

THE 1994 BAIKONUR AGREEMENTS IN OPERATION

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Abstract

On July 5, 1999, the Russian Proton rocket exploded after its launch from the Baikonur launching site. This fact opened a series of questions connected with the legal regime of the Baikonur Cosmodrome: As regards the Russian Federation, the legal consequences of the threat to the ecological safety of the Republic of Kazakhstan and the legal consequences for its delay in paying the rates for the Baikonur lease will be examined. As regards the Republic of Kazakhstan, the legality of the temporary ban on the launches of the Russian rockets will be analysed. The accord signed by both countries on July 30, 1999 proved the capability of the Baikonur legal regime to cope with such a complex legal situation.

1. Introduction

The dissolution of the Soviet Union brought not only the independence of its former federal subjects, but at the same time problems connected with the scarcity of central funding and the dismemberment of the central military structures. One of the branches most effected by these developments was the formerly so successful Soviet space industry which suffered, moreover, from the severance of the geographical links between the industrial headquarters in the Moscow area and the launching site Baikonur on the

territory of the today independent Republic of Kazakhstan.

The Baikonur Cosmodrome¹ was constructed on the territory of the former Soviet Republic of Kazakhstan by the Soviet Union in 1955². The first successful artificial satellite, Sputnik, was launched from the site on October 1957, as well as Vostok I carrying Yuri Gagarin, on April 12, 1961. Today, all Russian manned missions are launched from Baikonur, as well as all geostationary, lunar, planetary, and ocean surveillance missions. For the Russian space industry, there is no practical alternative to using the Baikonur Cosmodrome at present. Russia's own launching site – the Plesetsk Cosmodrome near the Arctic Circle – is too far north to launch heavy payloads³.

This situation has also its broader international dimension: All International Space Station flights using Russian launch vehicles will be launched from Baikonur: it is the only Russian launch site capable of launching the Proton launch vehicle that will be used for Zarya, the first element launch of the Space Station⁴. The Proton rocket should be used for placing eight US satellites into orbit⁵. The Russian – Kazakh relation to the Baikonur launching complex has an indirect influence, therefore, on the ability of the Russian part to fulfil its international obligations in this area.

The accident of the Russian Proton rocket of July, 1999 opened a series of questions connected with the present legal regime of the Baikonur Cosmodrome, the central element of which being the *Baikonur Leasing Treaty*⁶ concluded in 1994 between the Republic of Kazakhstan and the Russian Federation for a period of 20 years.

2. The Facts

On July 5, 1999 the Russian Proton-K rocket carrying a Russian communication satellite blew up soon after launch from the Baikonur Cosmodrome. Part of the rocket fell in the Karaganda region of central Kazakhstan; part of the Proton launcher, weighing some 200 kilograms, fell into a backyard of a village. There were no victims⁷. Other debris came down in the Altai region of southern Siberia⁸. The Kazakh government mission has been inspecting the site of the crash to see whether rocket fuel has affected the environment; test by Russian scientists indicated that there were no environmental damage caused by the Proton failure⁹.

The Kazakh government, which leases the cosmodrome to Russia, placed an temporary ban on further launches until the case of the Proton failure is identified. The reports of the media do not clarify, however, whether the ban extended to the use of the Baikonur launching site generally, or whether was it confined only on the starts of the Proton rockets. The Kazakh authorities said the ban would not be lifted until Russia paid part of twelve million dollars it owed on the lease of the space centre¹⁰. The Kazakh Prime Minister stated no payments had been made by Russia for the lease of the cosmodrome since the beginning of 1999¹¹. Negotiations between both parties have been introduced on various levels. By the Kazakh authorities, the situation has been described as "a dispute, which had to be resolved"¹². During a meeting with a

Russian delegation led by the head of the Russian Space Agency on July 12, the Kazakh Prime Minister stressed that Kazakhstan intended to review several aspects concerning space launches from Baikonur¹³. Generally, Kazakhstan has been demanding a greater share in Russia's profit from commercial launches, including a pay-per-launch system at Baikonur.

On July 14, 1999, the President of the Republic of Kazakhstan and the head of the Russian Government discussed the course of the fulfilment by the parties of the obligations within the framework of the 1994 *Leasing Treaty*. The Russian Prime Minister stated that the Russian Federation was obliged in the nearest terms (July – August) to decide the problems of payment of the debts for the lease of the cosmodrome. The Parties agreed, however, that Russia will refrain from the launching off devices of the Baikonur system until the completion of the work of a special commission of inquiry into the reason and consequences of the failure of the Proton rocket¹⁴.

