

BAIKONUR CONTINUES: THE NEW LEASE AGREEMENT BETWEEN RUSSIA AND KAZAKHSTAN

*Maria Bjornerud*¹

The Russian President, Vladimir Putin, and the President of the former Soviet Republic of Kazakhstan, Nursultan Nazarbayev, have signed a new historic agreement on the *Baikonur* launching facility. Russia will be able to lease the *Baikonur* space center, which was built back in the Soviet era and had its first launch in 1957, for fifty more years.²

Baikonur is Russia's largest cosmodrome.³ *Baikonur* has eleven assembly and test buildings, and nine launching complexes equipped with fifteen launching ramps for *Tsyclone*, *Energia*, *Molnia*, *Soyuz* and *Rokot* type boosters. It is the prime Russian site for the launch of commercial rockets and it is the only facility that can be used to launch *Proton* class boosters and crewed craft flights.⁴ The area of cosmodrome is 6,717 square kilometers.⁵ It is 125 kilometers (75 miles) long and 85 kilometers wide.⁶ The area allocated for jettisoning rocket stages is more than 18 million hectares.⁷ The cosmodrome has approximately 80,000 employees.⁸

¹ Third year law student at the University of Mississippi School of law, student researcher for the National Remote Sensing and Space Law Center, *Journal of Space Law* editor, and Associate member of American Translators Association.

² Andrei Reut, *Russia Will Be Able to Use the Baikonur Space Center Until 2050*, GAZETA 3 (Jan. 12, 2004).

³ Mark Wade, *Baikonur*, ENCYCLOPEDIA ASTRONAUTICA (Aug. 9, 2003), at <http://www.astronautix.com/sites/baikonur.htm> (last visited Apr. 7, 2004).

⁴ Reut, *supra* note 2.

⁵ *Id.*

⁶ *Russia, Kazakhstan Extend Baikonur Cosmodrome Lease to 2050* (Jan. 9, 2004), available at <http://www.spacedaily.com/2004/040109151358.forhgci8.html> (last visited May 11, 2004).

⁷ *Id.*

⁸ *Id.*

I. THE EARLY LEGAL HISTORY OF THE COSMODROME

Kazakhstan inherited the *Baikonur* facility in 1991 after the collapse of the Soviet Union.⁹ During the Soviet era there was no specific legislation on space activity or on the use of the *Baikonur* cosmodrome.¹⁰ The space programs were subject to secrecy, and the majority of regulations and executive orders were never made public.¹¹ While some decisions were made by the Central Committee of the Communist Party, others were the result of general national legislation.¹² The federal law of the Soviet Union and the laws and civil codes of the republics within the Union governed space activity.¹³ After the disintegration of the Soviet Union, the legal and organizational framework for ownership and exploitation of the *Baikonur* complex was based on several agreements between the newly-emerged sovereign states, members of the Commonwealth of Independent States (CIS).¹⁴ Taking into consideration the vast technical, scientific and military legacy of the Soviet space program, the States expressed the desire to carry out joint space activities.¹⁵ The nine members of the CIS signed the *Agreement on Joint Activities in the Exploration of Outer Space* on December 30, 1991 in Minsk.¹⁶ The importance of cooperation by member-states in space activity was apparent from the fact that the agreement practically followed the creation of the CIS.¹⁷ The Minsk Agreement emphasized the necessity of combined efforts in the development of space science and technology, defense and

⁹ *Id.*

¹⁰ Elena Kamenetskaya, *The Present Developments of Legal Regulations of Space Activities in Russia and the Commonwealth of Independent States*, 26 AKRON L. REV. 465, 470 (1993).

¹¹ *Id.* at 470.

¹² *Id.*

¹³ *Id.*

¹⁴ Agreement Establishing the Commonwealth of Independent States, Dec. 8, 1991, 31 I.L.M. 143 [hereinafter Minsk Agreement].

¹⁵ *Id.* at 471. Kamenetskaya, *supra* note 10, at 471.

¹⁶ Agreement on Joint Activities in the Exploration of Outer Space, Dec. 30, 1991, available at http://www.jaxa.jp/jda/library/space-law/chapter_4/index_e.html (last visited May 16, 2004).

