

ECSL

European Centre for Space Law

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A Word from the Chairman

Since when I was elected as Chairman of the ECSL, I have been working closely with the Board, the ESA's International Relations Department and the Executive Secretary, to chart a renewed course for our Centre. In creating the ECSL, the founding fathers recognized the value of having an independent entity within ESA to provide networking of space law educational programs through Europe. The ECSL's mission is broader than simply managing the existing activities. We have committed ourselves to promoting the spreading of space law knowledge and teaching, so that we are embarking upon new paths to reach that goal.

As 2008 came to an end, I am pleased to share with you some ECSL's successes and some works in progress. I believe these are indicative of ECSL's directions and its potential. Firstly, I would like to mention the Summer Course on Space Law and Policy, the main ECSL's educational event. If for the last two years the Summer Course was held, for organizational reasons, at the ESA's European Space Research and Technology Centre (ESTEC) in Noordwijk, this year I openly worked for a return to the tradition of partnership with European Universities. The host for the 17th edition was the University of Genoa, to which ECSL conveys a particular appreciation. They have enthusiastically and efficiently supported our activity, so that this joint effort had an undeniable positive feedback from all involved students, tutors and teachers, confirming the Summer Course as a real federative experience for the European community of the space lawyers.

The same path was followed for the European Rounds of the Manfred Lachs Space Law Moot Court Competition, which brought ECSL to the Riga Graduate School of Law, Latvia, with eight registered teams and seven judges. The winner was the University of Augsburg, Germany, that represented the European Region at the World Final of the Competition during the 59th International Astronautical Congress in Glasgow and had the highest score for the briefs.

Needless to say that ECSL was embarked also in other initiatives, such as the customary Symposium organized jointly with the International Institute for Space Law (IISL) at the opening of the annual session of the Legal Subcommittee of the UNCOPUOS, the well received 2008 edition of the Practitioner's Forum, on issues of authorization in the light of developments in European space cooperation and the ECSL contribution to the Workshop on Space Applications for Natural Disaster Management, which confirmed our privileged relations with the North African institutions, both national and regional, active in the space sector, such as CRASTE and CRTS.

In closing, I would like to restate that ECSL's main challenge is to broaden networking teaching and contacts between the various communities, academic or otherwise, by all practicable means. The future of space law very much depends on making space law better known and more useful. I see the unique position of ECSL as ideally suited to fulfill this vision. We at ECSL are excited about the opportunities before us.

Sergio Marchisio
ECSL Chairman

The 2008 IISL/ECSL Symposium on Legal Implications of Space Applications for Global Climate Change, 31 March-1 April 2008

It has by now become a custom for the European Centre of Space Law (ECSL), to organise jointly with the International Institute of Space Law (IISL) a Symposium at the opening of the annual session of the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS), upon the invitation of the Legal Subcommittee. The general approach is to allow a high-level discussion on a certain topic or theme, considered highly relevant also by the Legal Subcommittee, with input coming not only from government officials already widely represented in COPUOS, but also from international and national space organisations, the space industry and, especially, academia.

The theme of the 2008 Symposium was “Legal Implications of Space Applications for Global Climate Change”, and the importance of that topic was no doubt reflected in the fact that, for the second time, the Symposium was held on two consecutive days, 31 March and 1 April 2008, during each afternoon following directly

upon the Legal Subcommittee’s session. The Symposium was coordinated by Mrs. C. Jorgenson (IISL), Professor K.U. Schrogl (IISL) and Professor S. Marchisio (ECSL).

The first day’s session, under the chairmanship of Dr. P. Jankowitsch, addressed the principles and rules involved in using space applications for combating climate change. Thus, Professor G. Loibl (University of Vienna), spoke on “Legal Features of the Climate Change Convention: from Kyoto to Bali”, Mr. J. Lafourcade (ESA) spoke on “Space Applications and Climate Change”, Professor J. Monserrat Filho (Brazilian Society of Space Law) addressed “Legal Aspects of Cooperation for Space Monitoring of Climate Change and Sustainable Development” and Professor J. Gabrynowicz (University of Mississippi) spoke on “Promoting Access to, and Exchange of, Data and Information related to Climate Change: the Legal Perspective”. The second day’s session under the chairmanship of Professor Marchisio addressed institutions and instruments involved in the issue. Mrs. E. Oriol-Pibernat

(ESA) spoke on “Coordination Instruments and Satellite Observation of the Climate System: the Contribution of CEOS”, Mrs. G. Süß (ESA) on “Monitoring the Environment for Climate Change: the Case of GMES”, Mrs. M. Onoda (Kyoto University) on “The International Project for Monitoring Fostering Carbon Sinks by SAR”, and Professor F.G. von der Dunk addressed “Legal Aspects of Climate Monitoring by Means of Treaty Law”.

