



Bulletin of the European Centre for Space Law

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Le Mot du Président

Voici un numéro particulièrement important pour diverses raisons : le dernier numéro de l'an 2000, un numéro qui nous amené à une attitude de Janus, un coup d'œil vers ce qui vient de se passer et donc vers l'avenir qui le suit.

Je ne peux commencer sans mentionner, souligner avec une émotion toute particulière, la victoire de l'équipe ECSL lors de la finale à Rio, de la « Manfred Lachs Moot Court Competition » (l'équipe de l'Université de Sceaux – France – dirigée par le Prof. Achilleas, sa deuxième médaille d'or pour lui). Je vous renvoie à l'article en page 1.

Autres événements :

L'école d'été qui s'est tenue à Cologne, organisée avec l'Institut du Prof. Bockstiegel, encore une fois l'exemple de ce qui doit être fait.

Le Practitioners Forum, entièrement dédié cette année aux aspects de droit international privé et à son articulation avec le droit de l'espace ; la compréhension réciproque et la coopération entre Unidroit et ECSL a permis une « première » dans les travaux du Sous-Comité juridique du COPUOS en faisant inscrire le projet de Protocole « Space Property » à l'ordre du jour de la session de 2001 du Sous-Comité juridique du COPUOS.

Nous avons suivi avec une particulière attention les travaux du Sous-Comité juridique, en particulier les travaux du Groupe de travail sur la notion d'Etat de lancement, et contribué à l'élaboration d'une position européenne.

En ce qui concerne l'ESA, je mentionne la Déclaration additionnelle adoptée par le Conseil, relative à l'acceptation, sous réserve de réciprocité, du caractère obligatoire de la sentence rendue par la Commission de règlement des litiges instituée par la Convention sur la responsabilité internationale pour dommages causés par des objets spatiaux. Le Comité des Relations internationales a recommandé au Conseil de l'Agence, pour adoption, un projet de Résolution en matière de politique européenne relative aux débris spatiaux qui devrait être un élément majeur dans le débat international en cours.

Autre point d'intérêt, la préservation de l'observation astronomique (« le ciel noir »), l'Agence ayant lancé une action relayée par d'autres Organisations internationales, comme l'ESO, l'Union astronomique internationale, le COSPAR, etc.

Le développement de la privatisation et de la commercialisation des activités spatiales pousse à l'étude de législations appropriées au plan national, en particulier en France, en Allemagne et en Italie. (La DLR organise en décembre le « Workshop » dédié à ce thème important).

De nouveaux points de contact devraient nous rejoindre, en Belgique, Portugal, Autriche ; nous y travaillons.

Voilà qui augure bien de 2001 qui verra notamment l'Assemblée générale bi-annuelle de l'ECSL et le Congrès IAF/IISL à Toulouse.

Compte tenu des délais d'impression et de distribution, je me permets de vous souhaiter de joyeuses fêtes de fin d'année.

Dr G. Lafferranderie
European Centre for Space Law

Report on the 9th ECSL Summer Course

The European Centre for Space Law organised its 9th Summer Course in August. This year, the University of Cologne and its Institute of Air and Space Law, the oldest in Europe, hosted the event. The Course was a great success, to which there were many contributing factors.

First, the location. The city of Cologne is heavily involved in space, hosting one of the most important centres of the national German space agency, DLR, and ESA's

European Astronaut Centre (EAC). Visits to both DLR and EAC were organised, and the students were able to visit the simulators for the European modules of the Space Station and to catch a glimpse at the astronauts in training.

The two-week Course brought together outstanding experts, professionals and space-law specialists who not only taught the general principles, but also shared their experiences in various space applications businesses.

The main novelty of this Summer Course, however, was the organisation of a moot negotiation on the subject of the commercialisation of the International Space Station (ISS). Prof. Stefan Hobe of the University of Cologne and Prof. Herman Ersfeld wrote the case. Four teams, two representing private space companies and two representing the space agencies, NASA and ESA, dealt with the negotiation on the rights to record a TV programme from the ISS, to install a camera on the outside of the Station, to conduct biomedical experiments on board, etc. The students therefore had to examine many different aspects of space law. The case ended with a negotiation session, during which a contract was drafted. This new experience helped to give the students a very pragmatic and realistic view of space law in action. It was very rewarding to see how involved they became and how much they were stimulated by the experience. The opportunity to organise the event in such a prestigious Institute permitted access to a very large collection of publications on space law and helped to give the Course a very intense character.

