

# Features of Conclusion of the International Treaty on the uSpace Geocosmic Program Implementation

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The general rules and regulations concerning the process of drafting and concluding international treaties, their entry into force, and other formal procedures necessary to attribute legal force to treaties are considered. The specifics of the application of these rules to the international treaty on the uSpace geocosmic program implementation, involving the industrialization of near space and transferring a harmful part of the Earth's industry into orbit are analyzed. The features and problems of the process of concluding this treaty are highlighted and solutions are proposed.

**Keywords:** *General Planetary Vehicle (GPV), international law, international treaty, uSpace geocosmic program.*



## Introduction

At the present stage of development, humanity has faced many environmental challenges, the bulk of which is associated with the growth of production capacities and, as a result, an increase in the amount of substances polluting the biosphere, i.e., industrial waste. Many relevant studies deal with this problem, but only some of them consider it systematically. The concept of engineer A. Unitsky looks the most comprehensive and elaborated. In his works, he reasonably concludes that there is a single way out of the dead end which modern humanity has entered. At the same time, his approach can be called radical, since it proposed to provide the technosphere with an ecological niche outside the biosphere, namely, to transfer the harmful part of industrial production outside the planet Earth [1, 2].

It should be noted that this plan cannot be implemented using rockets due to their high cost, low transportation capacity and extremely negative impact on the Earth's ecology [1]. The General Planetary Vehicle (GPV), which is the main structural part of the uSpace geocosmic program, is proposed as the most suitable alternative of cargo delivery to outer space for the purposes of industrialization [1].

The analysis carried out by the author earlier [3] leads to the conclusion that the construction of the GPV involves the direct and indirect participation of a large number of subjects of international relations, whose rights, duties and responsibilities should be defined and legally consolidated by concluding an international treaty. Such documents are the basis of relations between subjects of international law and contribute to the development of international cooperation in various fields [4]. The purpose of the treaty is a clear definition of the rights, obligations and responsibilities of the parties. Therefore, it is important for the document to have legal force, i.e., to be mandatory, so it is necessary to follow the appropriate conclusion procedure.

This article examines the procedure for concluding an international treaty, describes the stages of this process and analyzes the specifics of applying general rules to the international treaty on the uSpace program implementation.

## General Characteristics of the Process of Concluding an International Treaty

An international treaty is the result of a rule-making process on an international scale, a final document containing the coordination of the free will of the participating entities, but at the same time it is a source of international

law regulating the relations of the parties by establishing their rights and obligations [5].

Since international treaties contain norms of international law and form the legal basis of interstate relations [6], in recent years their number has exceeded 500,000 [7] and continues to increase. These documents differ in goals, subject of regulation, scope, number of participants and other characteristics, but the conclusion procedure does not depend on this and is considered unified. The procedure for concluding international treaties is established by the main international act regulating the area under consideration – the Vienna Convention on the Law of Treaties of 1969 (hereinafter referred to as the Vienna Convention).

This document provides for three stages of concluding an international treaty (Figure 1) [8].

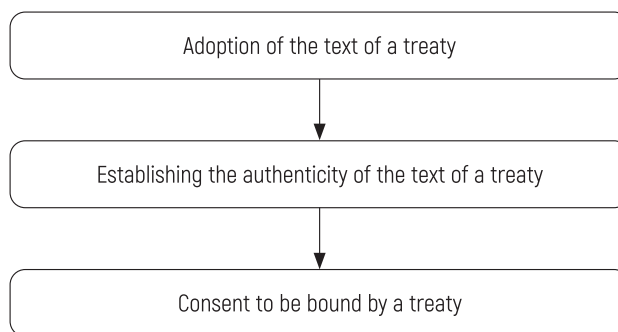


Figure 1 – Stages of concluding an international treaty (in accordance with the Vienna Convention)

In the scientific literature, in addition to these stages, the nomination of a contractual initiative and the preparation of the text of a treaty are also reasonably distinguished [9].

As part of the analysis of the process of concluding the international treaty on the uSpace program implementation, it is necessary to additionally consider if representatives of subjects of international law have the power to conclude relevant agreements. Such an approach is of great importance, since the subjects of international law, i.e., the parties between whom the treaty on the uSpace program implementation will be concluded, are states and international organizations. An individual or a group of persons always acts on their behalf; this representative must be duly authorized to express the will of the subject of international law, since only in this case will the actions of the authorized person entail legal consequences for the subject represented by him.

