

CORPORATIONS AND SPACE LAW

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"We are a global community, and like all communities have to follow some rules so that we can live together. These rules must be – and must be seen to be – fair and just, must pay due attention to the poor as well as the powerful, must reflect a basic sense of decency and social justice."

Joseph E. Stiglitz, 2001 Nobel Prize winner for Economic Science (1)

Introduction

The relations between corporations and International Space Law, as it is in force today based on multilateral treaties and the United Nations declarations, necessarily goes through States, as is the case with all international and national space regulation.

Current International Space Law is an offspring of the 1945 United Nations (UN) system, rooted in the 1648 Westfalia Treaty. According to the UN Charter, "the [UN] Organization is based on the principle of sovereign equality of all its members". It is recognized that sovereign States exert the supreme power over their respective territories and all the population living there, and they also accept to live together with other equally sovereign States in a polycentric (multilateral) world. Rein Müllerson considers that "the concept of sovereignty matters because States behave as if it matters", but he asks: "does it matter more or less now than years ago?" (2)

This system is in a deep crisis today. Samir Amin speaks of "new chaos". (3) Once capitalism conquered practically all the planet, its more powerful forces tend to abandon the values of

universal legality and justice they have supported, in particular, since the end of the Second World War. The sovereignty of States in general has been reduced, limited and/or ignored in a large scale by the porosity and erosion of national borders, the free global flows of capital, and the growing dominance of world markets in the national economies and the growth of transnational corporations. Edward Kwakwa, Assistant Legal Council at the World Intellectual Property Organization (WIPO) comments: "The international private sector (represented in large part by transnational companies – TNCs) is playing an ever-increasing role in the global economy. To be sure, TNCs, which are widely perceived to be among the main channels for trade, finance, and technology, are now major, even dominant, global actors." (4) The globalized financial capital, in particular, asserts itself all over the world and has a decisive influence over each move of the international economic game. "Financial power becomes an economic aristocracy", notes Marjorie Kelly. (5) Sharply vertical International relations became a brutal reality. Room for government control and manoeuvring, especially for carrying out national social policies and programs, is shrinking at an alarming rate. In the most advanced countries, particularly in the United States, the greatest corporations use to assume a determinant role at the centre of the more crucial governmental decisions. The world shaped as such annually breaks new records for wealth concentration and social inequality, while the quite important public interests face huge difficulties to receive due attention from the government, not only in the poor but also in the rich countries.

If this is the sign of our time, it would hardly be possible to understand in depth the actual process of decision-making in today space's policy and law if it were not taken into due account. Hence the following questions: how do the corporations and State interests interact in the formulation of the legal position of some States concerning the

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regulation of space activities and more specifically, space responsibility for such activities? To whom do the predominant interests here belong? This paper aims at discussing this timely, controversial and complex issue.

The reality of corporations in the today's world

Over the last 150 years the corporations have risen from relative obscurity to become the dominant controlling institutions on the planet. The largest among them reach into virtually every country of the world and exceed most governments in size and power.

"Today the corporations govern our lives. They determine what we eat, what we watch, what we wear, where we work, and what we do. We are inescapably surrounded by their culture, iconography, and ideology", points out Joel Bakan, professor of law at the University of British Columbia, Canada. (6)

An exaggeration? Maybe not. The corporations appear as unprecedented private entities, capable of mobilizing the greatest amounts of financial resources and the most qualified specialists in different countries in order to create and explore the most expensive enterprises, producing the most advanced technological solutions and the biggest profit.

The famous economist John Kenneth Galbraith recognizes that "the corporation is an essential feature of modern economic life. We must have it." At the same time, however, he stresses: "It must conform to accepted standards and requires public restraints. Freedom for beneficial economic action is necessary; freedom should not be a cover for either legal or illegal misappropriation of income or wealth." (7)

Galbraith, certainly, is far from being the first or the last prestigious thinker to make strong restrictions and critics to corporations.