We, at ECSL, would like to thank all of those who contributed to the success of this year's endeavour and hope that the next Summer Course will be just as successful!



A class full of enthusiasm!!

ESA Adopts Additional Declaration on Liability for Damage Caused by Space Objects

In June, the ESA Council adopted an Additional Declaration on the United Nations Convention on International Liability for Damage Caused by Space Objects.

Article XIV of the Convention on International Liability for Damage Caused by Space Objects of March 29, 1972 (961 UNTS 187) provides that a Claims Commission should settle the dispute if no settlement can be reached through diplomatic negotiations. However, Article XIX.2 of this Convention stipulates that the Commission's decisions are only binding if the parties have so agreed. Otherwise, the decisions are only to be considered in good faith.

The weakness of such a non-binding decision has been considered as unsatisfactory when comparing the situation with international practice. ESA's Declaration now recognises the Claims Commission awards as binding and, by this, removes an existing loophole in international law. It constitutes a supplement to ESA's Declaration deposited on 20 September 1976 accepting the 1972 Liability Convention, to which all ESA Member States are party.

In relation to any party State or international organisation to this Convention having made the same declaration (that is on the basis of

reciprocity), ESA now recognises as binding the decisions of the Claims Commission.

Through this, the Declaration represents another milestone in the development and reinforcement of space law. The European initiatives at the 38th session of the UNCOPUOS Legal Subcommittee (Vienna, 1-5 March 2000) as well as ESA's International Relations Committee's work, had fostered and encouraged its adoption. The Declaration strengthens the role of space law, corresponds with the growing importance of international law, and will provide more legal certainty when executing international space programmes.



Once Upon a Time, Three Students Went to Rio...

To visit Copacabana? To learn the Samba? To enjoy the marvellous trip sponsored by the European Centre for Space Law? Not really, they were there to fly the European flag! Marie Diop, Odile Giraud and Oliver Huth defended Europe's colours in the Manfred Lachs Space Law Moot Court Competition, organised by the International Institute of

51st IAF Congress in Rio de Janeiro

The 51st International Astronautical Congress took place in Rio de Janeiro from 2 to 6 October 2000. The Congress and Exhibition were hosted by the National Institute for Space Research (INPE), an agency of the Brazilian Ministry of Science and Technology.

The International Astronautical Federation (IAF) organises this major event every year in a different country, together with its associates the IAA (International Academy of Astronautics) and the IISL (International Institute of Space Law). The Congress' theme this year reflected one of the coming challenges for our planet: "Space: A Tool for the Environment and Development". The discussions and working groups therefore focussed in on space applications that can contribute to the conservation of the Earth's environment and sustainable development.

Mr Marcio Nogueira Barbosa from INPE was appointed as the new President of the IAF, replacing Dr. Tomifumi Godai.



The winning team of Odile Giraud, Marie Diop and Oliver Huth, with the three International Court of Justice judges: Judge Rezek, President Judge Guillaume and Judge Vereschechetin

Space Law (ISSL) during the International Astronautical Federation (IAF) Congress.

In March, the American, European and Australasian teams had qualified for the finals by winning the preliminaries in their respective regions. Since January, they had all been working on a fictitious case involving two States, one of whom was operating a nuclear-powered satellite, which exploded in outer space and damaged one of the other State's satellites. The students had to defend one of the States before three Judges from the International Court of Justice (ICJ). Pleading the case involved acquiring a comprehensive understanding of International Telecommunications Union (ITU) regulations, liability, duty of disclosure of a nuclear power source, and environmental law. Coming from the Jean Monnet Faculty, Marie, Odile and Oliver believed that it was their duty to successfully represent Europe and uphold

the ideals of the founding father of the European Community!

President Judge Guillaume, Judge Rezek and Judge Vereshechetin, in the magnificent First Court of Justice of the State of Rio de Janeiro, unanimously declared the European team the winners of the Moot Court and awarded them the Eileen A. Galloway Award for Best Brief. Allen Blair from the American team scooped the Best Orator award.

All of the participating students enjoyed and benefitted greatly from this fantastic experience and we would encourage any student interested in international and space law to enter this Moot Court Competition next year. Toulouse may be a somewhat less exotic venue, but Rio was so cloudy and the Moot Court so absorbing that the students were not able to enjoy its attractions as much as they might have hoped.