¹⁷ Kamenetskaya, *supra* note 10, at 471.

collective security of member-states.¹⁸ According to the Minsk Agreement, the joint activities had to be within interstate programs of space research and exploration coordinated by the Interstate Space Council.¹⁹ The Joint Strategic Armed Forces were to be responsible for the fulfillment of the military or combined military and civilian applications.²⁰ The Minsk Agreement also laid out the principles of utilization of space facilities and their financing.²¹ The benefits from space exploration were to be allocated based on the proportionate participation of the parties.²²

Another agreement was signed on May 15, 1992 in Tashkent.²³ The Tashkent Agreement allocated rights over ground infrastructure built for space programs. It stipulated that the ground segment elements such as launching facilities, training and flight control centers were to be considered the property of the states in which they were located.²⁴ While technically all the former Soviet Republics contributed to the creation of the Soviet space program, only a few of them inherited its property.²⁵ The Tashkent Agreement transferred the right to use these space facilities to the Strategic Forces of the CIS or other interested parties who had to enter into special agreements.²⁶ The Interstate Space Council was to coordinate the utilization of infrastructure necessary for the interstate and independent state space programs.²⁷

On May 25, 1992, ten days after signing the Tashkent Agreement, Russia and Kazakhstan entered in a bilateral agreement on the terms of utilization of the *Baikonur* cos-

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 472.

²² *Id.*

²³ The 'Tashkent Agreement' Concerning Arrangements for Maintaining and Using Space Infrastructure Facilities in Pursuance of Space Programmes, May 15, 1992, available at http://www.jaxa.jp/jda/library/space-law/chapter_4/4-2-2-3_e.html (last visited May 11, 2004) [hereinafter Tashkent Agreement].

²⁴ Kamenetskaya, *supra* note 10, at 472.

²⁵ *Id.* The CIS states which inherited the former Soviet Space Program facilities are: Azerbaijan, Belarus, Kazakhstan, Russia, Turkmenistan, Uzbekistan, and Ukraine.

²⁶ Kamenetskaya, *supra* note 10, at 473.

²⁷ *Id.*

modrome.²⁸ The agreement confirmed that the *Baikonur* cosmodrome was the property of the Republic of Kazakhstan and set the financial contribution of Kazakhstan to cosmodrome infrastructure at six per cent of the Russian contribution.²⁹ Most importantly, the agreement emphasized that the right to use certain facilities of the cosmodrome could be transferred by Russia and Kazakhstan to the Strategic Forces of the CIS or other concerned parties only upon the mutual approval by both countries.³⁰

The intergovernmental Russia-Kazakhstan agreement, signed on October 2, 1992, prohibited privatization of the *Baikonur* cosmodrome facilities, establishment of joint ventures, or any other changes in the property rights of these facilities.³¹

The Minsk and Tashkent agreements and the multiple bilateral Russian-Kazakhstan instruments laid the foundation for the unique legal regime governing the *Baikonur* cosmodrome. Despite these agreements the *Baikonur* cosmodrome was rapidly falling into decay.³² The fact that cosmodrome was now on foreign territory made Russia reluctant to invest in its infrastructure.³³ The future of the cosmodrome and the Russian citizens who worked there was uncertain.³⁴ The funding was severely cut and salaries for personnel was chronically late.³⁵ It led to the deterioration of infrastructure and loss of intellectual humanpower.³⁶

II. THE LEASE OF 1994

The situation prompted the agreement *On Basic Principles and Terms of the Utilization of the Baikonur Cosmodrome Agreement Between the Russian Federation and the Republic of*

²⁸ *Id.* This agreement was never made public, and is therefore unavailable.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 474. This agreement was never made public, and is therefore unavailable.

³² Victor Myasnikov, *Zakat Baikonura [The Sunset of Baikonur]*, AVIA. RU, May 16, 2002, at www.avia.ru/press/2002/may/16may-1.shtml (last visited Apr. 7, 2004).

³³ *Id.*

³⁴ *Id.* Discussing consequences of disintegration of the Soviet Union.