At the beginning of the Space Age, they were publicly referred to as "military-industrial complex". At the same time, an important advice was given, that they could cause serious damages to the national interests. This unexpected warning came from no one less than the United States President, Dwight D. Eisenhower (1890-1969), of the Republican Party, a general and hero of World War II, who governed the USA for two terms, from 1952 to 1960. The expression "military-industrial complex" became popular right away. It has defined a new and implacable economic

reality, with worldwide implications. Eisenhower said these words for the first time in 1961, delivering his farewell speech at the White House Ceremony for the new President John F. Kennedy, his opponent of the Democratic Party, who had accused him of being negligent of the USA's national security.

A statesman of high public spirit, Eisenhower certainly wanted to leave eloquently registered one of his most difficult personal experiences in eight years of Administration: dealing daily with the higher political, economic and military spheres. He stated that the "conjunction of an immense military establishment and a large arms industry is new in American experience". He tried to be quite convincing: "The total influence – economic, political, and even spiritual – is felt in every city, every State house, and every office of the Federal government. We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society." And he recommended: "In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted." (8)

More than 40 years later, Galbraith, from the top of his 97 years, old and still quite active, considers it indispensable to remember Eisenhower's "noted warning of a military-industrial complex" and remarks that, in this way, Eisenhower made "explicit... the takeover of public weapons by the defense industry". For the economist, "truth is persuasive when it comes from a President and the most noted military figure of his time". (9)

In turn, David C. Korten, Ph.D. from the Stanford University Graduate School of Business, writes: "In the United States, they [large corporations] have been engaged for more than 150 years in restructuring the rules and institutions of governance to suit their interests." And adds: "Increasingly, it is the corporate interest rather than the human interest that defines the policy agenda of States and international bodies." (10)

The key to this crucial question seems to be the intrinsic nature of the corporations, their *raison d'être* and the logical imperative of their creation

and existence.

Joel Bakan explains: "The corporation's legally mandate is to pursue, relentlessly and without exception, its own self-interest, regardless of the often harmful consequences it might cause to others." (11)

Not by chance, the Brazilian professor of International Economic Relations Gilberto Dupas notes: "The great transnational corporations, responsible for the development of technological options, do reinforce the structural unemployment, arguing, understandably, that their mission is to compete and grow, not necessarily to generate jobs." (12)

Where does this overwhelming power of corporations come from?

Mergers and acquisitions of companies obviously are a big source of concentrated corporate power. In 1983, 50 corporations controlled the media business in USA. In 2002, only nine. The Federal Communication Commission (FCC) has been accused of facilitating the control of 90 % over the American audience by Murdoch Corporation's Fox media and four other conglomerates (13). Between 1990 and 2003, 24 American corporations in the defense industry have been reduced to five: General Dynamics, Lockheed Martin, Northrop Grumman, Boeing, and Raytheon. These operations mobilized not less than US\$ 136 billion in ten years (1992-2002). (14) The common aim in such a process is to absorb major competitors and to escalate power by capturing increased market share to set prices.

For the Brazilian economist Celso Furtado, the great power of the corporations comes from the fact that they organize markets, set prices and, therefore, finance themselves and can plan their activities on a long-term basis. Industrial corporations first appeared as international monopolies (oligopolies).

As a consequence of such great power, the corporations began to compete with the power of the States themselves. Celso Furtado affirmed that "the most characteristic feature of capitalism in its current stage lies in the fact that it leaves aside a State, whether domestic or multinational, in its intent to establish criteria of widespread interest to rule the whole set of economic activities". He understood that the corporations have powerful methods for insuring the submission of national States to their interests: "In the first place, the large company controls the introduction of new processes and new products – within the domestic

economies, which are for sure the principal tool of international expansion; second, they are responsible to a large extent, of international transactions and practically withhold the initiative in this activity; third, they operate in foreign countries under guidelines that slip in large part any single action taken by a government; and fourth, it maintains a great liquidity out of the central bank's control, with an easy access to the international financial market". (15)