Bringing Space into Education – An IAF Symposium

From 3 to 5 April, more than 150 representatives of space agencies, industry, universities, youth organisations and students, from all over the World, met in Bischenberg, near Strasbourg (F). This popular IAF event focussed on how space activities can be anchored into today's educational programmes.

This question was addressed not only for the university-level students, but also for

primary- and secondary-school classes. The objective was to find new ways of promoting the knowledge and interest of today's young people in space, and of encouraging them to envisage a career in space research and technology. The discussions also dealt with the matter of securing the future space workforce, and how to ensure continuing education for professionals in times of rapid technological development. These topics

were addressed through plenary sessions, followed by detailed discussions in working groups.

This successful IAF Symposium was co-sponsored and supported by ESA, CNES and the ISU. All of the participants expressed their satisfaction with the event, and agreed to organise follow-up seminars on a regular basis.



Legal Framework for the Commercial Use of Outer Space: 'Project 2001'

Susanne U. Reif

The Institute of Air and Space Law of the University of Cologne and the German Aerospace Centre (DLR) are currently organising a Conference, taking place from 29 to 31 May 2001, during which the results of their research project titled "Project 2001" on the development of space law in the light of private and commercial space activities will be presented and discussed.

With space activities increasingly being carried out by private enterprise, legal scholars and practitioners are regularly faced with various questions of application and interpretation of rules and regulations, which have been created when space activities were rather scarce and mainly carried out by national states.

As part of 'Project 2001' – a joint initiative by the Cologne Institute and DLR under the scientific direction of Prof. Böckstiegel

– more than 100 international legal, political and technical experts from public and private entities have been invited to join Working Groups on Privatisation, Launch and Associated Services, Remote Sensing, Telecommunication, Space Stations, and National Space Legislation, to document calls for further law development and to discuss the most urgent needs. In the course of the activities, five Workshops and several meetings with international participation have been held, with the kind support of, among others, ECSL, IISL, Spot Image Toulouse, and the former DASA, Bremen.

Particularly notorious substantive topics on which proposals will be presented during the Conference include: the in many States long-neglected need to implement international space law requirements in national law; problems of interpretation regarding international

liability of States for private entities, as well as clarification of liability questions and regulations in national laws; questions of fair trade and subsidisation of infrastructure used commercially, but also assuring access to space and sometimes life-sustaining services; the limitations of safety and security risks for hazardous activities; harmonisation of space activities' and frequency licensing in Europe; the ability to legally protect intellectual property and private financial investment, and many more.

For more information about participation in the Conference, please contact:

Susanne Reif
Phone: + 49 (0) 2203 601-2647
Fax: + 49 (0) 2203 695910
E-mail: 2001-com-use-ous@uni-koeln.de



69th ILA Conference

The International Law Association (ILA), founded in Brussels in 1873, is an international non-governmental organisation, which provides a forum for leading members of the legal community to exchange their view about the development and practice of international law. The ILA's main objective is the "*study, elucidation and advancement of international law, public and private, the study of comparative law, the making of proposals for the solution of conflicts of law and for the unification of law, and the furthering of international understanding and goodwill*". This objective is achieved through the work of its International Committees (especially in elaborating

drafts), which in the past has often contributed to and influenced the progress of international law. The 69th Conference was held at the Barbican Centre in London from 25 to 29 July 2000.

Chaired by Prof. Karl-Heinz Böckstiegel (Institute of Air and Space Law, Cologne), the Space Law Committee session dealt with the report on its current work on the 1967 Space Treaty, the Liability Convention, the Registration Convention and the Moon Agreement. They discussed whether the continued growth in commercial space activities would necessitate a review of these four main

documents. Prof. Maureen Williams (Argentina) was the Rapporteur for this session. The Committee then adopted a Resolution (No. 13/2000) that took into account these new developments and also stressed the importance of further progress in the fields of dispute settlement and space debris.

Other Committee sessions that took place which are of interest for space activities and its legal problems included: International Securities Regulation, Accountability of International Organisations, Arms Control and Disarmament Law, and the Teaching of International Law.



Colloquium on "Satellite Images, the Environment and the Law"

On 29 September, a European Colloquium took place at the University of Toulouse, in France, dealing with the interdisciplinary topic of "Satellite Images, the Environment and the Law". Organised by the Centre de Recherches Interdisciplinaires en Droit de l'Environnement, de l'Aménagement et de l'Urbanisme (CRIDEAU) of the University

of Limoges, this meeting was part of the European APERTURE programme, financed by DG XII of the European Union. This project brings together 14 expert teams in the field of Earth observation and environmental law from 7 European countries (France, Germany, Greece, Italy, Portugal, Spain, and United Kingdom). The aim of the Colloquium was

to discuss how satellite images could help in reinforcing European law, especially environmental law. The exchanges between jurists and Earth-observation specialists brought clarifications as to how these new technologies could be employed as a means of control by Administrations and a source of proof in the Courts.