Both sessions, which had some hundred participants present, were followed by discussions that, by going well beyond the originally planned finishing time, proved indeed the importance of the subject matter as well as the level of interest of all concerned in using space applications for combating climate change as much as possible within a proper legal and institutional framework.

Frans von der Dunk
Member of the ECSL Board

European Rounds of the Manfred Lachs Space Law Moot Court Competition Riga Graduate School of Law, April 16-19, 2008

The European Rounds of the Manfred Lachs Space Law Moot Court Competition took place at the Riga Graduate School of Law, Riga, Latvia, from April 16 until April 19, 2008. There were eight teams (27 participants) registered from the following universities: University of Leiden, Faculty of Law, International Institute of Air and Space Law, The Netherlands; University of Inner Temple, London, UK; Riga Graduate School of Law, Latvia; John Paul II Catholic University of Lublin, Poland; University of Strathclyde, Glasgow, Scotland; University of Augsburg, Germany; Catholic University of Leuven, Belgium; University of Paris XI, Sceaux, France. They all proved to have carried out excellent researches.

The students solved a hypothetical dispute entitled: “Case concerning the continued provision of lifeline satellite services to countries in the face of satellite operator insolvency, *Concordia and Landia v Usurbia*” which sought “to explore the extent to which international law considerations,



Teams, Judges and Timekeepers

including the various Outer Space Treaties, can and should afford protection to developing world countries that are uniquely dependent on satellite capacity to meet their telecommunications requirements under

such circumstances, independent of any protective mechanisms that may possibly be available from continued oversight by any currently-existing residual inter-governmental satellite organizations” (see



Ms. Lesley Jane Smith and Mr. Sergio Marchisio



University of Augsburg, Germany, the winning team

the International Institute of Space Law Moot Court 2008 brochure).

This exercise, split into two parts (submission of memorials for both the Applicant and the Respondent and oral arguments in front of a panel of space experts), gave the students the opportunity to improve their English and to put into practice their knowledge in space law.

The judges who evaluated the written briefs were Ms. I. Zilioli, Ms. L. Ravillon and

Ms. G. Goh whereas the judges for the oral pleadings were Mr. S. Marchisio, Mr. O. Ribbelink, Ms. E. Back Impallomeni, Mr. C. de Cooker, Ms. K. Metcalf-Nyman, Mr. A. Kerrest and Mr. M. Lejniaks.

The winner of the European Rounds of the Competition was the University of Augsburg, Germany (Mr. Christian Odehnal, Ms. Melanie Ortlieb, Mr. Maximilian Widmann and Ms. Sarah Schumann, coach). The runner-up was the University of Leuven, Belgium (Mr. Mathieu Soete, Mr. Kai Xiang

Teo and Mr. Batist Paklons, coach). The best oralists were Mr. Kai Xiang Teo, University of Leuven, Belgium and Mr. Dymtro Chybisov, Riga Graduate School of Law, Latvia. The best written briefs were assigned to the University of Augsburg, Germany and to the University of Paris XI, Sceaux, France.

The day before the Semi-Finals and the Regional Final, an evening Buffet at RGSL sponsored by the Investment and Development Agency of Latvia was organized for all the participants.

The last day, after the Final, the participants visited the University of Latvia's new telescope located in the Astronomical Tower of the University under the guidance of Ilgonis Vilks, researcher of the Institute of Astronomy. He explained to us that the new telescope will provide a more qualitative and comfortable demonstration of space objects for the largest amount of interested persons and that it always finds the North and communicates with GPS satellites. He stressed that the new telescope can find automatically a chosen object and that all planets of the Solar system can be viewed through this telescope.

The participants of the Competition enjoyed the Closing Dinner sponsored by the Latvia State Radio and Television Centre and which took place at the "Restaurant Gourmand". During the Dinner, ECSL delivered gifts to the best students mentioned above.

The departure day, an informal excursion around the city was organized by Inese Druviete, an RGSL lecturer. This tour of the city was a good opportunity for us to appreciate the impressive architecture, as well as the Latvia's cosmopolitan atmosphere. We visited both the Old Town and the New Town, with some excellent Art Nouveau architecture.