The Canadian professor Adam Harmes gives another valuable opinion on the matter: "When corporations can move their assets across borders, governments are pressured to provide the types of policies that business leaders demand. If they don't, if they attempt to increase taxes or create new regulations, then corporations signal their displeasure by transferring jobs and investments out of the country. This is why, even at the domestic level, governments have been less and less able to provide public good, to achieve social goals and to deal with the ongoing of negative externalities and market imperfections". (16)

In the same sense, Gilberto Dupas sees "the corporation's main instrument of power" in their "capacity to say *no, I go out, I don't enter, I don't stay here*" to national States. In his view, this is "an essentially political decision that causes huge traumas". He explains: "In order to say 'yes', they [the corporations] use their power to impose a pattern, requiring the governments to take on a neo-liberal orientation, a relative size and rhythmic growth of national and external debts, a monetary and fiscal orthodoxy, etc. items that are reflected all over the economic, social, cultural, and political life of the country".

That is why Dupas considers that "the corporations have turned out to be the most important legal persons of civil society; at the same time, in their decisions on patterns and technological vectors – which have established, together with the products that are transformed into those things we long for, the characteristics of labor market and employment and have become the most important actors of the political sphere and the public space of liberal society. The corporations misappropriate the public spaces, essential to democracy, and turn them into advertising spaces, so the citizens that regularly go to these spaces do not do it anymore as citizens, but as consumers of communication and entertainment". (17)

In this way, the corporations "happen to make *almost political decisions*", whereas

“governments and the public opinion are being transformed into bystanders, while the democratic legitimization is weakened. There is neither a precise definition of responsibility, nor a legal, political, or social system that may approve or legitimize them.” (18)

Dupas also believes that “the private power replaces or weakens the public authority, not only because it is more efficient, but due to the fact that it creates a way to legitimize its private interests without the need to shoulder the public consequences of its actions, or to go after the complex democratic consent, as the latter is always forced to renew its legitimacy.” The way he sees it, the scenario that comes into view is one of “a private State, without a territory, non-political, without a public opinion, a State without a society, actually a non-political ruler, with which it breaks the power of a civil society.” (19)

In the past, all companies, whether large or small, used to bend their knees to the will and paramount decisions of the State. Nowadays, in Bakan’s words, “increasingly, corporations dictate the decisions of their supposed overseers in government and control domains of society once firmly embedded within the public sphere”. (20) Therefore, the signs are indicating that the public interest is situated under the overwhelming and decisive influence of the private interest and of its natural, permanent, and irrevocable logic of earning profits, over and above any other consideration.

Thus, the corporations are the “new leviathans”, according to the Argentine professor Atilio Boron, Ph.D. from Harvard University. Acting on a planetary scale and with an extraordinary economic, social, and ideological gravitation, they are “first-rate political actors, originators of an irrecoverable unbalance within the weak institutions and democratic practices of the capitalist societies”. In consideration of that, “now the threats are found in the innermost aspects of the democratic capitalisms; they [the threats] are not external, but internal and, what is worst, their appearance has a ‘democratic’ look.” Such a shocking trend makes evident an issue that was seldom discussed 30 or 40 years ago: how to reconcile the relentless ascendancy of the markets with the preservation of democracy? It is highly distressing to watch the magnitude of the gap between the dynamism of economic life, which has empowered the gravitation of monopolist corporations in the decision-making national structures, and the brittle and narrow development of democratic institutions committed to neu-

tralize and correct the increasing imbalances between the economic power and the popular sovereignty in democratic capitalisms. Furthermore, “the vertiginous swiftness of large groups of associated companies to quickly manage to drive and transfer abroad great amounts of money—and, consequently, multiply their popular gravitation—aberrantly differs from the scarcity of resources, slowness, and lack of efficacy of the traditional institutions of representative democracy”. (21)

