



# The Role of bilateral and multilateral agreements in international space cooperation<sup>☆</sup>



Yun Zhao

Faculty of Law, The University of Hong Kong, Hong Kong

## ARTICLE INFO

### Article history:

Received 29 December 2014

Received in revised form

12 August 2015

Accepted 23 February 2016

Available online 3 March 2016

### Keywords:

Space cooperation

Bilateral agreements

Multilateral agreements

UNCOPUOS

UNGA resolution

## ABSTRACT

International cooperation has been successfully conducted in a wide range of areas in the space field. Over the past years, many bilateral and multilateral agreements have been concluded, providing solid legal basis for space cooperation. This article examines the important role of these agreements in the process of international space cooperation and put forward suggestions on how to further facilitate the conclusion of international agreements so that international space cooperation can be carried out more effectively. The article concludes that international agreements are important tools to realize international space cooperation and that we will need to further study possible means to promote international space cooperation in wider scope through the conclusion of international agreements.

© 2016 Elsevier Ltd. All rights reserved.

## 1. Introduction

Since the advent of space age, international cooperation has been introduced into the space field as an important principle for space activities. Through the years, international cooperation has been successfully conducted in a wide range of areas in various manners in the space field; a lot of achievements have been made through international space cooperation.

International space cooperation can be achieved through various mechanisms. The conclusion of international agreements proves to be one major and effective mechanism for international space cooperation. Over the past years, many bilateral and multilateral agreements have been concluded, providing solid legal basis for space cooperation.

This article will examine the important role of these agreements in the process of international space cooperation and put forward suggestions on how to further facilitate the conclusion of international agreements so that international space cooperation can be carried out more effectively and in a wider scope of activities. Part 2 of the article will study the important role of international cooperation in space activities through the

examination of existing international documents on the topic. Part 3 will specifically assess the functioning of international agreements in the field of space cooperation. This assessment will lead to the discussion in Part 4 on possible means to further facilitate the use of international agreements in space activities in the future. The article concludes that international agreements are important tools to realize international space cooperation and that we will need to further study possible means to promote international space cooperation in wider scope through the conclusion of international agreements.

## 2. The role of international cooperation in space activities

From the very beginning, international cooperation has been placed in a very important position for space activities. The United Nations (UN) was quick to respond to the launch of the first satellite by setting up an ad hoc committee to oversee and coordinate the development of space activities in 1958.<sup>1</sup> Since then the UN has been the focal point in the field of international space cooperation. One year later, a permanent committee, the UN Committee on the Peaceful Uses of Outer Space (UNCOPUOS), together with its two subcommittees (the Legal Subcommittee and the Scientific and

<sup>☆</sup> This paper was presented at the United Nations/China/APSCO Workshop on Space Law: The Role of National Space Legislation in Strengthening the Rule of Law, held in Beijing, China during November 17–20, 2014.

E-mail address: [zhaoy@hku.hk](mailto:zhaoy@hku.hk).

<sup>1</sup> UNGA Res. 1348 (XIII) (December 13, 1958), “Question of the Peaceful Use of Outer Space”.

Technical Subcommittee), was established with one of the mandates to review the scope of international cooperation in space activities.<sup>2</sup> Under the UN framework, several important documents have been released regarding international space cooperation, which provide important guidance to international cooperation in the peaceful uses of outer space. The enactment of these documents shows the consensus among the international community “that new types of co-operation shall govern space law and that these new forms shall reflect the consciousness for the need for intensified co-operation and solidarity.”<sup>3</sup>

The United Nations General Assembly (UNGA) Resolutions in 1961 specified “international cooperation” in its sub-title and emphasized the importance of strengthening international cooperation in the peaceful uses of outer space.<sup>4</sup> International space cooperation was further included in the UNGA resolution in 1963 as one of the most important principles for space activities.<sup>5</sup> This principle was later reinstated in the Outer Space Treaty, confirming its fundamental importance to space activities. For the first time, the legal status of “international cooperation” is clearly put down in the treaty that “States Parties to the Treaty shall be guided by the principle of cooperation and mutual assistance ...”<sup>6</sup>

The above documents consistently emphasized the importance of space cooperation and that international cooperation shall be carried out in accordance with international law, including the Charter of United Nations. While this principle is well accepted by the international society, no systemic elaboration has been made on detailed means and possible mechanisms for international cooperation. Some sporadic deliberation can be found in UNGA resolutions and the Moon Agreement.<sup>7</sup>

Detailed elaboration of this principle can only be found in the UNGA resolution in 1996.<sup>8</sup> Different from previous UNGA resolutions, the 1996 resolution moves further to define specific aspects for international cooperation. This resolution sets down important provisions on possible means (formal requirements) of and conditions (substantive requirements) for international space cooperation.