Article 7 of the Vienna Convention defines that a person is considered as representing a state for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the state to be bound by a treaty if:

- he produces appropriate full powers;
- it appears from the practice of the states concerned or from other circumstances that their intention was to consider that person as representing the state for such purposes and to dispense with full powers [8].

In addition, the above article contains a list of persons who are considered to represent their state by virtue of their functions and without the need to produce full powers:

- Heads of state, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;
- heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting state and the state to which they are accredited;
- representatives accredited by states to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty at such a conference, in such an organization or in such an organ.

At the same time, “full powers” means a document emanating from the competent authority of a state designating a person or persons to represent the state for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the state to be bound by a treaty, or for accomplishing any other act with respect to a treaty [article 2 of the Vienna Convention] [8].

### Stages of Concluding the International Treaty on the uSpace Program Implementation

The process of concluding an international treaty includes several stages. The author of this article has chosen their expanded version (Figure 2).

#### Advancement of a Treaty Initiative

An international treaty initiative is, in fact, a proposal coming from one or more subjects of international law to conclude a certain treaty that will contribute to the achievement of some global or regional goal.

However, it should be understood that persons who have the right to initiate the conclusion of an international treaty do not always act on their own conviction. That is, there is a preliminary stage of an intra-state or intra-organizational

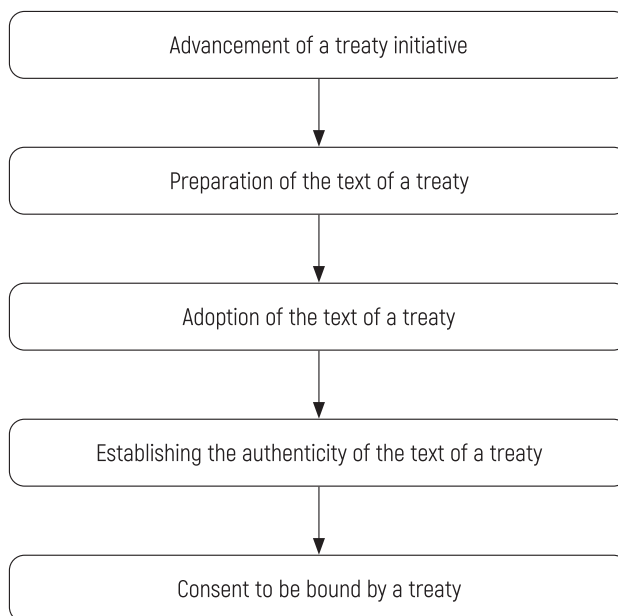


Figure 2 – Stages of concluding an international treaty

contractual initiative, within the framework of which recommendations and proposals on the conclusion of an international treaty are made by an authorized person of the state or an international organization. Thus, the initiators may be representatives of science, the public, politicians and other persons (groups, associations, movements), but acquiring the status of an official international treaty initiative requires the approval and assistance of the leadership of the state or international organization.

Based on the above, we can conclude that in order to initiate the execution of the international treaty on the uSpace program implementation, it is necessary to enlist the support of a full-fledged subject or group of subjects of international law. At the same time, as a positive point, it should be noted that due to the globality of the uSpace program, its elaboration and validity, scientific and economic potential, as well as the ability to solve many global and regional problems of our time, there is a sufficient number of subjects who may be interested in such an initiative. Exactly, in [10] the author identifies the following most probable parties to the treaty on the implementation of programs: United States of America, Democratic Republic of Sao Tome and Principe, Gabonese Republic, Republic of the Congo, Democratic Republic of the Congo, Republic of Uganda, Republic of Kenya, Federal Republic of Somalia, Republic of Maldives, Republic of Indonesia, Republic of Kiribati, Republic of Ecuador, Republic of Colombia, Federative Republic of Brazil.

### Preparation of the Text of a Treaty

Preparation of the text of a treaty is the stage of concluding an international treaty at which a document is created.

In international legal practice, three ways of developing and approving a document are used [Figure 3] [4].

We assume that the method in which diplomatic channels are used cannot be applied in the process of concluding the international treaty on the uSpace program implementation

due to its global scale, which means a great number of likely participants – primarily, the equatorial countries, through the territory of which the GPV takeoff and landing overpass should pass. Given the complexity and specificity of the document, the most suitable option for preparing the text of a treaty in this case is a combination of the first and second methods. Such a process will be clearly regulated by the procedural acts of the event.