On the other hand, Enron, WorldCom, and other corporation scandals—involving fraudulent accounting, document shredding, insider enrichment, tax avoidance, and more—seem to be not merely the handiwork of a few “bad-apple” enterprises. They are seen a possible and natural result of the nature, the dynamics and the might of corporations in general. “What was exposed was not only the villainy of a few corporations, but the narrowness of the financial world’s sense of ethics”, asserts Marjorie Kelly. In her view, when “the system design is unsustainable, crisis becomes likely.” (22) It is very encouraging to see that some of the corporations’ executives who were involved in frauds and embezzlements were punished under the law. But the system that allowed them to come into existence and to reproduce is still the same and it seems to be getting much stronger. And the worst part is that nowadays more than ever, as it is asseverated within the USA, it has become more and more difficult to define a watershed between certain prime-rated governmental entities and the most powerful corporations. In former days, the governments used the corporations to carry out their political affairs. Nowadays, it seems that the corporations are the ones who make use of governments for their own purposes.

What Tim Weiner reports in his recent article about one of the largest US corporations of our days, “Lockheed and the Future of Warfare” is symptomatic. “Lockheed Martin doesn’t run the United States. But it does help run a breathtakingly big part of it. Over the last decade, Lockheed, the nation’s largest military contractor, has built a formidable information-technology empire that now stretches from the Pentagon to the post office. It sorts your mail and totals your taxes. It cuts Social Security checks and counts the United States census. It runs space flights and monitors air traffic. To make all that happen, Lockheed writes more computer code than Microsoft. Of course, Lockheed, based in Bethesda, Md., is best known for its weapons, which are the heart

of America's arsenal. It builds most of the nation's warplanes. It creates rockets for nuclear missiles, sensors for spy satellites and scores of other military and intelligence systems. The Pentagon and the Central Intelligence Agency might have difficulty functioning without the contractor's expertise. But in the post-9/11 world, Lockheed has become more than just the biggest corporate cog in what Dwight D. Eisenhower called the military-industrial complex. It is increasingly putting its stamp on the nation's military policies, too. Lockheed stands at 'the intersection of policy and technology,' and that 'is really a very interesting place to me,' said its new chief executive, Robert J. Stevens, a tightly wound former Marine. 'We are deployed entirely in developing daunting technology,' he said, and that requires 'thinking through the policy dimensions of national security as well as technological dimensions.' To critics, however, Lockheed's deep ties with the Pentagon raises some questions. 'It's impossible to tell where the government ends and Lockheed begins,' said Danielle Brian of the Project on Government Oversight, a non-profit group in Washington that monitors government contracts. 'The fox isn't guarding the henhouse. He lives there.' (23)

In short, the corporations manage to intermeddle themselves in the governments' higher spheres in such a way that they inculcate their most important interests to the behavior and decisions taken by the State on domestic and foreign issues.

George Sores has written: "The disadvantages balance has inclined its weight to the side of the financial capital in such an open way that, as one usually says, the multinational corporations and the international financial markets have supplanted certain aspects of the State's sovereignty. This is not true. States are still sovereign, and control lawful powers that no individual or corporation may ever expect to exercise." But he admits: "The principal empty space of global capitalism consists of its excessive partiality: it places too much emphasis on its attempt to seek profit and economic success, thus disregarding politic and social considerations." (24)

In fact, such considerations are exactly the duties of the State and their fulfillment is impaired, lessened, and even rendered useless softened as a consequence of the mingling relations set up between the corporations and the State, thus hindering its work as a stronghold of public possessions and the bigger interests of the nation as a whole.