³⁵ *Id.*

³⁶ *Id.*

Kazakhstan, signed on March 28, 1994.³⁷ Under its terms Russia has the right to use the cosmodrome for twenty years with the automatic extension absent objections by either party.³⁸ The agreement recognized the validity of the earlier bilateral inter-governmental agreements between Russia, Kazakhstan and other members of the CIS.³⁹ It confirmed that the *Baikonur* cosmodrome was the property of the Republic of Kazakhstan.⁴⁰ Under the agreement, the *Baikonur* cosmodrome should be used for the Russian civil and military programs, the joint programs of Russia, Kazakhstan and other members of CIS, and also for the international and commercial projects.⁴¹ Russia was to lease the cosmodrome and the lands designated for jettisoning first stages of the rockets.⁴² Kazakhstan was to convert all real property and transfer all movable property for use by the Russian Federation.⁴³ The agreement called for the sharing of jurisdiction between the Russian and Kazakhstan governments and creation of procedures ensuring the rights of the citizens of both countries.⁴⁴

Russia was to pay \$115 million (USD) annually.⁴⁵ Part of the price could be offset as mutual compensation.⁴⁶ Russia was to assist Kazakhstan in various space projects, including the launching of communications satellites and the training of Kazakhstan cosmonauts.⁴⁷ The rights and duties of the Russian military personnel were to continue for the duration of the lease. The Russian military and civilian personnel and members

³⁷ On Basic Principles and Terms of the Utilization of the Baikonur Cosmodrome Agreement Between the Russian Federation and the Republic of Kazakhstan, Mar. 28, 1994, Russ.-Kaz, available at: <http://www.rosaviakosmos.ru/cp1251/laws/baik-s.html> (last visited Apr. 7, 2004) [hereinafter Basic Principles]. The unofficial translation of the agreement follows this article. The original lease was signed on October 10, 1994.

³⁸ *Id.* at art. 7.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at art. 1.

⁴² *Id.* at art. 2.

⁴³ *Id.* at art. 6.

⁴⁴ *Id.* at art. 5.

⁴⁵ *Id.* at art. 4.

⁴⁶ *Id.*

⁴⁷ *Id.*

of their families were subject to the laws of Russia.⁴⁸ The lease was for twenty years with an automatic extension for ten more years absent written notice by either party of its desire to denounce the agreement.⁴⁹

The agreement authorized the Central Bank of Russia to make payments to Russian personnel.⁵⁰ It announced that the currency of the Republic of Kazakhstan was the only legal tender in cash transactions on *Baikonur*, and prescribed the exchange of the currency through the offices of the Russian Central Bank or the National Bank of Kazakhstan.⁵¹

Despite the lease agreement the number of launches from *Baikonur* dramatically decreased. The edict, signed by the Russian President on December 17, 1997, provided for the creation of the Baikonur Federal Space Center.⁵² At the same time it directed the Russian Defense Ministry to transfer all real and movable property of the *Baikonur* cosmodrome to the Russian Space Agency (RSA) and to the authorities of the city of Baikonur.⁵³ The edict directed the transfer of the launch pads for the *Soyuz*-type rockets to the *Plesetsk* cosmodrome, and the launch pads for the *Rokot*-type boosters to the *Svobodny* cosmodrome.⁵⁴ Under the edict the number of military personnel was to drop from twenty thousand people to the "bare minimum."⁵⁵ A total of 775 military personnel were to be transferred to the RSA.⁵⁶ The RSA was also getting forty percent of all funds originally allocated to the *Baikonur* cosmodrome.⁵⁷ The other sixty percent of funds and the launching pads for crewed space craft had already been transferred to the RSA pursuant to a

⁴⁸ *Id.*

⁴⁹ *Id.* at art. 7.

⁵⁰ *Id.* at art. 5.1.

⁵¹ *Id.* at art. 5.2.

⁵² Vasily Parshin, A. Rodionov, & V. Yaropolov, *Tramplin vo Vselennuyu [Trampoline to the Universe]*, AVIAPANORAMA, May 2, 1998, at http://www.aviapanorama.narod.ru/journal/1998_2/5.htm (last visited Apr. 7, 2004).