The ECSL takes advantage of this opportunity to thank the Riga Graduate School of Law, Latvia (Ms. Lesley Jane Smith, Ms. Anna Jermakovica and Inese Druviete), Ilgonis Vilks, the University of Latvia, the Scott Group Limited, the Investment and Development Agency of Latvia (LIAA) and the Latvia State Radio and Television Centre (LVRTC) for having hosted and sponsored the event.

Melanie Vincent
Executive Secretary of the ECSL

The 17th Manfred Lachs Space Law Moot Court Competition World Finals 2008

The University of Augsburg, Germany, represented the European Region at the World Final of the Competition which took place during the 59th International Astronautical Congress in Glasgow, Scotland, on Thursday, October 2nd, 2008 at the City Chambers. The University of Augsburg had the highest score for the briefs and went directly to the Final Round. Georgetown University, Washington DC (USA) and the University of New South Wales (Australia) met in the Semi-Final on Tuesday, September, 30. The latter won the Semi-Final.

The Universities of Augsburg and of New South Wales competed during the Final. The latter won the Competition. The Final Round was judged by two members of the International Court of Justice (Judge Abdul Koroma and Judge Peter Tomka) and by Francis Lyall, emeritus Professor of Public Law at the University of Aberdeen, Scotland. The best written brief went to Germany and



City Chambers, Glasgow, Moot Court World Final

the best oralist was Ms. Madeleine Ellicott from Australia.

All teams attended the traditional IISL Dinner that was held in Oran Mor, Glasgow, and during which they were honoured in front of the IISL members and the judges of

the Final. The teams also attended the IAF Gala closing banquet on Friday night during which IISL honoured the winners officially.

Melanie Vincent
Executive Secretary of the ECSL

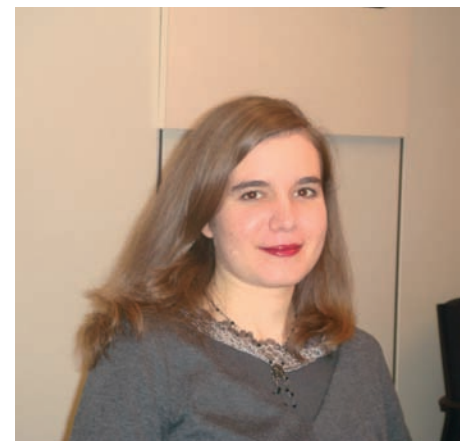
17th ECSL Summer Course on Space Law and Policy September 1-12, 2008, University of Genoa, Italy

The 17th edition of the ECSL Summer Course on Space Law and Policy was organized by the European Centre for Space Law (ECSL) and the University of Genoa, especially well-known for maritime transport and aerospace law studies under the responsibility of Mr. Francesco Munari and his colleagues. This event took place at the University of Genoa, Italy, from 1 to 12 September, 2008.

There were 35 students coming from 13 countries (Austria, Italy, United Kingdom, Spain, Belgium, Nigeria, Poland, Finland, France, Mexico, Brazil, Greece, Germany) and who had 15 different nationalities (Austrian, German, Italian, Korean, British, Nigerian, Spanish, Belgian, Polish, Japanese, French, Mexican, Brazilian, Greek, Cypriot).

The students followed 41 hours of lectures on space law and policy issues given by 36 speakers who were either academicians or practitioners specialized in the space field. Moreover, the students, divided into

8 teams, successfully solved a practical case: "Space for security: simulation of an International Call for tenders", with Prof. P. Achilleas, Director of the Institute of Space and Telecommunications Law (IDEST), Paris XI University, as coordinator. This exercise, split into two parts (a written report and an oral presentation in front of a panel of space experts, namely Mr. C. Golda, Mr. S. Mosteshar and Mr. P. Achilleas), gave the students the opportunity to improve their English and to put into practice the knowledge acquired at University and during the lessons. The preparation of the teams' projects was supervised by 4 tutors (Beatrice Weihert, German; Julie Abouyehia, French; Roberta Battista, Italian; Damian Bielicki, Polish). The tutors helped the students in their research and in their presentation. Their sense of organization, so useful for the students, has resulted in making the work of the students and the work in their favor intelligible, logical and clear. They proved to be outstanding tutors.



