer space" and "public interest".
- Foundations and principles for securing regime of international space security
- Definition of an international organization responsible for securing regime of security in outer space (legal status, limits of competence, etc.)
- Legal & regulation and technical instruments for security (licensing of space activities, registration of space objects, monitoring and observation of outer space, etc.)
- Global system for collective security (legal regime, principles of activities, essential components, legal status of data obtained by monitoring of outer space, procedure of access to the data, etc.)

### II. Special Part

- Quotas for launches (imposing of quotas in analogy with Kyoto protocol (1997) to Vienna convention on protection of the ozone layer)
- Conception for management and coordination of traffic in outer space
- Regulations for international environmental security of outer space (protection of outer space, space debris mitigation and rational ecologically-motivated use of resources)
- Use of nuclear sources of energy in outer space

### III. Final and Transitional Provisions

- Impact and correlation with other international legal instruments (their harmonization in order to secure their coordination)



THANK YOU FOR YOUR ATTENTION



SECURITY THROUGH LAW FOR PEACEFUL PURPOSES