At the same time, the Russian authorities warned that provided the Kazakh authorities insisted on their obstructions and would not enable the start of the Russian Progress rocket carrying vital supplies to the ageing Mir space station immediately, the station could collide with the Earth. After the Russian authorities agreed to pay off rent-arrears and compensation¹⁵, the speaker of the Kazakh government declared the ban lifted on all flights except those using the Proton rockets powered by the ecologically harmful heptyl fuel¹⁶. With a four days delay, the unmanned Russian Progress spacecraft carrying supplies including a navigation system to stop Mir from spinning out of control docked successfully with Mir two days after its take-off from Baikonur.

On July 30, 1999, both Parties signed an accord stating that the July, 5 explosion of the Proton-K rocket and of the communication satellite had not caused major environmental damage, and agreed to set up a joint research programme into the impact of Proton booster rockets¹⁷.

3. The Background of the Present Legal Regime of the Baikonur Complex

One of the solutions how to bridge the gap in the sphere of exploration and exploitation of outer space after the dissolution of the former Soviet Union was seen in the elaboration of a series of international agreements among the former Soviet federal subjects which would have enabled the joint use of their formerly common facilities. Both *the Minsk Agreement* of December 30, 1991¹⁸ as well as the *1991 Strategic Forces Agreement*¹⁹ were based on the principle that one of the most important preconditions of the space activities - the former Soviet satellite launch complexes Baikonur and Plesetsk – remain as military objects under the control of the joint command of the Strategic Forces of the Commonwealth of the Independent States (CIS). Without solving the question of ownership of these objects, their legal regime has been described as “the common use of all States – members of the CIS”.

In 1992, however, failed this attempt to maintain the international status of both launch complexes: According to the *Tashkent Agreement* of May 15, 1992²⁰ the objects of the space infrastructure on the territory of the former Soviet republics were declared as the property of these republics. Consequently, the launch complex Baikonur became property of the Republic of Kazakhstan. Concerning the regime of the use of the Baikonur launch centre by other CIS – States, the Agreement referred to further agreements which should have been concluded to this purpose in the future.

The subsequent bilateral agreements among the Republic of Kazakhstan and the Russian Federation were developed in the same spirit: *The Baikonur Launch Centre Agreement* of May 25, 1992²¹ as well as their intergovernmental *Composition of the Baikonur Agreement* of October 2, 1992²² restated that the facilities of the Baikonur Complex on the Kazakh territory remain in the ownership of the Republic of Kazakhstan; the right of use of the elements of the Baikonur Complex on the territory of the Russian Federation and the Republic of Kazakhstan was assigned to the Strategic Forces of the CIS.

A series of unilateral steps of the Kazakh authorities attempted to assume a partial authority over the Baikonur launch centre during 1993²³, lead Russia and Kazakhstan to new consultations. They resulted in the bilateral *General Principles Agreement* of 28 March, 1994²⁴ and the *Leasing Treaty* of December 10, 1994²⁵, both creating a regime of the leasing of the Baikonur Complex by the Republic of Kazakhstan to the Russian Federation for a period of 20 years.

4. The Relevant Legal Issues

Even though the problems which occurred between the Parties of the 1994 *Leasing Treaty* as a consequence of the Proton accident were fast settled by an accord of July 30, 1999, several questions remained which are of interest from the legal point of view, one of the reasons simply being that such constellations may occur again.

As regards the Russian Federation, the legal consequences of its delay in paying the rates for the Baikonur lease and threat to the ecological safety by the Proton accident will be examined. As regards the Republic of Kazakhstan, the legality of the temporary ban on the launches of the Russian rockets as a reaction to this delay

and to the Proton accident will be analysed.

From the formal point of view, the indication of the relevant legal documents regulating the regime of the payments on the lease of the Baikonur Cosmodrome is not without difficulties: International treaties concluded among the subjects of the former Soviet Union very often do not include any rules which – in the framework of the final provisions – would indicate their relation to the previous agreements on the same or similar subject. Usually, the previous, more general agreement serves as a source and a “legal background” of the new, more detailed provisions of the new treaty and as such is often mentioned in its preamble.