The corporations in the space activities

Martin Marietta – corporate successor of Martin Aircraft, the manufacturer of B-26 Marauder, a World War II bomber – developed the Titan rocket that was used firstly as an inter-continental ballistic missile (ICBM) during the Cold War. This rocket was later modified to boost two astronauts in Gemini capsules into orbit, in 1965 and 1966. Pratt & Whitney, an aircraft engine manufacturer, developed the first liquid hydrogen-fueled engine to operate successfully in space. It was used on the Surveyor lunar lander, the Viking Mars lander, and the Voyager outer-planet flyby missions. A derivative of this engine is used in the second stage of the Delta III satellite launch rockets. Lockheed, also an aircraft manufacturer, developed the launch vehicle's upper stage for the United States' first space-based overhead reconnaissance program, Corona, which began to fly in 1959. Eastman Kodak, now Kodak, produced for Corona a special film that would function properly in low-Earth-orbit environment. General Electric designed and manufactured the recovery capsule to protect exposed film, as it was deorbited and re-entered Earth's atmosphere for airborne capture and recovery. TRW resulted from efforts to build the first US ICBM, Atlas, and the first satellite, Pioneer I. The two US aerospace corporations that provide the most frequently used large launch vehicles are Boeing (Delta) and Lockheed Martin (Atlas and Titan). Hughes is the primary manufacturer of communications satellites. Boeing is the major developer of spacecraft for the Global Positioning System (GPS), a space-based navigation system operated by the USA Department of Defense (DoD). TRW has been a key contractor for spacecraft such as the Chandra X-ray Observatory, and the Defense Support Program ballistic missile warning satellites. Lockheed Martin Federal Systems manages a team of subcontractors to support the Air Force Satellite Control Network, that provides command-and-control services for many DoD and other government space programs. Harris was responsible for the development, integration and installation of the command, control, and communications system for the US Air Force's Defense Meteorological Satellite Program (a DoD weather satellite). Lockheed Martin leads NASA's Consolidated Space Operations Contract to help combine operations for many of the current and planned space science missions. Raytheon ITSS

Corporation is the technical support contractor to the US Geological Survey's Eros Data Center. (25) Madison Research Corporation installed a 128-processor SGI Altix 3700 Bx2 supercomputer at the US Army Space and Missile Defense Command (SMDC)/US Army Forces Strategic Command (ARSTRAT) Simulation Center, which supports R&D of defensive missile systems. (26) These are only some significant examples of great corporations involved in very important space activities in the USA.

The American great corporations have always been at the front line of all strategic space technological developments. Today they clearly seem to be inserted in the command of these activities, as well as in the billionaire warfare industry. "The modern private military industry emerged at the start of the 1990s, driven by three dynamics: the end of the Cold War, transformations in the nature of warfare that blurred the lines between soldiers and civilians, and a general trend toward privatization and outsourcing of government functions around the world. These three forces fed into each other", P. W. Singer writes in *Foreign Affairs*. (27)

In the first decades of the Space Age, the corporations were used by governmental entities. Now, government entities tend to be used by the most powerful corporations, in supporting of their plans and interests.

Similarly, Tim Weiner remarks: "Lockheed is also the strongest corporate force driving the Pentagon's plans for 'net-centric warfare': the big idea of fusing military, intelligence and weapons programs through a new military Internet, called the Global Information Grid, to give American soldiers throughout the world an instant picture of the battlefield around them. 'We want to know what's going on anytime, anyplace on the planet,' said Lorraine M. Martin, vice president and deputy of the company's Joint Command, Control and Communications Systems division." (28)

Certainly not by coincidence, John Kenneth Galbraith writes "in the war command as in peace, the private becomes the public sector". (29)

Last May a new large step was taken to strengthen this tendency. Boeing and Lockheed Martin, the biggest corporations of space sector, have entered into an agreement to create a joint venture that will combine the production, engineering, test, and launch operations associated with the United States government launches of Boeing Delta and Lockheed Martin Atlas rockets. It was said that the new gigantic joint venture,

named United Launch Alliance, will reduce the cost of meeting the critical national security and NASA expendable launch vehicle needs of the United States. "It has become increasingly clear that an alliance of launch capabilities is essential to meet the space communications, surveillance, and reconnaissance needs of the 21st century, and to assure access to space," said Lockheed Martin Chairman, President and Chief Executive Officer Robert J. Stevens. The agreement stipulates that the companies will immediately request an order from the United States District Court suspending all activities in the pending civil litigation related to a previous competition for launches under the Air Force EEVL program. The parties also will dismiss all claims against each other. (30)