⁵³ *Id.* The Russian Space Agency was created by the presidential edict, signed on February 27, 1992.

⁵⁴ *Id.* Plesetsk and Svobodny are located on the territory of Russia, while Baikonur is located on the territory of Kazakhstan.

⁵⁵ *Id.*

⁵⁶ Parshin, *supra* note 52.

⁵⁷ *Id.*

presidential edict, signed on October 24, 1994. Russia transferred most of its military space activities to the *Plesetsk* cosmodrome.⁵⁸ "Russia shall have its own independent access to outer space," stated Sergei Ivanov, the Russian Defense Minister.⁵⁹ He emphasized Russia's determination to have its own adequate launching facility and not to depend on the neighbors.⁶⁰ The *Baikonur* cosmodrome was losing its main customer, the Russian military.⁶¹

III. THE NEW LEASE AGREEMENT AND THE POSITION OF THE PARTIES

Despite the transfer of Russia's military space activity to its own territory, the *Baikonur* cosmodrome continued to play an important role in the Russian space program.⁶² The cosmodrome was the only launching facility used by Russia for its crewed space missions and for the launches of heavy *Proton* class boosters.⁶³ The full functioning of the *Baikonur* cosmodrome was absolutely essential to the fulfillment of Russia's international obligations.⁶⁴ In 2000, Russian participation in international space activity yielded \$800 million (USD).⁶⁵ Profit from the international space projects enabled Russian space industry to preserve its scientific and technical potential, its testing and

⁵⁸ Andrei Fomichev, *Rossia Pokidaet Baikonur [Russia Is Leaving Baikonur]*, *UTRO*, Oct. 30, 2003, at 2, available at <http://www.utro.ru/articles/2003/10/30/245489.shtml> (last visited Apr. 7, 2004).

⁵⁹ *Id.* Citing Sergey Ivanov, the Russian Defense Minister.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² A. Dedus, A. Kuznetsov, *Problemy Razvytya i Soverhenstvovanya Obyektov Nazemnoy Kosmicheskoy Infrastruktury Kosmodromov [The Problems in the Development and Improvement of the Ground Infrastructure of Cosmodrome]*, *BULLETIN* (Jan. 6, 2002), at <http://eks.ru/cgi-bin/link.cgi?312> (last visited Apr. 7, 2004).

⁶³ *Id.*

⁶⁴ *Id.* See also, On Measures to Fulfill the Russian Federal Space Program and International Space Agreements, OFFICE OF OUTER SPACE AFFAIRS (Mar. 18, 2002), at http://www.oosa.unvienna.org/SpaceLaw/national/russian_federation/decree_422_1996E.html (last visited May 11, 2004).

⁶⁵ Fomichev, *supra* note 58.

manufacturing capability, and to withstand the blow resulting from fourteen per cent reduction in government contracts.⁶⁶

While Russia could not afford to lose *Baikonur*, Kazakhstan had been trying to become Russia's key partner for a number of years and had been seeking active involvement in space activity.⁶⁷ The duration of the lease was one of the disputed issues during the negotiation.⁶⁸ The original lease, signed on March 28, 1994, was due to expire in 2014.⁶⁹ While Russia wanted to extend it for fifty more years starting from 2014, Kazakhstan offered to count fifty years from the day of the original lease in 1994.⁷⁰ The RSA unofficially stated that this controversy did not represent a real issue since both dates were far away in the future and it was not clear whether *Baikonur* would continue to play a key role in Russian space projects.⁷¹ The fee was another source of disagreement.⁷² Reports indicated that Kazakhstan was trying to increase the rent fee or to get the share of profits from the commercial launches citing ecological concerns.⁷³ These concerns, though, were already addressed by the original lease agreement, which provided for the payment of additional sums as compensation for the damage done by the scattered stages of Russian rockets.⁷⁴ Ecological security has been a sensitive issue in the Russia-Kazakhstan relationship for years.⁷⁵ Kazakhstan banned rocket launches on July 6, 1999, when a *Proton* rocket explosion scattered debris and fuel over the vast area, leading to

⁶⁶ Dedus, *supra* Note 62. Launching services alone provided sixty-eight per cent of Russia's total income from international space activity.