Melanie Vincent, Executive Secretary of ECSL

As for the awards, the best written report went to Prometheus (Kokoro Ohki, Marita Ioannou, Stefano Spano, Charles-Edward Dumont), the best oral presentation went to Space Net (Susanne Knasmueller, Francesca Ines Moretto, Kyriaki Monezi, Hyoun-Seoung Yang, Thomas Zéphirin) and the best rhetoric performance was assigned to Leonidas (Ioannis-Alexandros Ioannidis, Vincent Juillet,



Participants of the ECSL Summer Course

Daniel Konrad Link, Mari Angeles Lopez, Nina Wanke). The winning team was Space Net. At the end of the Course, the students took an exam which consisted in answering legal questions related to the lessons they attended during the two intense weeks.

The students found the lectures very interesting and helpful for the final exercise. They enjoyed working in groups and improving their English but pointed out that it was not always easy to share the work and that the second week was very stressful in the sense that the Summer Course is both a mental and physical exercise (many hours of lessons, final exercise, test). This event made them want to learn more and more about space law and policy. One of them wrote that "the Summer Course is one of the most important experience of my University studies".

The students insisted on the fact that there was a good diffusion of relevant information such as modifications of the planning and that the Summer Course was well organized.

They also appreciated the various activities proposed to them, by the University of Genoa, during the week-end (free access to the Aquarium, to the museums and to the Palazzo Ducale Tower of Genoa) and during the week (dusk flight above Portofino for the volunteers, visit of the Piaggio Aero Industries, one of the world's leading aerospace companies, lunch at Pallazzo Tursi, Gala dinner at the city hall). Thus, the Summer Course enabled the students through groups' activities to enrich their knowledge in the area of Space Law and Policy. We hope they will come across other opportunities to improve and enlarge their expertise in the field. The Summer



Some volunteers for the dusk flight above Portofino

Course was also a very good opportunity for them to meet both professionals and students coming from all over the world who are interested in the Space sector and to exchange views with them. Moreover, participating in the ECSL Summer Course is a good way to get more visibility in the field of Space Studies.

As for the speakers, they appreciated the good interaction between them and the students and underlined the good energy of the audience. They also enjoyed having in front of them students coming from different countries and who had different nationalities.

Both the speakers and the students were satisfied to stay in hotels close to the city centre and to the University.

The days we spent in Genoa will remain for all of us in every respect something unforgettable.

We hope the next ECSL Summer Course will be as satisfying as it was this year.

Our thanks will in particular go to Ms. A. Falchi, Ms. M. Palumbo, Ms. P. Fusi, Mr. F. Munari, Mr. C. Golda, and to Ms. R. Battista who have helped ECSL with regard to scientific, technical and organizational issues and who have always been present and involved at key moments.

Melanie Vincent
Executive Secretary of ECSL



Participants of the ECSL Summer Course

ECSL Summer Course 2008, Genoa: The Astronauts take the floor

The 17th ECSL Summer Course on Space Law and Policy took place in Genoa from the 31st of August to the 13th of September 2008. The 40 students coming from Europe and all over the world have been exposed to a two weeks intensive course on legal and policy aspects of space activities.

The high level of expertise that the different speakers have brought to the benefit of students, has been recognized by the national press in Italy, which covered the main events of the Summer Course.

In particular, Genoa was especially proud of hosting the opening day Mr. Franco Malerba, the first Italian (and Genoese!) astronaut who flew in the space on the 31st of July 1992 with the shuttle Atlantis and the Italian satellite Tethered. The students appreciated the very lively presentation Mr. Malerba gave them on his experience in space, giving a more

familiar glance to all of those who were used to see space as a far remote domain.

The lecture of Mr. Umberto Guidoni was focused on recent developments and practices in space activities. Mr. Guidoni also described his mission as the first European Astronaut to enter the International Space Station in the mission Endeavour STS-100 (19th of April-1st of March 2001), talking about the importance of psychological balance and different roles in the astronaut team.

Many students came close to their dreams, having the chance to talk directly with those who have been observing the Earth from a different perspective. The two Italian astronauts openly answered all the students' questions, and showed particular impressive pictures and films. However, hearing the first hand experience, has helped many of the

participant to re-centre their professional goals, understanding that being an astronaut requires very hard work and strong scientific background.

After their direct involvement in space activities, both Malerba and Guidoni have been elected as Members of the European Parliament, following different research programs and policies at the European level as well as working on the impact of space activities on other EU policies.

Lesson learnt from our conversation with the Astronauts then: looking at the Earth from space, still brings us all back to the need of working together for a closer Europe!