Space and Satellite Finance Conference

Space and satellite finance professionals met in London on 24-27 January to exchange ideas on financing. Despite the filings for bankruptcy by Iridium and ICO, many experts expect positive developments in the long term and believe there are new business opportunities in the space and satellite market, especially in the MSS sector.

Under the chairmanship of Peter D. Nesgos (Partner, Milbank, Tweed, Hadley & McCloy), the participants in this "Worldwide"-organised conference discussed these and related problems.

The agenda topics included:

1. The Space Industry in the Year 2000 and Beyond.
2. Assessing the Current Economic and Business Opportunities in Emerging Markets.
3. Funding New Growth in the Space and Satellite Industry.

The two-day programme was completed by three Workshops, on the themes: "Technical and Financing Aspects of Satellite Communications", "Protecting Security Interests in Satellites: Will International Uniformity Facilitate Satellite

Financing?" and "Space Risk Management".

The speakers at the second Workshop were: Sir Roy Goode (QC, Emiritus Professor of Law and Fellow of St John's College, Oxford), Mr Peter Nesgos (Partner, Milbank, Tweed, Hadley & McCloy), Mr Gabriel Lafferranderie (ESA Legal Advisor and ECSL Chairman), Mrs Martine Leimbach (Legal Department, Crédit Lyonnais), and Mr Dirk Rissel (Attorney at Law, Daimler Chrysler Aerospace, now Astrium).



Seminar on Ethics and Outer Space

The Seminar on "Ethics and Outer Space", on 10/11 September in Paris, jointly organised by UNESCO and ESA, provided the opportunity for specialists to communicate their experiences and reflections on the ethical implications of the utilisation of space sciences and technologies. The Seminar also provided a forum for an exchange of views between the main players in this field, including space-agency and industry representatives.

The Seminar evolved into a two-part programme. On the first day, the discussions were aimed at identifying the ethical problems related to the use of Outer Space and at their deeper understanding. The following key topics were addressed: space as an ethical question; space as a dimension, considering the whole Universe also; space as a tool, especially with regard to the environmental aspects, freedom of use and cultural identity; risks and benefits of modern space technologies such as communication and media.

The second day of the Seminar gave participants the opportunity to define more precisely the ethical approach to be followed when dealing with space policy. The space-agency representatives expressed their opinions on the matter and also responded to the expert's questions.

A report on the Seminar and the work currently being done in the field was recently published by UNESCO (L'Ethique de la Politique Spatiale, A. Pompidou, COMEST- UNESCO).



IBA Committee Z Meets in Amsterdam

In the framework of the IBA 2000 Conference in Amsterdam, from 17 to 20 September, Committee Z (Outer Space) of the International Bar Association (IBA) dedicated its sessions to two major topics: "Global Navigation Satellite Systems: New Challenges and Opportunities", and "Access to Capital Markets and Project Financing for Satellite Ventures".

The speakers on the first topic were Frans von der Dunk (Co-Director of the International Institute of Air and Space Law, Leiden University), Roderick D. van Dam (General Counsel, Eurocontrol, Brussels), David Sagar (Adviser, International Maritime Organisation, London), Marco Ferrazzani (Legal Affairs, ESA, Paris) and Kofi Henaku (AST Legal Consultancy, Leiden). The first session on 19 September was jointly organised with Committee A (Maritime and Transport Law) and Committee Cm

(Communications Law). The existing and future institutional and legal frameworks for satellite navigation were discussed, taking into account not only the global and European perspectives, but also a sector-specific approach (aviation, maritime navigation).

The second session, on 21 September, dealt with the financing of satellite ventures and focussed on the typical risks involved in the technically complex satellite business. The challenges for the issuers, underwriters, investors, lenders and their legal advisers were addressed at the meeting. James G. Ennis (Iridium LLC, Washington DC), Charles Harman (Donaldson, Lufkin & Jenrette, London) and Charles Hindson (Eutelsat, Paris) were the speakers for this joint session involving Committee Z and Committee E (Banking Law).