⁶⁷ Bagila Bukharbayeva, *Cosmodrome Lease Extended Until 2050*, MOSCOW TIMES (Jan. 12, 2004), at 3, available at <http://www.themoscowtimes.com/stories/2004/01/12/012.html> (last visited Apr. 6, 2004).

⁶⁸ *Id.*

⁶⁹ Russian Presidential Edict No. 2005, Oct. 24, 1994, Unofficial Translation, OFFICE OF OUTER SPACE AFFAIRS, available at http://www.osa.unvienna.org/Space-Law/national/russian_federation/edict_2005_1994E.html (last visited Apr. 6, 2004).

⁷⁰ Bukharbayeva, *supra* note 67.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Basic Principles, *supra* note 37, at art. 2.

⁷⁵ M. Ahmed, *Kazakhstan Permits Russians to Use Space Centre, Without Thought to Victims of Nuclear Tests*, MUSLIMEDIA (Sept. 16-30, 1999), available at <http://www.muslimedia.com/archives/world99/kazak-russ.htm> (last visited Apr. 7, 2004).

the mass evacuation of the population.⁷⁶ The accident prompted Kazakhstan, concerned with environmental damage and health risks, to demand a payment of millions of dollars Russia owed it for the lease of the cosmodrome.⁷⁷ It also led to two-month stand-off between the two countries.⁷⁸ Russia agreed to pay for the lease part in cash and part in bartered goods.⁷⁹ Following the mutual offset of debts, Russia actually began paying the rent from January 1, 1999.⁸⁰ It paid \$50 million (USD) in cash and \$65 million (USD) in goods and services in 1999.⁸¹ In addition, Russia spends more than \$50 million (USD) a year to maintain the cosmodrome infrastructure.⁸² Kazakhstan agreed to resume rocket launches back in 1999 with the exception of *Proton* rockets.⁸³

The dissatisfaction with the earlier agreement and the desire to continue fruitful cooperation led to the signing of a new agreement on January 9, 2004. The *Agreement on the Cooperation and Effective Use of the Baikonur Cosmodrome* reaffirmed the provisions of the 1994 Lease and followed the terms of the previous bilateral and intergovernmental agreements among Russia, Kazakhstan and the members of the CIS.⁸⁴ The purpose of the agreement is to develop the cooperation in furtherance of

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Liz Fuller, *Kazakhstan, Russia Reach Baikonur Agreement*, ASIA TIMES (July 17, 1999), available at <http://www.atimes.com/c-asia/AG17Ag01.html> (last visited May 11, 2004).

⁸⁰ Kabar Information Agency, Itar-Tass, *Russia, Kazakhstan to Sign New Baikonur Agreement*, KYRGYZ NATIONAL NEWS AGENCY (Jan. 8, 2004), at <http://www.kabar.kg/english/04/Jan/08/21.htm> (last visited May 11, 2004) [hereinafter Kabar Information Agency].

⁸¹ See *Kazakhstan to Extend Baikonur Lease 10 Years*, SPACE DAILY (Nov. 16, 2000), at <http://www.spacedaily.com/news/spaceport-00f.html> (last visited May 11, 2004).

⁸² See *Russia, Kazakhstan Extend Baikonur Cosmodrome lease to 2050*, *supra* note 6.

⁸³ See Ahmed, *supra* note 75.

