

KOREA

Korea and the US Space Cooperation Agreement

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1. Introduction

As an emerging spacefaring nation advancing its capabilities in the fields of space science, communications, commerce, and national security matters,¹ Korea, on February 27, 2016, reached an accord with the US for a bilateral cooperation on their space development programs called “Framework Agreement for Cooperation in Aeronautics and the Exploration and Use of Airspace and Outer Space for Civil and Peaceful Purposes” (hereinafter the Agreement). The Agreement, actually signed on April 28, 2016 between both countries,² is a symbolic event for a new spacefaring Asian country to make forays into the world’s space industry and technology. The Korea Ministry of Science, ICT and Future Planning (“MSIP”) announced that the two parties have agreed on working together in the overall fields of space development programs, such as astronomy, earth observation and space exploration

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¹ Korea has successfully carried out the following three important space events: the launch of Korea’s first satellite, KITSAT-1 on August 10, 1992; the first astronaut, So-yeon Yi, on a Russian rocket headed for the International Space Station, on April 8, 2008; and the successful satellite launch of an Naro (KSLV-1) space launch vehicle (SLV) on January 30, 2013. For details, see *Korea, U.S. agree on space program partnership*, KOREA HERALD, Feb. 29, 2016, available at <http://www.koreaherald.com/view.php?ud=20160229001082> (last visited on Apr. 30, 2016).

² See ROK Ministry of Foreign Affairs, Republic of Korea-United States of America Framework Agreement for Cooperation in Aeronautics and the Exploration and Use of Airspace and Outer Space for Civil and Peaceful Purposes, Apr. 27, 2016, available at http://www.mofa.go.kr/webmodule/htsboard/template/read/engreadboard.jsp?boardid=302&typeID=12&tableName=TYPE_ENGLISH&seqno=316468; US Dept. of State, United States-Republic of Korea Framework Agreement for Cooperation in Aeronautics and the Exploration and Use of Airspace and Outer Space for Civil and Peaceful Purposes, Diplomacy in Action, Apr. 27, 2016, available at <http://www.state.gov/r/pa/prs/ps/2016/04/256625.htm> (all last visited on Apr. 30, 2016).

to provide legal and policy platforms.³

For the Agreement, talks between the two countries began in 2010, but only gained momentum after a summit between President Park Geun-hye and President Barack Obama, in October 2015 after Park's visit of the National Aeronautics and Space Administration ("NASA")'s Goddard Space Flight Center.⁴ The two countries have sought to expand their cooperation under the New Frontier slogan to cover issues ranging from space and cyberspace to health, environment, energy and technology.⁵

2. Legal and Institutional Background

Korea has so far signed four of the five United Nations space treaties including the Outer Space Treaty,⁶ the Rescue Agreement,⁷ the Liability Convention,⁸ and the Registration Convention.⁹ The Moon Agreement¹⁰ is currently the only exception. Korea is also member to most of the relevant international space institutions, like the UN Committee on the Peaceful Uses of Outer Space ("COPUOS"),¹¹ the Missile Technology Control Regime ("MTCR"), and the International Code of Conduct against Ballistic Missile Proliferation ("ICOC"). Korea adopted national space laws

³ See *S. Korea and US to cooperate on aerospace technology*, MAEL BUS. NEWS KOREA, Feb. 29, 2016, available at <http://pulsenews.co.kr/view.php?year=2016&no=160180> (last visited on Apr. 30, 2016).

⁴ See *Park, Obama Reaffirm Strong Alliance, Denuclearization of North Korea*, NEWS WORLD, Oct. 24, 2015, available at <http://newsworld.co.kr/detail.htm?no=2123> (last visited on Apr. 30, 2016).

⁵ See *S. Korea, U.S. agree on space cooperation deal*, YONHAP NEWS, Feb. 29, 2016, available at <http://english.yonhapnews.co.kr/news/2016/02/29/0200000000AEN20160229007300315.html> (last visited on Apr. 30, 2016).

⁶ Treaty on Principles Governing the Activities of States on the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies of 1967, 610 U.N.T.S. 205. For details, see Han Taek Kim, *A study on the Meaning of Outer Space Treaty in International Law*, 28 KOREAN J. AIR & SPACE L. 223-58 (2013).

⁷ Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space of 1968, 672 U.N.T.S.119. For details, see BIN CHENG, *STUDIES IN INTERNATIONAL SPACE LAW* 265-85 (1997).

⁸ Convention on International Liability for Damage Caused by Space Objects of 1972, 961 U.N.T.S. 187.

⁹ Convention on Registration of Objects Launched into Outer Space of 1975, 1023 U.N.T.S. 15.

¹⁰ Agreement governing the Activities of States on the Moon and Other Celestial Bodies of 1979, 1363 U.N.T.S. 3. For details, see Han Taek Kim, *Thirty Years of the Moon Agreement: its retrospect and prospect*, 55 KOREAN J. INT'L L. 79-99 (2010).

¹¹ The Committee on the Peaceful Uses of Outer Space (COPUOS) was set up by the UN General Assembly in 1959 to govern the exploration and use of space for the benefit of all humanity: peace, security, and development. The Committee has two subsidiary bodies: the Scientific and Technical Subcommittee, and the Legal Subcommittee, both established on 1961 from the Committee on the Peaceful Uses of Outer Space and its Subcommittees. For details, see The United Nations Office for Outer Space Affairs (UNOOSA), available at <http://www.unoosa.org/oosa/en/aboutus/index.html> (last visited on Apr. 15, 2016).