Roberta Battista

PhD candidate in Democracy and Human Rights, University of Genoa, Italy

ECSL Practitioners' Forum - "National space legislation in Europe – Issues of authorisation in the light of developments in European space cooperation" – ESA Headquarters, December 15th, 2008

On 15 December 2008, the most recent ECSL Practitioners' Forum took place at ESA Headquarters, drawing some 50 participants – quite satisfactorily, taking into account the closeness to Christmas and the short lead time! The theme this time was "National space legislation in Europe – Issues of authorisation in the light of developments in European space cooperation".

The meeting, which was chaired by ECSL Chairman Prof. Marchisio, was kicked off by a brief introduction of Prof. von der Dunk, Practitioners' Forum Coordinator, who *inter alia* reported on the 3rd Eilene Galloway Symposium as it had just taken place, where a closely related issue was discussed.

The next speaker, Prof. Marboe, incoming Chairperson of the UNCOPUOS Legal Subcommittee's Working Group national space legislation, kicked off the morning session on *The Bottom Line: From International Treaties to National Authorisation* with a "Brief overview of national authorisation mechanisms in implementation of the UN international

space treaties. The second speaker was Mr. Mayence, Head of Legal Unit International Relations at the Belgian Federal Office for Science Policy, who addressed the subject of "Harmonisation of authorisation regimes: a key issue for smaller space-faring nations". After the coffee break, Prof. Kerrest de Rozavel of the University of West-Brittany spoke on "Liability and insurance in the context of national authorisation". The last speaker before lunch was Dr. Smith, General Counsel on Intellectual Property with Eurospace who addressed "Intellectual property rights protection in the context of national authorisation mechanisms".

The afternoon session, entitled *Towards the Future: International, National and European Developments*, was chaired by Dr. Hulsroj, Director Legal Affairs and External Relations with ESA. The first speaker he introduced was Mr. Wouters, CEO Caribbean Spaceport, on the "Authorisation of space tourism: the case of the Netherlands", followed by Dr. Schmidt-Tedd, Head Legal Support with the German Aerospace Agency DLR, who spoke on "Authorisation of space activities after the

entry into force of the EU Reform Treaty".

Following tea, Mrs. Vandenbroucke, Coordinator Regulatory Affairs with the European Satellite Operators Association ESOA, offered "National versus European authorisation: a satellite communications industry perspective". The last speaker finally was Prof. Schaefer, Director of the Space and Telecommunications LLM Programme at the University of Nebraska-Lincoln, who spoke on "The global perspective: market access, national authorisation and GATS-principles (MFN, national treatment)".

After an animated discussion led by Dr. Hulsroj, Prof. von der Dunk briefly wrapped up the Practitioners' Forum, thanking amongst others Mr. De Cooker and Mrs. Vincent for their crucial support, wishing everyone a Happy Christmas and a successful New Year, and inviting everyone to drinks.

Frans von

der Dunk

Member of the ECSL Board

Nationales Weltraumrecht / National Space Law Development in Europe – Challenges for Small Countries

In September 2006 the NPOC Austria headed by Christian Brünner organised a conference on “National Space Law – Development in Europe / Challenges for Small Countries”. During the conference renowned international experts discussed the need for and the desired minimum contents of a national space law. Recent developments inspired the editors to produce a publication which gives an overview on national space legislation in Europe on basis of the written contributions to the conference which have been supplemented by additional material. Firstly, the need for national space laws is highlighted from the point of view of international law (Elisabeth Back Impallomeni) as well as of European law (Irmgard Marboe) and policy (Kai-Uwe Schrogl). The representative (Andrea Kleinsasser) of the Austrian Ministry of Transport, Innovation and Technology competent for space affairs shows the ministry’s perspective.

Michael Gerhard summarizes state of the art and recent trends in national space legislation which is then exemplified on the basis of the Swedish (Niklas Hedman) and Dutch (Frans G. von der Dunk) space law. The perspective of new or non-ESA countries within the ESA Plan for European Cooperating States (PECS) is outlined on the basis of the Hungarian (Enikő Patkós), the Czech (Mahulena Hofmann) and the Polish (Krzysztof Koncel) situation.

The concluding chapter is dedicated to the Austrian situation. Starting with a presentation of the satellite TUGSAT-1 (Otto Koudelka), which makes the need for an Austrian space law evident, Sigmar Stadlmeier deals with the international obligation of establishing an Austrian register of space objects. Edith Walter takes up the question if the Austrian constitution provides a sufficient basis for enacting an Austrian Space law. Finally, the protocol of the panel discussion of the 2006 conference is reprinted.