⁸⁴ Agreement between the Russian Federation and the Republic of Kazakhstan on the Cooperation in the Effective Use of the Baikonur Facility, ROSS. GAZETA, Jan. 9, 2004, available at <http://www.Kremlin.ru/events/articles/2004/01/58551/59021.shtml> (last visited May 16, 2004). An unofficial translation of the agreement follows this article.

effective use of the cosmodrome for the benefit of Russia, Kazakhstan and the international community.⁸⁵

Under the agreement, Russia shall give all necessary assistance in modernization of the facility and ensure the equal participation of Kazakhstan in space projects, providing that the laws of Russia concerning states secrets are strictly observed.⁸⁶ The agreement calls for the resolution of environmental problems through the development of new ecologically friendly rocket boosters, financing environmental programs, dealing with the launch related pollution, and making necessary changes in international instruments.⁸⁷ The agreement urges further development of a new ecologically safe *Baitarek* rocket system.⁸⁸ While it does not mention the increase in rent fee, it extends the original lease till 2050.⁸⁹ The agreement provides for the increased participation of Kazakhstan in the use of the facility and for the possibility of Kazakhstan's involvement in space exploration projects.⁹⁰ During his visit to Astana, Vladimir Putin stated that, "Kazakhstan has not only Baikonur to offer, it has a good intellectual potential."⁹¹ Russia also agreed to assist Kazakhstan in launching a communications satellite, providing that Kazakhstan pay for the cost. The new agreement allows Kazakhstan to play a bigger role in the future space projects.⁹² The parties also signed a memorandum calling for the modification of earlier bilateral instruments within one year of executing of the new lease.⁹³ The memorandum provided for a speedy

⁸⁵ *Id.* at art. 1.

⁸⁶ *Id.* at art. 2.

⁸⁷ *Id.* at art. 3.

⁸⁸ *Id.* at art. 4.

⁸⁹ *Id.* at art. 6.

⁹⁰ *Id.* at art. 2.

⁹¹ See Bukharbayeva, *supra* note 67 (citing Russian President, Vladimir Putin, during his visit to Astana on Jan. 9, 2004).

⁹² *Id.*

⁹³ Memorandum on Further Development of Cooperation between the Russian Federation and the Republic of Kazakhstan in Ensuring Functioning of the Baikonur Complex, ROSS. GAZETA (Jan. 9, 2004), available at <http://president.kremlin.ru/events/articles/2004/01/58551/59022.shtml> (last visited Apr. 6, 2004). An unofficial translation of the agreement follows this article.

resolution of issues arising out of the re-use of land on liquidated launch sites.⁹⁴

IV. THE RUSSIAN SPACE PROGRAM

Despite the sharp decrease in launch activity in recent years, Russia has expanded its space exploration program for 2004.⁹⁵ The RSA anticipates that its budget will be greatly increased.⁹⁶ Russia will launch three *Express-AM* telecom satellites; start testing the radio unit of the COSPAS-SARSAT space rescue system; put on-orbit a new generation of distant Earth-probing satellites including the *Resurs-DK* high-resolution optical electric monitoring satellite and the *Monitor-E* optical-electric monitoring satellite.⁹⁷ Russia is planning to work on the *Corona-F* program, involving studies of the interrelation of the Sun and the Earth; on the international program *Spectrum*, aimed at the study of the celestial bodies in the electro-magnetic spectrum; and on the launch of two *Soyuz-TMA* crewed and four *Progress-M* cargo spacecraft.⁹⁸ The *International Space Station (ISS)* will remain the priority and its construction would be completed within two years, despite the delay caused by the grounding of the United States *Shuttle* fleet.⁹⁹ At the moment, the *Baikonur* cosmodrome is the only link to the *ISS*.¹⁰⁰ Russia will take part in the *ISS* control, scientific programs and experiments.¹⁰¹ An indication that *Baikonur* will remain open to private enterprise is the recent agreement between *Space Inter-*

⁹⁴ *Id.*

⁹⁵ *Russia Expands Funding for Space Exploration in 2004*, INTERFAX, Jan. 8, 2004, at <http://www.interfax.com/com?item=Rus&pg=20&id=5680117&req=> (last visited Apr. 6, 2004) [hereinafter *Russia Expands Funding*].

⁹⁶ *Id.*

⁹⁷ *Supra* note 91.

⁹⁸ *Russia Expands Funding*, *supra* note 95.

⁹⁹ Sonia Oxley, *Russia Space Boss Slams U.S. Mars Plans*, REUTERS, Jan. 29, 2004, at <http://www.chron.com/cs/CDA/ssistory.mpl/special/03/mars/jump/2377234> (last visited May 12, 2004) (Citing Yuri Koptev, Director of RSA).