This is the case of the regime of the Baikonur Cosmodrome, too. As mentioned above, since 1991 there has been a series of international agreements concerning the legal regime of the Baikonur Complex²⁶ of which the Russian Federation and the Republic of Kazakhstan are Parties. The multilateral *Tashkent Agreement* indicates its relation to the previous 1991 *Minsk Agreement* and the 1991 *Strategic Forces Agreement* in its preamble by stating that the States Parties to this Agreement, “guided by the provisions” of the Minsk and Strategic Forces Agreements... ”agreed as follows”. The 1992 Moscow bilateral *Russian – Kazakh Baikonur Launch Centre Agreement* contains even seven references on various legal texts in its preamble.

Having introduced the leasing regime of the Baikonur Complex, the 1994 bilateral *General Principles Agreement* referred in its preamble to the bilateral general 1992 *Good Neighbourhood Treaty* with Kazakhstan, but also to the “special” 1992 Moscow bilateral *Baikonur Launch Centre Agreement*, as well as “the previous agreements on the Baikonur Cosmodrome”. The last of the treaties, the

1994 *Leasing Treaty*, refers expressly to the 1994 *General Principles Agreement*.

The consequence of the fact that none of the agreements in question has been terminated or suspended – in the contrary, they were confirmed in their role as a source of the later ruling, is, that even though they have consequently introduced rather different legal regimes of the Baikonur Complex, they are considered by their Parties as valid. In such a situation, Article 30, paragraph 3 of the *Vienna Convention on the Law of Treaties*²⁷ of which both Russian Federation and Republic of Kazakhstan are Parties²⁸ is applicable: In case that the earlier treaty is not terminated or suspended in operation under Article 59 of the Convention, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

4.1 The Payments for the Lease

4.1.1 The Facts

In connection with the Proton accident, the Kazakh Prime Minister said no payments had been made by Russia for the lease of the cosmodrome since the beginning of 1999. The Kazakh authorities also said that the Russian Federation owed Kazakhstan twelve million dollars on the lease of the space centre²⁹.

4.1.2 The Relevant Legal Provisions

When compared the 1991 and 1992 agreements to the two 1994 “leasing” treaties, they differ substantially in the character of the legal regime of the use of the Baikonur Complex. Therefore, to the mechanism of the leasing regime which was introduced only by the *General Principles Agreement* of 28 March, 1994³⁰, the earlier treaties will not be applicable.

Article 2 of the 1994 *General Principles Agreement* entitled the Russian Federation to the use of the Baikonur Complex. According to its Article 4, paragraph 2, it

is obliged to make lease payments in the annual amount of 115 Mio US dollar.

The *Leasing Treaty* of December 10, 1994³¹ brought later on further details of the payment – regime: According to its Article 5, paragraph 3, the payments should be effected quarterly until the 15th of the first month of the coming three months period, amounting each time to a quarter of the annual payment. According to Article 8, paragraph 4 lit. b, the Lessee is obliged to make the lease payments in amount and within the time limits set forward by this treaty.

None of these two legal instruments include, however, any specific legal rules dealing with the situation of the omission to pay the consented sum in the term fixed by the *Leasing Treaty*. Under general customary international law, through the violation of Article 4, paragraph 2 of 1994 *General Principles Agreement* as well as of Article 5, paragraph 3 and Article 8, paragraph 4 lit. b of the 1994 *Leasing Treaty*, the Russian Federation incurred international responsibility for this infringement and was, therefore, obliged to recreate the *status quo ante delictum* and to pay an appropriate compensation for the damage caused by the delay.

The Kazakh authorities described the situation as a “dispute”. The consequence of this evaluation was the applicability of the general provisions of both 1994 treaties concerning dispute settlements: According to Article 7 of the 1994 *General Principles Agreement*, all disputes concerning the interpretation and application of the Agreement shall be settled by negotiations; a special intergovernmental commission shall be established. Article 9, paragraph 2 of the 1994 *Leasing Treaty* repeats this provision.

In the course of the negotiations, the Russian Party did not disclaim its obligation and agreed to pay the amount

due, as well as appropriate compensation for the delay.

4.2. The Threat to the Ecological Safety

4.2.1 The Facts

Immediately after the failure of the Proton rocket, the Republic of Kazakhstan raised the question of the possible threat to the ecological safety of the respective region by the debris of the rocket as well as by the rocket fuel.