This fact eloquently illustrates the highest level of oligopoly reached by the USA launch industry. Is it beneficial for a more dynamic development of the own USA launch industry? Is it favorable for the creation of a sound competitive world launch market in the interest of all countries? In reality, such a narrow framework has the natural and harmful effect of preventing or severely limiting international development, innovation, cooperation, and competition in the field of launch technology and launch services. Not by chance, the first recommendation made by H. Peter van Fenema in its solid work "The International Trade in Launch Services" is: "The development of the launch industry should not continue to be artificially restricted to, or oligopolized by, the launch companies of one country or a very limited number of countries." (31)

Meanwhile, other less powerful space corporations face fierce competitions for governmental contracts. "In the highly competitive space business, where there are few contracts and 10- to 15-year acquisition timetables, contractors are fighting tooth and nail over every contract", US Senator Wayne Allard (R-Colorado) said in a speech at a recent Space Policy Symposium in Washington. As a result, according to Defense Science Board (DSB), most contractors submit bids that have a 20% chance of meeting the original baseline for the respective program. The conclusion is that "cost replaced mission success, unrealistic estimates have led to unrealistic budgets; and inadequate definition of requirements has resulted in the introduction of new requirements in the development cycle". In other words, "cost, schedule, and performance estimates used for the baseline, in almost every space program, have been prepared

with highly inaccurate, or at best, incomplete information”, Senator added. To solve this serious problem, he made two symptomatic recommendations: 1) “the Air Force must prove that it can effectively manage a space acquisition program from start to finish under the program’s original base line,” and 2) “the Air Force also needs to prove that its space program budget requests are justified, and that the service will not be asking for more money to pay for unexpected costs increase, except in the most unusual and infrequent circumstances.” (32) Well, the Air Force doubtless is a full part of the State and the government. So, it means that the State, in this case, is not being able to duly order the competition fights, and that it is, in fact, submitting the public (governmental) interests to the private ones, as it supports—without any deep analysis being carried out—the usual and frequent companies’ requests for more money. This maybe also explains the emerged claim that “the Pentagon has lost its way in space and things have gotten out of control.” (33) This is another example of the States submission to corporations, even when they are not monopolies.

Corporations, specially the great ones, have always accompanied with particular interest the course of discussions and decisions on regulation of space activities, as in the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) and in the International Telecommunication Union (ITU), as well as in other important international legal meetings. This interest and this active participation, although not in a direct way, have no doubt much increased in the last 20 years, when the process of commercialization and privatization of space activities have been deeply intensified. Coincidentally or not, just in this period there was not any new development in International Space Law. The possibilities of opening discussion on the elaboration of new treaties and on updating of the instruments in force since the 60s and 70s have been frozen. It is quite probable that great corporations, usually favorable to deregulation *e laissez-fair* policies—after all, they are their main beneficiaries—dislike any effective changes and advances in international space legislation, which could harm their business and actions.

The current strength of great corporations—mainly in the USA, but not only there—is so powerful comparatively to the absolute majority of States, which participate in the international process of space activities regulation, that they are

not able to even admit the possibility that the community of Nations could decide the ways for development of this regulation according to the clear majority vision. If the right of veto during the Cold War has served to balance the interests of the two superpowers and avoid the worse in their extremely dangerous rivalry, today it seems to be an indispensable instrument of a unilateral, financial, economic, technological and political world domination.

The corporations and space law implications

However powerful the corporations may be today, they are not (so far, at least) legally competent to create a National or International Space Law. This competence belongs exclusively to States and their international organizations. Many corporations are richer and mightier than a large number of States, but this fact does not change the legal consideration. The corporations never were and never will be sovereign entities, as the States are, according to the International Public Law universally recognized.

The reality, however, is showing the immense and still strengthening influence and pressure of the most powerful corporations on all the international political life, including space affairs, of course. It is remarkable that in the area of Space International Law, as well as in other juridical branches, this influence occurs mostly not through concrete legal proposals, but through strong resistance to any changes, innovations, or developments.