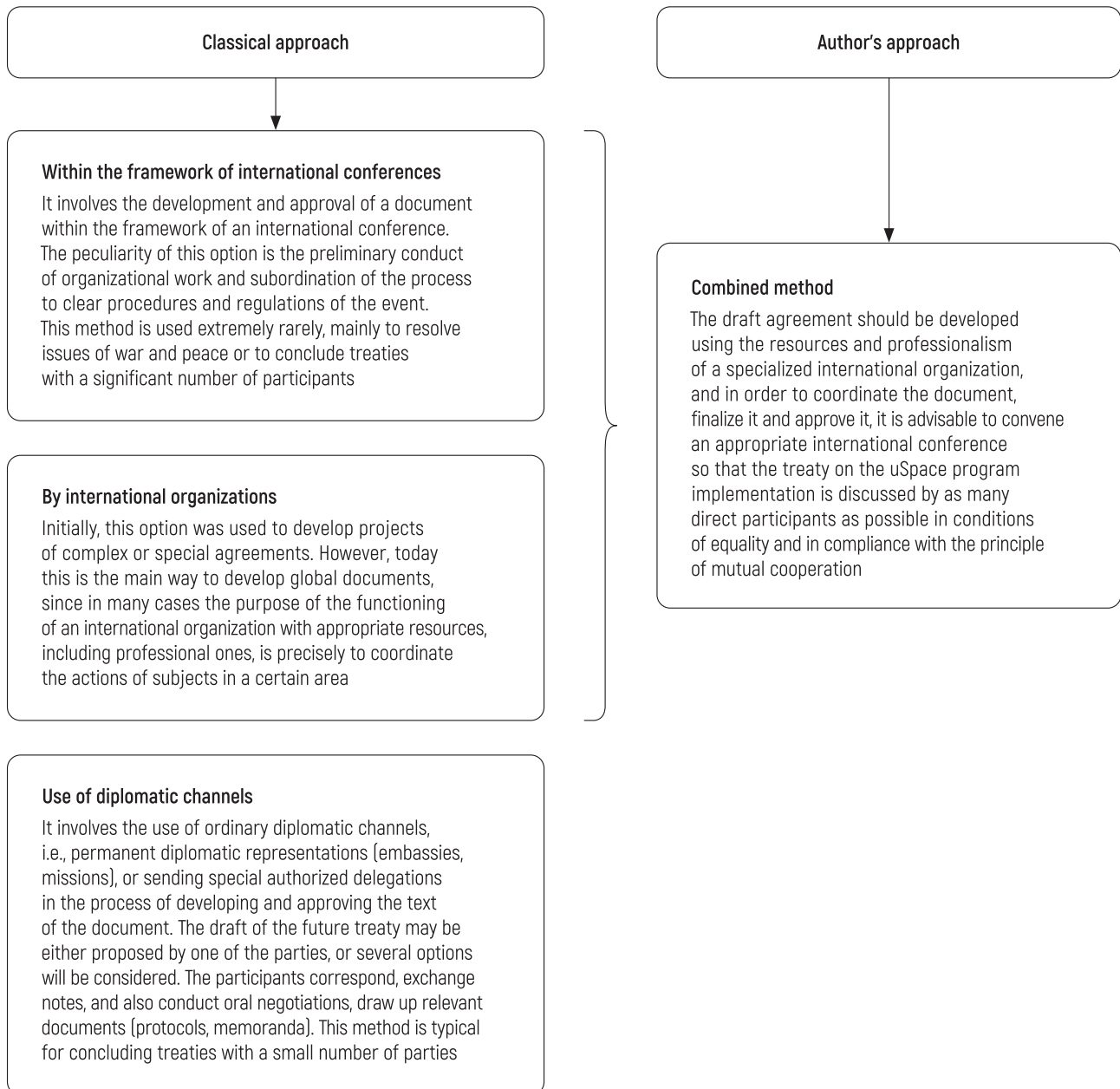


Figure 3 – Ways of preparing the text of an international treaty

### Adoption of the Text of a Treaty

The adoption of the text of a treaty can be called the stage that completes its preparation, however, due to its significance and the importance of the decision taken, it is reasonable to consider this stage separately. An international treaty is finally agreed upon by the project development participants, its final version in form and content is adopted. Article 9 of the Vienna Convention provides for two ways of adopting the text of an international treaty (Figure 4) [8].