4.2.2 The Relevant Legal Provisions

In such a case, Article 8, paragraph 4, lit. c in connection with Article 8, paragraph 4, lit. d of the 1994 *Leasing Treaty* would be applicable: According to lit. c, the Lessee is obliged to operate and preserve the facilities under lease in accordance with the requirements of ecological safety, the regulations of use of natural resources and environmental protection. Article 8, paragraph 4, lit. d stipulates that in case of damage related to the activity of Baikonur Cosmodrome in the process of fulfilling Russian space programs, the Russian Federation is to assume responsibility for it, as a state executing the space launch, in accordance with the *Convention on the International Liability for Damage Caused by Space Objects*, as of March 29, 1972³². Article II of this Convention makes a launching State absolutely liable to pay compensation for damage caused by its space object on the surface of the earth. This reference to the Liability Convention is interesting from the point of view that the Republic of Kazakhstan is neither a Party to this Convention, nor to the 1967 *Outer Space Treaty*³³; the Russian Federation is a Party to both treaties³⁴.

The negotiations introduced after the explosion of the Proton rocket in accordance with Article 7 of the 1994 *General Principles Agreement*, and Article 9, paragraph 2 of the 1994 *Leasing Treaty* led to the accord signed by both Parties on July 30, 1999 in which they

agreed that the explosion of the Proton rocket had not caused any major environmental damage. Thereby, the potential liability of the Russian Federation for the damage to the environment of the earth on the territory of the Baikonur Cosmodrome has been excluded *inter partes*.

4.3 The Temporary Ban on the Launches

4.3.1 The Facts

As a reaction to the delay in payments for the use of the Baikonur Complex and to the Proton accident, the government of the Kazakh Republic placed a temporary ban on further launches from Baikonur Cosmodrome by the Russian Party. The Kazakh authorities declared, the ban would be lifted after Russia paid part of its debt and the ecological consequences of the crash would be analysed.

After Russian representatives agreed to pay off-rent arrears and compensation, the Kazakh government declared the ban for lifted on all flights with exception of those using the Proton rockets powered by the heptyl fuel. As a consequence, it did not oppose the start of the spacecraft carrying supplies for the Mir – space station.

4.3.2 The Relevant Legal Provisions

None of the agreements creating the legal regime of the Baikonur Cosmodrome envisages either the possibility of the Republic of Kazakhstan as a Lessor of the Baikonur Complex to impose the ban on the use of the launching site, or the legal consequences of this act. The more general provisions of the 1994 *Leasing Treaty* obligate the Lessor “not to prevent the Lessee, directly or indirectly, from using the Baikonur Complex facility for their assigned purposes” (Article 8, paragraph 2 lit. b); according to Article 9, paragraph 1, the Parties agree “not to take unilateral steps against the text and spirit” of both 1994 Treaties. Article 8, paragraph 1, lit. a entitles the Lessor to execute only “the

control over the conditions of operation and preservation of the Baikonur Complex facilities”.

According to Article 26 of the *Vienna Convention of 1969 on the Law of Treaties*, both Parties were obliged to perform all treaties binding upon them in good faith. The Republic of Kazakhstan might have seen, however, the justification of the ban on the use of the launching site in two facts: One possibility would have been to qualify the ban by the Republic of Kazakhstan as a “suspension of the operation” of the 1994 *Leasing Treaty* as a “consequence of its breach” by the Russian Federation. The second one should have consist in the “state of the ecological necessity”. The Republic of Kazakhstan did not apply these arguments in its available media reports and avoided any legal argumentation on its behalf; however, such construction would have been possible and could be taken into account in the future.

4.4 The Response of the Republic of Kazakhstan to the Violation of the 1994 Leasing Treaty by the Russian Federation

4.4.1 The Facts

In the media, the Republic of Kazakhstan accused Russia of having violated the provision of 1994 *Leasing Treaty*, concerning the payments for the lease of the Baikonur Complex (Article 8, paragraph 4, lit. b). Provided that the ban on the use of the Baikonur launching site was considered by the Kazakh Republic as a reaction to this violation, Article 60 of the *Vienna Convention of 1969 on the Law of Treaties* would have been of relevance.