A table of existing national space laws in Europe and the English translations of the Swedish, the Belgian, the Dutch and the brand-new French laws dealing with space operations have been annexed.

As Outer Space is steadily gaining importance in research as well as economy and also small countries like Austria get ever more often directly involved in space activities, the call for a national space law is getting louder throughout Europe. The Legal Subcommittee of UNCOPUOS took account of the development by including capacity-building in space law into the Agenda of its 47th session in March/April 2008 and by the decision to establish a new working group under the Chair of Irmgard Marboe from the University of Vienna in the 2009 session.

The present book will serve as a compendium of necessities and open



questions in the context of national space legislation in Europe. Different points of view which are usually discussed in diverse journals are brought together under one cover for a better understanding of the need for national space legislation – also in small countries.

Brünner, Christian (ed.); Walter, Edith (ed.)
Nationales Weltraumrecht / National Space Law
Development in Europe – Challenges for Small Countries
Böhlau Verlag, Vienna - Cologne - Graz,
forthcoming in autumn 2008, approx. 230
pages, € 39.00 € (tentative price), ISBN 3 205
77760 3

Dr. Edith Walter
University of Graz

E-Book on Outer Space and Sea Law

The contributions to the Seminar on “Outer Space and Sea Law”, organized on December 2007 by the Research Group “International Studies”, steered by Dr. Juan Manuel de Faramiñán Gilbert, Professor of Public International Law and member of the European Centre for Space Law Board (ESCL), will be published as an E-Book in September 2008. It is introduced by a foreword from the Spanish Ambassador Mr. José Manuel Laclea, former President of the Spanish Centre of Space Law (CEDE), and concluded by an epilogue from Prof. Dr. Sergio Marchisio, Professor of Public International Law in the University of La Sapienza and Chairman of the ESCL Board.

The participants, members of the research project “Comparative Study of the Outer Space and Sea Law”, financed by the Spanish Ministry of Education and Science (SEJ2004/06116), have analysed several topics as: “Activities in the Deep Sea-Bed and on the Moon and Other Celestial Bodies: consequences of the common heritage of mankind” by Prof. Dr. Faramiñán Gilbert; “State Responsibility in the Sea Law and the Outer Space Law” by Prof. Dr. Armel Kerrest, from the University of Brest (France); “Security Issues in Outer Space Law and Sea Law”, by Prof. Dr. Philippe Achilleas, from the Institute of Space and Telecommunications Law of the University of Paris-11th (France); “Protection of the Environment in Outer Space

and Sea Law” by Prof. Dr. Victor L. Gutiérrez Castillo, from the University of Jaén (Spain) and Ms. Rocío Caparrós del Moral, from the International Astronautical Federation (IAF, France); and “European Policy on Outer Space and Sea” by Prof. Dr. M^a del Carmen Muñoz Rodríguez, from the University of Jaén (Spain). Finally, it contains an Appendix with the most important General Treaties, UNGA Resolutions, and European Documents related to Outer Space Law and Sea Law.

Prof. Dr. M^a del Carmen Muñoz Rodríguez
University of Jaén

The UNIDROIT Space Assets Protocol: Promising News

2008 registered a substantial progress with the preparation of the draft Protocol on Space Assets to the Cape Town Convention on International Interests in Mobile Equipment, negotiated within the UNIDROIT Committee of governmental experts, which held two sessions in Rome on October 2003 and 2004. Having acted as Chairman of both sessions, I can say that the Committee has not been able to meet since October 2004 for two main reasons: the priority that UNIDROIT had to give to the Protocols on Matters specific a) to Aircraft Equipment and b) to Railway Rolling Stocks, and the fact that some key issues were referred to intersessional work. Building consensus on these outstanding issues was considered essential before restarting the intergovernmental negotiation process.

To achieve this goal, the UNIDROIT Secretariat gathered, on a first phase, two special Government/industry meetings, one hosted by the Royal Bank of Scotland in London on 24 April 2006 and the other in New York on June 2007 by Milbank Tweed Hadley & McCloy. The main conclusion reached during the second meeting was that a certain degree of simplification of the text was needed, in particular that the sphere of application of the draft Protocol should be narrowed so as to concentrate essentially on the satellite, acknowledged as representing 80% of the space assets currently the subject of the type of financing envisaged by the Cape Town Convention. The simplification

of the draft Protocol become indeed the essential objective pursued through the process of preparing an alternative version of the draft to be presented to the Committee of governmental experts once reconvened.