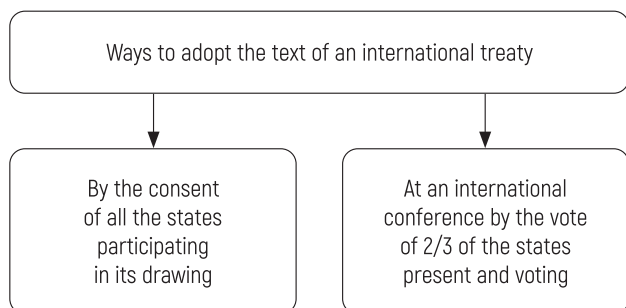


Figure 4 – Ways to adopt the text of an international treaty

As mentioned above, to discuss the international treaty on the uSpace program implementation, it is required to convene an international conference. That is why, in this situation, the second of these methods of adopting the text of a treaty should be used. It is worth noting that the ideal option seems to be the unanimity of the participants, however, given the current political situation and the current state of international cooperation, this will be extremely difficult to achieve, and therefore, establishing the need for a qualified majority of 2/3 of the votes seems appropriate.

### Establishing the Authenticity of the Text of a Treaty

At this stage, there is a formal confirmation that an international treaty is final, so further amendments to it are unacceptable; the authenticity of the text is also established, including those in different languages (if necessary).

Article 10 of the Vienna Convention suggests two possible options for the procedure for establishing the authenticity of the text of a treaty:

- as a result of the application of the procedure provided for in a treaty itself or agreed by the participants;
- by signing *ad referendum* or initialing the text of a treaty or the final act of a conference containing this text by representatives of the parties to the agreement [8].

*Ad referendum* (Latin – subject to approval) means that a treaty is signed by a duly authorized representative of the state in advance and needs confirmation from that state [11].

Initialing is a form of confirmation of the agreement with the text of a treaty developed as a result of negotiations by applying their initials by representatives of the parties at the end of the text, and sometimes on each page of it [11].

Taking into account previously substantiated proposals for establishing the authenticity of the text of the international treaty on the uSpace program implementation, the most appropriate ways are to sign an *ad referendum* or initialing the final act of an international conference, since this will allow to receive informed approval from each participant in the future.

### Consent to Be Bound by a Treaty

The expression of consent to be bound by a treaty is the final stage of concluding an international treaty, which means its entry into force. Until then, participants are not considered bound by obligations under such a document.

Article 11 of the Vienna Convention defines the following ways of expressing consent to be bound by a treaty:

- signing;
- exchange of documents;
- ratification;
- approval (acceptance);
- accession;
- any other method agreed upon by the participants [8].

The expression of consent to be bound by an international treaty by signing implies its entry into force immediately after the signatures of all authorized representatives of the parties are affixed to its text.

When expressing consent to be bound by an international treaty by exchanging documents, the parties to the agreement send each other certain documents, such as letters or notes, which confirm agreement with the terms of a treaty and indicate that the subject has assumed the relevant rights and obligations.

Ratification is reasonably considered to be the most authoritative way of expressing consent to be bound by an international treaty, since it is a separate act of the highest state authority (president, parliament) of the party to the agreement, adopted according to a certain procedure subject to the norms of national legislation.

On approval (acceptance) as a way of expressing consent to be bound by an international treaty, one should speak

in two senses. In the first case, we are talking about a situation where one of the parties to the agreement is an international organization for which the ratification procedure is impossible. Then the procedure for approval by the supreme governing body of such an organization is applied in accordance with the adopted rules. In the second case, an act is issued by an authorized state body, but not by the highest one, and according to less strict rules than ratification.

The method of accession is used if an entity that did not participate in the preparation of the text of the document, i.e., was not among the original participants, wishes to express consent to be bound by an international treaty for itself.

Taking into account the specific nature of the uSpace program, as well as its global scale, the most appropriate ways to express consent to be bound by the international treaty on the uSpace program implementation are ratification for the initial membership of states (approval – for international organizations) and accession for those entities that realize the need for cooperation in the future. The application of ratification will allow to properly confirm and consolidate the intentions of the participant at the national and international level, while the possibility of accession is required due to the fact that in the process of implementing the uSpace program, an increasing number of subjects will understand and accept the necessity and exclusivity of the implementation of the solution proposed by A. Unitsky.

## Conclusions and Future Work

The analysis carried out in this article for concluding an international treaty, the stages of such a process and the specifics of applying the general rules to the international treaty on the uSpace program implementation allows to draw the following conclusions.