4.4.2 The Relevant Legal Provisions

According to Article 60, paragraph 1 of the *Vienna Convention*, a material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for suspending its operation in whole or in

part. In this context, the applicability of the “material breach” to the violation of the Treaty provision by Russian Federation must be determined. According to Article 60, paragraph 3, lit. b of the *Vienna Convention* “a material breach of a treaty, for the purpose of this article, consist in...the violation of a provision essential to the accomplishment of the object or purpose of the treaty.”

Neither the provisions of the preamble³⁵, nor of the operative part of the 1994 *Leasing Treaty* allow the conclusion that the delay in lease payment by the Russian Federation would have violated a provision “essential to the accomplishment of the object or purpose of the treaty”. Thus, the omission of the Russian Party to cover the lease payment has to be described as a “breach”, but not as “a material breach” of the treaty. The same can be said about the violation of Article 8, paragraph 4, lit. c of the *Leasing Treaty* stipulating its obligation to preserve the facilities under lease with the requirements of the ecological safety. The ban on the use of the Baikonur launching site, therefore, could have been hardly justified by the right of the Republic of Kazakhstan to suspend the operation of the 1994 *Leasing Treaty* under Article 60, paragraph 1 of the *Vienna Convention*.

Provided that the Republic of Kazakhstan committed an international wrongful act in the ban on the Baikonur launching site, the next question might be, whether such wrongfulness may be precluded on the ground that the measure so adopted was in response to Russia’s prior failure to comply with its obligation under international law.

In order to be justifiable, a countermeasure must meet certain conditions³⁶ : It must be taken in response to a previous international wrongful act of another Party and must be directed against that State. Secondly, the injured State must have

called upon the State committing the wrongful act to discontinue its wrongful conduct or to make reparation for it. These conditions have been met by the Republic of Kazakhstan.

However, in the 1997 Case concerning the *Gabcikovo-Nagymaros Project* (Hungary v. Slovakia)³⁷, the International Court of Justice stressed repeatedly that the effect of a countermeasure must be commensurate with the injury suffered, taking into account the rights in question. The ban on the use of the Baikonur Complex - until it was lifted for the start of the Progress rocket to the Mir-space station - can be compared with a factual temporary impediment of the space programme of the Russian Federation, which is in contradiction with the ban of unilateral acts incompatible with the “text and spirit” of both 1994 treaties. Having compared this measure with a delay in the payments for the lease of Baikonur on the part of the Russian Federation, it seems most probable that the temporary ban on the use of the Baikonur Complex went beyond the limits of proportionality which is required by international law.

4.5 The Ecological Necessity

4.5.1 The Facts

The Republic of Kazakhstan might have considered to support its measure by invoking the “state of ecological necessity”. As shown in the 1997 ICJ Case concerning the *Gabcikovo-Nagymaros Project* (Hungary v. Slovakia)³⁸, it is questionable, however, whether the “ecological necessity” could, in relation to the law of state responsibility, constitute a circumstance precluding the wrongfulness of an act.

4.5.2 The Relevant Legal Provisions

For the existence of a state of necessity as a ground recognised by customary international law for precluding the wrongfulness of the act not in conformity

with the international obligation, the criteria laid down by Article 33 of the *Draft Articles on State Responsibility* adopted by the International Law Commission on first reading³⁹ are of significance; these conditions must be satisfied cumulatively. First, it must have been occasioned by an “essential interest” of the State. In this context, the Commission, in its Commentary⁴⁰, indicated that the “essential interest” should not be reduced only to a matter of the sole “existence” of the State; at the same time, it included among the situations that could cause the state of necessity, “a grave danger to.....the ecological preservation of all or some of (the) territory of the State”⁴¹.

However, this interest must have been threatened by a “grave and imminent peril”; the act being challenged must have been the “only means” of safeguarding; that act must not have “seriously impaired” an essential interest of the State towards which the obligation existed; and the State which is the author of that act must not have “contributed to the occurrence of the state of necessity”.

Provided that the Republic of Kazakhstan would have invoked these arguments, the verification of the existence of the “peril” (ecological necessity) and its “grave and imminent nature” would have been a matter of complex analyses.

It seems, however, indisputable that the ban on the use of the Baikonur Complex was not the “only means” available to Kazakhstan in order to respond to the threat to its ecological safety. Moreover, negotiations were already under way which might had lead to the extension of some time-limits, without there being a need of the ban.

