FIFTY YEARS AFTER SPUTNIK 1

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It is a great pleasure to be given this opportunity to address the participants of the Eilene M. Galloway Symposium, which regretfully I cannot attend in person. I have the privilege of knowing and, I dare say, enjoying Eilene's friendship since many decades. Having an excellent memory, she would often remind me that for the first time we met at the International Astronautical Congress in Stockholm back in 1960. Since that time we frequently met and worked together at the annual colloquia on the law of outer space, meetings of the IISL Board and at other occasions. Once I even had the pleasure to receive Eilene and show her around the famous Peace Palace in The Hague and the museum of the International Court of Justice situated there. Like many other colleagues, I always admire her vast knowledge and experience, unquenchable interest in all aspects of life, her sense of humor.

One may ask how it is possible that mutual respect and sincere friendship connect two persons with such different backgrounds and who lived most of their lives in the States ideologically and militarily opposed to each other. I would think that an answer to this question can be found in the most insightful paper presented by Jonathan Galloway one year ago at the First Eilene M. Galloway Symposium.[1] In his paper Jonathan speaks of "the abiding concerns and dreams" of his mother in the field of space law and of her being "a fervent advocate" of the international civil space programs of the United States of America.

Eilene Galloway's lasting and passionate devotion to the cause of international space cooperation and to the development of legal regulation of space activity has gained her respect and affection on the part of the space community in many countries of the world. Together with many of Eilene's other friends around the world I find myself , to use the parlance of the International Court of Justice, "in the same interest" with Eilene in the matters of international space cooperation and in our understanding of the role of law for the development of such cooperation.

Having belonged to the space community for quite a number of years during my professional life, I happened to participate in the legal and organizational work connected with the beginning of Soviet-American cooperation in outer space. In this respect, I recall, for example, the signing by the heads of our States, in 1972 in the Kremlin, of the first intergovernmental agreement on bilateral space cooperation between the Soviet Union and the United States. However especially memorable for me is the Apollo-Soyuz project which was the precursor of other international manned space flights and eventually of the creation of the International Space Station with the participation of many countries of the world.

This said, I would now like to share with you some of my thoughts on the theme of the current Symposium – "International Civil Space Cooperation: Opportunities and

Obstacles." The first thought that comes to mind in this connection at the present time is the dichotomy between civil and military uses of space technology and of outer space itself. On the one hand, it is hard to deny that civil exploration of outer space, at least by the two major space powers, started and for some time developed, in a sense, as a "by-product" of the use of technology created for military purposes. Security considerations gave rise to the main tools for the access to outer space – rockets. The military were the first to use outer space for many practical purposes: space communication, reconnaissance etc. For a number of years the lavish financing of military programs provided means for the rapid development of space science and technology that also could be applied for civil purposes. On the other hand, the secrecy that shrouded many military space activities and the "dual-use" problems inevitably hampered civil applications of space technology and wider development of international civil programs. In addition to that, many of these programs were highly politicized.

In the 1960-s, by the time when the conclusion of the Outer Space Treaty was under consideration in the UN, the necessity of introducing legal restraints and limitations for the military use of outer space in order to prevent the spread of an arms race to this new frontier became evident for the political and military establishment of all States, including the major space-faring nations. The consensus reached on this matter has been reflected in the 1967 Outer Space Treaty. Along with the strong affirmation of the principle of international space cooperation that permeates the whole text of the Treaty, in Article IV it prohibited the orbiting and placing "in any other manner" in outer space and on celestial bodies of all kinds of weapons of mass destruction, mentioning specifically nuclear weapons. In the same Article IV the OST reserved the moon and other celestial bodies "exclusively for peaceful purposes" thus banning there any activity of military character.

In the circumstances of the "Cold War" prevailing at that time it would be naïve to think that the space powers could have gone much further and agreed on the complete prohibition of all military activity in outer space. However later some further progress in the limitation of the military use of outer space was made through a number of arms control treaties and agreements. Salient among them was the Antiballistic Missile Treaty signed between the U.S. and the U.S.S.R. in 1972. This Treaty, *inter alia*, prohibited the development, testing and deployment of space-based ABM systems and components.

Regrettably, ten years after the conclusion of the ABM Treaty a reverse trend in the regulation of military uses of outer space began to emerge. It was primarily connected with the so-called Strategic Defense Initiative announced by President Reagan in 1983. The ensuing unilateral interpretations and re-interpretations of the ABM Treaty by the U.S. administration culminated in the United States' withdrawal from this Treaty in 2002.

As was rightly observed by one commentator, "the military use of space… was - and remains - lightly regulated in international law."[2] It is an unfortunate situation fraught with unpredictable consequences. National policy preferences are inadequately restrained by international law. Thus, the 2006 U.S. National Space Policy is widely considered as giving the green light for U.S. deployment of space-based weapons.[3] The current plans

of the American administration to build missile defenses in Eastern Europe on Russia's doorstep are largely perceived in Russia as unjustified by the proclaimed aims of these plans and presenting a threat for the national security interests of Russia. I am afraid that the lack of agreement in this regard between Russia and the United States eventually may lead to a new wave of military confrontation in outer space. All these developments may endanger not only civil space cooperation, but also the whole system of international relations.

Fifty years ago Sputnik 1 heralded the dawn of the Space Age. Civil applications of space science and technology and the broad development of international space cooperation have already significantly changed many aspects of human life and consciousness. Let us hope that the current and other possible difficulties will be overcome and over the next fifty years of the Space Age the vast potential of further development of civil international space cooperation will continue to be realized for the benefit of all mankind.

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1. J.F.Galloway, Maintaining Space for Peaceful Purposes and Uses through International Cooperation. In: Proceedings of the Forty-Ninth Colloquium on the Law of Outer Space, 2006, pp, 547-553.

[2] J.R.Asker, The National Security Nexus. In: Aviation Week & Space Technology, March 19/26, 2007, p. 102.

[3] See, for example, W. Marshall, The Folly of Weaponizing Space. The Boston Globe, July 5, 2006.