### 2.1. Formal requirements for international space cooperation

The resolution takes an open attitude towards modes of cooperation, listing examples of important modes. Obviously, the list is non-exhaustive. As such, the resolution is flexible in dealing with formality of international space cooperation. The countries themselves shall be in a position to decide on the effectiveness and appropriateness of a specific mode of international cooperation. The mode of cooperation as listed include governmental and non-governmental cooperation; cooperation in commercial and non-commercial matters; global, multilateral, regional or bilateral

cooperation. International cooperation can also be conducted among countries at all levels of development, including the cooperation between space-faring and non-space faring nations; and cooperation between developing and developed countries.<sup>9</sup> The non-exhaustive list of modes of cooperation testifies that the resolution was drafted with the sole aim of promoting international space cooperation, allowing for all forms of cooperation between and among the countries. International cooperation in a certain mode, as long as considered by the countries to be effective and appropriate, shall contribute to the realization of the important principle of peaceful uses of outer space, enshrined in the Outer Space Treaty.<sup>10</sup>

### 2.2. Substantive requirements for international space cooperation

While taking an open attitude towards the formal aspect of the cooperation, the resolution emphasizes the importance of several substantive requirements for long-term cooperation.<sup>11</sup> The principle of party autonomy should be respected in the first place in international space cooperation. The countries themselves are in a position to decide on the appropriateness and effectiveness of certain mode of cooperation; however, it is necessary to put down minimum standards for such cooperation to protect the rights and legitimate interests of the countries.

The resolution provides several guidelines on the substantive aspect of space cooperation. First, space cooperation should be carried out on a mutually acceptable basis, showing the real intention of the cooperating parties. The terms and conditions for cooperation should be reached through negotiation between the member states. No countries shall be forced to participate in any mode of cooperation. Second, space cooperation shall be conducted on an equitable basis. The terms and conditions for cooperation should be fair and reasonable. The requirement of fairness and reasonableness does not simply mean to the cooperating parties, but also to the international society as a whole. Specific type of cooperation should be viewed by the international society, including the cooperating parties, to be in full compliance with the legitimate rights and interests of the cooperating parties. Third, special needs of developing countries should be well taken care of in space cooperation. Formal equality in space cooperation between developing and developed countries may lead to actual discrimination against developing countries. Thus, international space cooperation needs to be mind of the reality of space capabilities of developing countries. Developed countries should be encouraged to offer assistance to developing countries in advancing their space capabilities. Certain preferential treatment to developing countries in the end means real fairness and reasonableness to developing countries. The participation of developing countries in space exploratory programs is also what the Outer Space Treaty has contemplated—after all, outer space is the province of all mankind.<sup>12</sup> Developing countries, like India, has indeed benefited from cooperation with major space powers.<sup>13</sup>

The above three substantive requirements are interrelated. The member states are in a free position to negotiate acceptable terms for space cooperation; such terms should be fair and reasonable in essence. Special needs and interests of developing countries should be noted in negotiating fair and reasonable terms for

<sup>2</sup> UNGA Res. 1472 (XIV) (December 12, 1959), “International Co-operation in the Peaceful Uses of Outer Space”.

<sup>3</sup> Rudolf Dolzer, “International Co-operation in Outer Space,” *ZaoRV Bd.* 45 (1985): 541.

<sup>4</sup> UNGA Res. 1721(XVI) (December 20, 1961), “International Co-operation In the Peaceful Uses of Outer Space”.

<sup>5</sup> UNGA Res. 1962 (XVIII) (December 13, 1963), “Declaration of Legal Principles Governing the Activities of States in the Exploration and Uses of Outer Space”.

<sup>6</sup> Article 9, UNGA Res. 2222 (XXI) (December 19, 1966), “Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies”.

<sup>7</sup> UNGA Res. 34/68 (December 5, 1979), “Agreement Governing the Activities of States on the Moon and Other Celestial Bodies”.

<sup>8</sup> UNGA Res. 51/122 (December 13, 1996), “Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries”.

<sup>9</sup> *Ibid* 8, Article 4.

<sup>10</sup> *Ibid* 6, Article 3.

<sup>11</sup> *Ibid* 8, Article 2.

<sup>12</sup> *Ibid* 6, Article 1.

<sup>13</sup> See further “Report: Prospects for Euro-Indian Space Cooperation,” *Space Policy* 10 (1996): 71–74.

Download English Version:

<https://daneshyari.com/en/article/1131177>

Download Persian Version:

<https://daneshyari.com/article/1131177>

[Daneshyari.com](https://daneshyari.com)