The norms, rules and procedures concerning the conclusion of agreements that exist today and are applied in international practice are sufficient for the treaty on the uSpace program implementation to become part of international law. However, it is worth taking into account the specifics of the program under consideration, primarily related to the global scale, complexity and intersectoral nature. In this regard, a certain procedure for concluding a treaty seems to be the most appropriate:

1) in order to put forward an initiative to conclude the treaty on the uSpace program implementation, it is necessary to receive the support of a state or an international organization as a full subject of international law;

2) drafting of the treaty should be entrusted to specialists in various fields within the framework of the activities of a specialized international organization;

3) an international conference should be organized to coordinate the text of the treaty on the uSpace program implementation, as well as its completion and approval;

4) authentication of the text of the treaty should be formalized within the framework of the above-mentioned conference in its final act by signing *ad referendum* or initialing the document;

5) it is necessary to express the consent of the participants to the binding nature of the international treaty on the uSpace program implementation by ratifying (approving – for international organizations) the agreement, while providing for the possibility of joining new entities.

When conducting further research, it is supposed to analyze the ways to ensure the fulfillment of obligations assumed by the participants of the international treaty on the uSpace program implementation, the limits of permissible legal coercion, as well as possible forms of liability in case of violation of the terms of the treaty in question.

## References

1. Unitsky, A. *String Transport Systems: On Earth and in Space* / A. Unitsky. – Silakrogs: PNB Print, 2019. – 560 p.: il.
2. Unitsky, A.E. *Tsivilizatsionnaya yomkost' kosmicheskogo doma po imeni Planeta Zemlya [Civilizational Capacity of the Space Home Named Planet Earth] [Electronic resource]* / A.E. Unitsky. – Moscow: Mir nauki, 2022. – 136 p. – Mode of access: <https://izd-mn.com/PDF/08MNNPM22.pdf?ysclid=la98apfobr284127861>. – Date of access: 11.05.2022.
3. Kazakevich, A.P. *Pravovyye aspekty mezhdunarodnogo so-trudnichestva v oblasti osvoyeniya kosmosa [Legal Aspects of International Cooperation in the Field of Space Exploration]* / A.P. Kazakevich // *Bezraketnaya industrializatsiya blizhnego kosmosa: problemy, idei, proyekty. Collection of Articles of the III International Scientific and Technical Conference, Maryina Gorka, Sep. 12, 2020* / *Astroengineering Technologies LLC, Unitsky String Technologies Inc.; ed. A.E. Unitsky.* – Minsk: StroyMediaProyekt, 2021. – P. 102–115.
4. Lukashuk, I.I. *Forma mezhdunarodnykh dogovorov [The Form of International Treaties]: Study and Practical Guide* / I.I. Lukashuk. – Moscow: Spark, 2001. – 112 p.

5. *Struktura mezhdunarodnykh dogovorov Sodruzhestva Nezavisimyykh Gosudarstv [Structure of International Treaties of the Commonwealth of Independent States] [Electronic resource] // Internet-portal SNG. – Mode of access: <https://e-cis.info/cooperation/3216/78098>. – Date of access: 14.05.2022.*
6. *Vasil'yeva, L.A. Mezhdunarodnoye publichnoye pravo [International Public Law]: Study Guide / L.A. Vasil'yeva, O.A. Bakinovskaya. – Minsk: TetraSystems, 2010. – 576 p.*
7. *Vidy mezhdunarodnykh dogovorov [Types of International Treaties] [Electronic resource] // ICC Russia. – Mode of access: <https://iccwbo.ru/blog/2016/vidy-mezhdunarodnykh-dogovorov>. – Date of access: 21.05.2022.*
8. *Vienna Convention on the Law of Treaties [Electronic resource] // United Nations. – Mode of access: [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf). – Date of access: 21.05.2022.*
9. *Meyer, T. From Contract to Legislation: The Logic of Modern International Lawmaking / T. Meyer // Chicago Journal of International Law. – 2014. – Vol. 14 (2). – P. 559–623.*
10. *Kazakevich, A. Terms of Treaty Between Participating Countries of the uSpace Program / A. Kazakevich // Non-Rocket Near Space Industrialization: Problems, Ideas, Projects: Collection of Articles of the IV International Scientific and Technical Conference, Maryina Gorka, Sep. 18, 2021 / Astroengineering Technologies LLC, Unitsky String Technologies Inc.; ed. A. Unitsky. – Minsk: StroyMediaProject, 2022. – P. 117–123.*
11. *Borisov, A.B. Bol'shoy yuridicheskiy slovar' [Big Law Dictionary] / A.B. Borisov. – Moscow: Knizhnyy mir, 2010. – 848 p.*