Revision and Renewal of ESALEX

The current version of ESALEX is not fully meeting the needs of its users. It has therefore been decided to restructure and simplify it in the coming months in order to provide quicker and easier document searching. The database itself will be also updated at the same time. The necessary work, being undertaken together with ESRIN, is expected to be completed in time for the new version to be fully operational in January 2001.

Portugal Soon to be 15th ESA Member State

On 15 December 1999, the Government of Portugal and ESA signed an Agreement relating to Portuguese accession to ESA. On 14 November Portugal deposited its instrument of ratification with the French Government, to become the 15th ESA Member State. This represents another major step towards even greater co-operation in the field of space activities and of space law in Europe.

Etablissement d'un Centre d'Etudes sur le Droit de l'Espace et des Télécommunications

La Présidence de l'Université de Paris Sud a décidé d'institutionnaliser et de renforcer la recherche et l'enseignement en droit de l'espace à la Faculté de droit Jean Monnet à Sceaux. Cette décision intervient à la suite des résultats obtenus par les équipes de la faculté aux récents Space Law Moot Court ainsi qu'à la

suite des liens croissants développés avec l'ECSL et l'ESA. Cette décision s'est traduite par la création du cours de droit de l'espace en maîtrise ainsi que par la création d'un Centre d'Etudes sur le Droit de l'Espace et des Télécommunications.

The 9th Space Frontier Conference

The organisers of the Space Frontier Conference, held on 19-22 October in Los Angeles, invited ECSL to participate in the "Legal & Policy Issues Barriers" Panel, where we made a presentation on export-control regulations and their consequences.

The primary aim of the Conference was to bring together policy makers, rocket scientists, investors and entrepreneurs in order to pave the way for private initiatives in outer space. This combination of participants made this Conference particularly noteworthy. We are often involved in meetings with

lawyers and/or policy makers, but on this occasion it was very gratifying to learn about the concerns of the small group of space entrepreneurs who are already pursuing the commercialisation of outer space, and to try to satisfy their curiosity regarding a subject as remote as space law.

The topics covered ranged from space tourism, to space transportation, to Mars programmes, and business on Space Stations. It was very enlightening to learn about so many companies for whom exploration and private initiatives in space are already a daily concern.



9th Practitioners Forum 27 November 2000

The next session of the UN COPUOS Legal Subcommittee will address the single issue of the Unidroit Convention on International Interests in Mobile Equipment and Draft Protocol on Matters Specific to Space Property. This topic will be examined at the next Practitioners' Forum in order to collect the views of the various players: the private sector, banks, insurance companies, etc.

In this Forum, chaired by Prof. K.H. Böcktingel, Prof. Kronke, Unidroit Secretary General, and Mr Stanford, Unidroit Principal Research Officer, will present the draft Protocol and its current situation vis-a-vis the COPUOS Legal Subcommittee. Then, a number of professionals from the insurance, banking, industrial, satellite-operator, and government sectors will explain what the different stakes in this project are.

We hope that this event will help to give European space lawyers and policy makers a complete picture of the Convention itself and the preliminary Draft Protocol.



Forthcoming Events

February	Technical and Scientific Committee – COPUOS
April 2-12	Legal Subcommittee – COPUOS
April 26	European Preliminaries of the 10 th Manfred Lachs Competition, Faculty Jean Monnet, University of Paris XI (F)
April 27	'Journée juridique' on the International Space Station, Faculty Jean Monnet, University of Paris XI (F)
March 19-21	Third European Conference on Space Debris, Darmstadt (D)
May 18	Colloquium on Telecommunication Law, University of Nice (F)
May 29-31	International Colloquium on Conclusions of "Project 2001: The Legal Framework for the Commercial Use of Outer Space", Cologne (D)
August-September	ECSL Summer Course, University of Nice (F)
September 29	'Journée scientifique' sur le stress en conditions extrêmes Cité de l'Espace, Toulouse (F)
October 1-5	52 nd International Astronautical Congress, Toulouse (F)

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Coordinator: Soraya Ellouze

European Centre for Space Law

Editor: Bruce Battrick

Layout & Prepress: Eva Ekstrand

For further information, contact the ECSL Secretariat:

c/o ESA, 8-10 rue Mario-Nikis
75738 Paris Cedex, France
Phone: +33-1-5369 7605
Fax: +33-1-5369 7560

Requests for inclusion in the mailing list should be addressed to:

ESA Publications Division
c/o ESTEC, Keplerlaan 1
2200 AG Noordwijk, The Netherlands

Fax: +31-71-565-5433