Thus, the existing *Corpus iuris spatialis internationalis*—the treaties and United Nations General Assembly principles, as well as other documents regulating the space activities of States (34)—became a kind of established movement many corporations consider necessary to restrain in some important aspects, in order to have more freedom of action in the space commercial and industrial activities.

It certainly is a complex task. They can hold back the advancement of the International Space Law, as it is already happening. But it will be quite difficult to remove, to skirt or to ignore some fundamental principles solidly adopted, which probably have acquired the character of peremptory rules—*jus cogens*—, in the spirit and letter of the Article 53 of the 1986 Vienna Convention on the Law of Treaties. (35)

First of all, Article I, § 1, of 1967 Space Treaty

is rightly called “the common benefit clause”, as it establishes that “the exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interest of all countries, irrespective of their degree of economic or scientific development, and shall be the province of mankind”.

This legal principle is also the strongest commitment of States to the international public interest in all space activities. As the first principle set forth in the Space Treaty, this commitment is fully applicable to all the national space activities, both national and international, governmental or non-governmental in nature.

Thus, the space activities of private enterprises and corporations shall be carried out in conformity with the commitment to the “common benefit clause”, i.e., in accordance with the international public interest.

This commitment is so important that, according to Article VI, States shall bear international responsibility to ensure the conformity of their national space activities with the Space Treaty principles and provisions, and they shall authorize and exert continuing supervision over the space activities of private corporations. This framework presupposes necessarily that States are able and obliged to protect the public interest, whether national or international.

The question here is that in the contemporary world, as this paper tries to show, there is a strong tendency to, at best, mix the interests of a State and its powerful private corporations, and, at worst, submit the State’s interests to the corporations’ ones. These promiscuous relations are of profound consequences. It practically means replacing the public interest by the private interest and its natural and permanent profit-making logic.

If it is true that the corporations are taking up a dominant role in space activities, how is the respective State able to impartially, regularly and effectively fulfill its obligation before the international community in overseeing the private space activities and in safeguarding the public interest, be it national or international?

It is clear that from a legal viewpoint, we cannot confuse States and corporations. They are completely different entities. George Soros is right when saying: “States control lawful powers that no individual or corporation may ever expect to exercise.” But the States are definitely not indifferent to the game of social forces in internal or external arena. So, to really understand the inspiration and the concrete motives that led a State to take

certain political and juridical positions it is evidently necessary to get acquainted with the social, economic, and political context in which these choices have been made. This is a concern of Sociology of Law and Space Politics and Policy (36), yet it is not only a theoretical question. It is a very practical one too, since, for instance, it is extremely valuable to know as much as possible whose real interests are laid on the table in the processes of political and diplomatic negotiations.

This question is still more important as far as the public interests are at stake. The defense and promotion of public interests, particularly in space activities, are already a State obligation and should be the object of highest concern on the part of States and the space legal community as well. Many Space Law forums have been examining intensively the multiple issues of commercialization and privatization of space activities. It is both correct and necessary. Nevertheless, we also need to know a great deal more about the detailed definition, the content, the scope and the applications of the common benefits clause, as part of the wider concept of international or global public interests. Incidentally, this concept is being discussed as one of the most crucial topics of the globalization issue, as a counterbalance to the shrill predominance of the private interests.

The path to successful worldwide space development in the 21st century’s world lies in finding the proper blend of efforts between governments and private organizations under the aegis of the supreme common benefit principle, fairly unfolded. It requires competent and rational government intervention everywhere, as well as strong multi-lateral co-operation. “It means expanding the policy choices of governments by bringing democratic control up to the level of the global economy”, as Adam Harmes points out. (37) In this sense, we need much more collective actions among States and effective and democratic international organizations to regulate trade, finance, and other strategic activities.

At the same time, we must, as Manfred Lachs recommended already in the 60’s, “remain faithful to the very objective of the law of outer space, that it should serve the interests of all nations and the protection of life, terrestrial and extraterrestrial and serve international peace and security.” (38)

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