In the *Gabcikovo – Nagymaros Case*⁴², the International Court of Justice observed that the state of necessity as a ground for

precluding the wrongfulness of an act not in conformity with an international obligation can only be accepted on an exceptional basis. Because of the availability of other means to cope with the danger of the ecological harm and the exceptionality of the “state of necessity” argument, such reasoning would not have been convincing; most probably, the Republic of Kazakhstan could not have avoided the wrongfulness of its measure.

5. Conclusion

After the Proton accident of July 5, 1999, the delay of the Russian Federation in payment for the lease of the Baikonur Complex and the subsequent ban by the Republic of Kazakhstan on the use of the launching site resulted in a situation, the legal consequences of which were mostly not foreseen by the specific rules of present international law. Therefore, when analysing from the legal point of view the behaviour of both Parties of the Baikonur legal framework in the period between the accident and their accord of July 30, 1999, also the rules of the general customary international law have to be taken into account.

Thus, by the omission to pay the consented sum for the lease of the Baikonur Complex in time, the Russian Federation incurred international responsibility under general customary international law and, therefore, obliged to recreate the *status quo ante* and to pay an appropriate compensation for the damage caused by the delay to the Republic of Kazakhstan. In the course of the mutual negotiations, it agreed to pay both the amount due as well as some compensation.

Concerning the question of the potential ecological damage by the debris of the rocket and the rocket fuel, the Russian Federation would have been liable for the damage of the environment on the earth on the territory of the Baikonur Cosmodrome

according to the 1994 *Leasing Treaty* as well as the 1972 *UN Convention on the International Liability for Damage Caused by Space Objects*. This potential liability has been excluded *inter partes* by the accord of July, 30, 1999.

None of the applicable legal documents envisages the possibility of the ban on the use of the Baikonur launching site. Even if that the ban was considered by the Kazakh Republic as a reaction to a violation by the Russian Federation of the valid legal norm, it could have hardly been justified by the right of Kazakhstan to suspend the operation of its regime as a reaction to the violation of a provision "essential to the accomplishment of the object or purpose of the treaty", as required by the 1969 *Vienna Convention on the Law of the Treaties*.

In order to be a justifiable countermeasure in the sense of the Draft Articles on State Responsibility adopted by the International Law Commission, the ban on the use of the Baikonur Cosmodrome should have commensurate with the injury suffered. It seems more probable, however, that it went beyond the limits of proportionality which is required by international law. Also the potential argument of the "ecological necessity" would have been insufficient to justify the Kazakh reaction: The ban on the use of the Baikonur Complex was hardly the "only means" available to cope with the threat to its ecological safety.

Because of the strategic importance of the space facilities at Baikonur, the most important element in the developments between the Proton accident on July 5, 1999 and July, 30, 1999 is probably the fact that the immediate tension between the two Parties did not escalate. To the contrary, the bilateral negotiations among the two Parties started soon after the accident, the Republic of Kazakhstan showed its preparedness to lift the ban for the important flight to the Mir-space

station even during this period and the "dispute" was settled finally by the accord of July 30, 1999. Thus, it proved that the legal regime of the Baikonur Complex and especially its negotiation mechanism was fully capable to cope with such a complex legal situation.

¹ Although located in Kazakhstan at Tyuratam on the banks of the Syrdarja river, the name of a small town Baikonur, some 500 kilometres away, was given to this facility in order to disguise its location. See Space Development Agency, http://spaceboy.nasda.go.jp/Db/Kaihatu/Kikan/Kikan_e/Tyuratam_e.html.

² *Colin, A.* (Ed.). Baikonur. La porte des étoiles. 1994.

³ Russian Proton Rockets Remained Banned, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 31, 1999.

⁴ Baikonur Cosmodrome; NASA Space Station, <http://station.nasa.gov/station/assembly/elements/fgb/baikonur>.

⁵ Proton Rocket Ban Continues, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 31, 1999.

⁶ Treaty between the Government of Russia and the Government of the Republic of Kazakhstan on the Leasing of the Baikonur Complex, December 10, 1994, *Biulleten mezhdunarodnykh dogovorov*, 1998, No.10, 9-16 (in Russian).

⁷ Proton Worry for Space Station, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 7, 1999.

⁸ Kazakhs Suspend Russian Rocket Launches, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 6, 1999.

⁹ *Supra note 3.*

¹⁰ *Id.*

¹¹ Kazakh upset with Russia over Baikonur, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 12, 1999.