In this line, 2008 brought several promising news. In fact, a road map was clearly agreed upon within the General Assembly of UNIDROIT which, on 29 November 2007, decided to set up of a Steering Committee, with the Governments and representatives of the international commercial space, financial and insurance communities that had participated in the intersessional meetings for the building of broad consensus around the provisional conclusions reached in New York. Germany subsequently hosted a launch meeting of such Steering Committee, in Berlin from 7 to 9 May 2008. Having chaired also this new mechanism, I can summarize the situation as follows: 1) agreement was reached on the key outstanding issues, such as the sphere of application of the draft Protocol, the definition of space assets and the extension of the Cape Town Convention as applied to space assets to cover debtor's rights and related rights; 2) two Sub Committees were set up in order to consider the default remedies regime in relation to components and the issue of the public service.

The Sub-committee on components met at Commerzbank in Berlin on 31 October and 1 November 2008 and agreed that the draft

Protocol should only address remedies that affected physically-linked assets, such as the physical movement of a satellite from one orbit to another, and their ability to generate revenue.

At this point, the process still requires a meeting of the Sub Committee on public service and a second meeting of the Steering Committee to consider the conclusions that the Sub-committees had drawn. Both of these meeting are scheduled in Spring 2009. Then a third session of the Committee of governmental experts should hopefully be reconvened, in late 2009, to finalize the draft Protocol and open the way for the Diplomatic Conference. In this respect, I would like to recall two elements: first, that the Russian Federation expressed, at the 60th session of the UNIDROIT General Assembly (Rome, December 2006) its willingness to host the diplomatic Conference for adoption of the draft Protocol to emerge from the Committee of governmental experts, and, secondly, that the Registrar of the International Registry for aircraft objects, Aviareto, expressed its interest in also running the future International Registry for space assets. The decision concerning the Supervisory Authority still needs to be cleared up during the last phase of the negotiation's process.

Sergio Marchisio
*Chairman of the UNIDROIT Committee of
Governmental Experts*

The EU's draft for a Code of Conduct for Outer Space Activities

The Council of the European Union endorsed, in its Conclusions of 8 December 2008, under the Presidency of France, the *Draft Code of Conduct for Outer Space Activities*, which was finalised by the Working Party on Global Disarmament and Arms Control (WPGD) and approved by the Political and Security Committee (PSC), after more than a year of work within the Council Working Group on Disarmament in the United Nations (CODUN).

The draft Code, in which States would participate on a voluntary basis, includes transparency and confidence-building measures (TCBM), as a basis for consultations with key third countries that have activities or interests in outer space, with the aim of reaching a text acceptable to the greatest number of countries. The EU's draft Code of Conduct, which applies to military as well as civil operations in outer space, affirms the principle of *no harmful interference against space objects*, as well as the *freedom of access to, exploration and use of outer space and exploitation of space objects for peaceful purposes without interference*, fully respecting the security, safety and integrity of space objects in orbit; the establishment and implementation of national procedures to minimize the possibility of accidents in space, collisions between space objects or any form of harmful interference with other States' right to the peaceful exploration and use of outer space; it calls upon States to *refrain from any intentional action* which will or might bring about, directly or indirectly, the damage or destruction of objects in outer space.

The legal and institutional setting of the draft Code is under Title V (Articles 11-27) of the EU's Treaty (Nice 2001) on Provisions concerning the Common Foreign and Security Policy (CFSP). The second Pillar of the EU's Treaty is governed, as it is well known, by the intergovernmental method, while the Commission is associated to the work. The Presidency in office, assisted by the Secretary General/High Representative (SG/HR), keeps its role and prerogatives according to the Treaty, both internally within the EU and when coming to the external representation of the EU.

The consolidation of this initiative within the second Pillar of the EU Treaty is easily

explained if we look at its origin. The EU proposal of a draft Code was first conceived as a food for thought paper circulated by Italy on March 15, 2007. I make here reference to the draft Document proposed by Italy within the United Nations Conference on Disarmament (CD), entitled "*Food for Thought on a Possible Comprehensive Code of Conduct for Space Objects*" and linked to the issue of the prevention of arms race in outer space (PAROS). The Italian interest for this matter dated back to the Seventies, when similar initiatives were presented to the CD. More recently, the Space Security Program of the Henry L. Stimson Center, led by Michael Krepon, circulated a model text of a Code of Conduct for Responsible Space-Faring Nations.