¹⁰⁰ As of this writing, the United States *Shuttle* fleet will be grounded until March 2005. See William Harwood, *Next Shuttle Flight Delayed; Rescue Scenario Formed*, SPACEFLIGHT NOW, Feb. 19, 2004, at <http://www.spaceflightnow.com/shuttle/sts114/040219delay/> (last visited May 12, 2004).

¹⁰¹ *Russia Expands Funding*, *supra* note 95.

national Services and Sea Launch.¹⁰² The agreement provides for the creation and promotion of a new *Land Launch* project, which will use *Baikonur* as its main launching facility.¹⁰³

V. POTENTIAL SIGNIFICANCE OF THE NEW LEASE AGREEMENT

Despite the reduction in funding, deterioration of infrastructure and the loss of a significant number of military launches, the *Baikonur* cosmodrome remains the largest launching facility in the world. After the disintegration of the Soviet Union it became a unique international space center. At the moment, it is the only access point on Earth to outer space. Despite its international character, *Baikonur* continues to play an important role in the Russian space program, which uses it for the majority of its missions. *Baikonur* is the essential predicate for the fulfillment by Russia of its international obligations.

Despite some tension in recent years, *Baikonur* can become a symbol of fruitful cooperation between Russia and Kazakhstan. The new lease agreement will help secure continued funding by Russia, essential for the modernization of cosmodrome infrastructure and for the prevention of further loss of its workforce. The training of Kazakh cosmonauts and other personnel will ensure equal participation of Kazakhstan in international space programs. In the future it might even allow for the larger participation of Kazakhstan in cosmodrome financing.

Environmental safety will remain a priority in the utilization of the *Baikonur* facility. The stable rent fee and longer lease term can encourage Russia to finance the modernization of cosmodrome infrastructure with less risk of losing a return on its investment. It can also help Russia respond to ecological con-

¹⁰² *Rossia e Ukraina v Sotrudnichestve s Kompaniej "Morskoy Start" Sibirayutsya Predlozhit Uslugy po Vyvedeneyu na GeoperehodneyOrbity Sputnikov do 3,5 Ton s Kosmodrama Baikonur* [Russia and Ukraine Together With Sea Launch Will Offer Launches From the Baikonur Cosmodrome For the Installation of Less Than 3,5 Ton Satellites on Geostationary Orbit], ROSAVIAKOSMOS, Jan. 29, 2004, at <http://www.rosaviakosmos.ru/cp1251/news/040122.htm> (last visited Apr. 7, 2004). Agreement was signed on Jan. 19, 2004.

¹⁰³ *Id.* Under the agreement, *Sea Launch* is to provide marketing and technical assistance. *Sea Launch* will neither finance nor invest in the project.

cerns. The new lease has the potential to bring more government contracts and attract private investors.

There are some jurisdictional issues arising from the unique status of the *Baikonur* cosmodrome. The number of legal instruments, executed by the member-states of CIS, Russia and Kazakhstan, have given several parties and entities the right to use the *Baikonur* cosmodrome, subject to approval by both Kazakhstan and Russia. It has resulted in a mixed jurisdiction, requiring the coordination of efforts of the civil and military authorities of Russia and Kazakhstan, the Russian Space Agency and the CIS Strategic Forces. There are also a number of problems arising out of customs and border regulations, and a special tax status of the cosmodrome.¹⁰⁴ The constitutional rights of personnel remain among the most pressing issues for Kazakhstan and Russia.

Despite the complexity of issues facing cosmodrome authorities, the *Baikonur* cosmodrome will continue to be an example of international cooperation. *Baikonur* is more than the historic site of the first human mission. *Baikonur* will be remembered as the first attempt in the creation of a truly inter-governmental space center.

¹⁰⁴ The Russian Government prohibited use of Baikonur as the offshore zone in 2003. See *Lukoil Give Up Tax Optimization Scheme*, RUSSIAN INSTITUTE OF DIRECTORS, Jan. 13, 2004, at http://www.rid.ru/news.php?news_id=6238&l=en (last visited Apr. 7, 2004).