¹² Kazakh Issue Space Centre Demands, BBC News, <http://news1.thls.bbc.co.uk/hi/eng>, July 13, 1999.

¹³ *Supra note 11.*

¹⁴ News. <http://www.president.kz/Main/News.asp>, July 14, 1999.

¹⁵ Russian Cargo Vessel Docks with Mir, <http://news1.thls.bbc.co.uk/hi/eng>, July 18, 1999.

¹⁶ Kazachstan povolil lety z Bajkonuru, SME, <http://www.sme.sk/article.asp>, July 15, 1999.

¹⁷ *Supra note 5.*

¹⁸ The Agreement on the Joint Space Activities in Exploration and Exploitation of Outer Space, December 30, 1991. *Moscow Journal of International Law* 1994, No. 4, 166-169 (in Russian). *ECSL News* 1992, No 10 (in English).

¹⁹ The Agreement among the States – Members of the Commonwealth of the Independent States on the Strategic Forces, December 30, 1991.

²⁰ The Agreement on the Arrangements for Maintenance and Using Space Infrastructure Facilities in Pursuance Space Programmes, May 15, 1992. *Moscow Journal of International Law* 1994, No. 4, 170-172 (in Russian). *ECSL News* 1992, No 10 (in English).

²¹ The Agreement on the Order of the Use of the Baikonur Launch Complex, May 25, 1992. *Moscow Journal of International Law* 1994, No. 4, 175-176 (in Russian).

²² The Agreement on the Composition of the Parts of the Baikonur Launch Complex Assigned to the Strategic Forces of the Commonwealth of the Independent States (Military – Space Forces), on the Conditions of their Use and Maintenance, October 2, 1992.

²³ *Lipunov, V.I.*, *Pravovoje polozenije kosmodroma "Baikonur"*, *Moscow Journal of International Law* 1994, No. 4, 162.

²⁴ The Agreement between the Russian Federation and the Republic of Kazakhstan on the Basic Principles and Conditions of the Use of the Baikonur Launch Complex, March 28, 1994.

²⁵ The Treaty between the Government of Russia and the Government of the Republic of Kazakhstan on the Leasing of the Baikonur – Complex, December 10, 1994, *Biulleten mezhdunarodnykh dogovorov*, 1998, No.10, 9–16 (in Russian).

²⁶ *Supra note* 18, 19, 20, 21, 22, 24 and 25.

²⁷ UNTS Vol. 1155 p. 331.

²⁸ Russian Federation is Party of the Vienna Convention on the Law of Treaties since May 29, 1986, Republic of Kazakhstan since February 4, 1994. SEDAC ENTRI Treaty Selection. <http://sedac.ciesin.org/prod/charlo>.

²⁹ *Supra note* 3.

³⁰ *Supra note* 24.

³¹ *Supra note* 25.

³² 961 UNTS 187.

³³ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, October 7, 1967, 610 UNTS 205.

³⁴ Status of International Agreements relating to Activities in Outer Space (as of March 1997). *United Nation Treaties and Principles of Outer Space*, 1997, 63 – 76.

³⁵ The preamble stresses the interest of both Parties to preserve, use and develop the Baikonur Complex. Furthermore, it shall be considered as a subject of strategic interest to both countries and all elements of the Baikonur Complex including the town Leninsk should be treated as a whole. Finally, it states that the rights and obligations of the parties

resulting from the leasing and use of the Baikonur Complex shall be regulated on a treaty basis.

³⁶ E.g. Article 47 to 50 of the Draft Articles on State Responsibility adopted by the International Law Commission on first reading, Report of the International Law Commission on the Work of its forty-eight session, 6 May - 26 July, 1996.

³⁷ Case Concerning the *Gabcikovo-Nagymaros Project* (Hungary v. Slovakia), Judgement, I.C.J. Reports 1997, http://www.icj-cij.org/icjwww/idoc...udgement/ihs-ijudgment_970925, 37, para 85.

³⁸ *Id.*

³⁹ Report of the International Law Commission on the Work of its forty-eight session, 6 May - 26 July, 1996.

⁴⁰ Yearbook of the International Law Commission, 1980, Vol. II, Part 2, p. 49, para 32.

⁴¹ *Id.*, p. 35, para 3.

⁴² *Supra note* 37, para 51.