The scope of the Italian proposal was explained by Ambassador Carlo Trezza in his paper on "*A Possible Comprehensive Code of Conduct for Space Objects in an EU Perspective*", presented at the "*EU Conference on Security in Space, the Contribution of Arms Control and the Role of the EU*", held in Berlin on 21-22 June 2007 (Panel 3 on "*Arms Control Approaches in Outer Space*"). It considered that a more focused EU approach to this issue within the framework of both the CD and UNGA would propitiate the adoption of a program of work to allow the CD to resume its institutional task. The Italian diplomacy noticed also that in spite of a repertory of existing TCBM, there were gaps; it therefore proposed to the EU partners to share the work it had been doing on its own, as a possible "food for thought" of the EU on a Comprehensive Code of Conduct which should codify new confidence building measures and strengthen existing best practices. After all, the EU unanimously voted in favor of UNGA resolutions regarding TCBM in outer space, while most EU's countries co-sponsored the resolutions inviting member States to submit to the Secretary General "concrete proposals on international TCBM".

Following the EU's reply to GA Resolution 61/75, the Portuguese Presidency prepared a *Food for Thought on a Comprehensive Code of Conduct for Space Objects (2nd REV.)*, based, among others, on the principles of freedom to use outer space for all for peaceful purposes; preservation of the security and integrity of space objects in orbit and due consideration for the legitimate security and defence interests of States. The same

EU's Joint Reply was also adopted to UNGA Resolution 62/43 "*TBCM in Outer Space Activities*" of 5th December 2007. The EU's initiative is not alternative to the proposal on a draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects (PPWT) submitted by China and Russia on 12 February 2008 to the CD.

From the internal point of view, a pool of EU's experts on outer space was designated by Member States, to support the elaboration of the draft code and the decision-making in CODUN. The endorsement of subsequent revised version of the draft Code taken by CODUN, opened the way for a first round of bilateral consultations during the second half of 2008. As a general rule, it has been the Presidency, assisted by the SG/HR, to ensure the continuity of work and to launch the consultation process, inviting experts from the interested EU Member States to take part in the Troika meeting with third States.

The draft Code is a text open for discussions, comments and consultations by third States. A next round of consultations will involve other space faring countries during the first half of 2009. As such, EU efforts to engage with third States is aimed at gaining the widest possible support for an *International Code of Conduct for Outer Space Activities*. Moreover, the EU's initiative should be considered as self-sustained, so that a diplomatic ad hoc Conference of adhesion might be considered if a sufficient number of countries show interest in the Code.

It is without saying that the draft Code is fully in line with the on-going process of elaboration of a European Space Policy (ESPI) within the EU's second Pillar in coordination between the EC, the European Space Agency (ESA) and Member States on their activities and programmes, and organization of their respective roles relating to space both in civil and security and defence areas.

The text of the EU's Draft Code of Conduct for Outer Space Activities is available here: <http://register.consilium.europa.eu/pdf/en/08/st17/st17175.en08.pdf>

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Workshop international "L'Outil spatial pour la Gestion des Catastrophes et des Situations d'Urgence en Afrique - Aspects Techniques, Organisationnels et Juridiques"

Rabat, Maroc, 10-12 novembre 2008

Plusieurs spécialistes des applications spatiales et de la protection civile africains et européens se sont réunis à Rabat du 10 au 12 novembre 2008 dans le cadre du Workshop international "L'Outil spatial pour la Gestion des Catastrophes et des Situations d'Urgence en Afrique - Aspects Techniques, Organisationnels et Juridiques". L'évènement a été co-organisé par le CRAST-LF, l'ISESCO, le CRTS, l'EMI et l'ONU/OOSA avec le soutien de l'ESA/ECSL. La communauté spatiale a présenté les outils mis à la disposition des Etats en termes de télédétection, notamment la Charte internationale "Espace et catastrophes majeures" et l'Initiative DMC Disaster Monitoring Constellation ainsi que les techniques d'utilisation des données dans le cadre de programmes d'application (projet HEWS Health Early Warning through Satellite, Projet IRMA - Integrated Risk Management for Africa...). Des représentants des administrations africaines ont, quant à eux, fait part de leurs besoins et leurs expériences relatives à l'utilisation des réseaux d'information spatiale pour la prévention et la gestion des catastrophes à travers des situations concrètes: la prévention des risques volcaniques au mont Cameroun; l'érosion côtière au Bénin; l'inondation de la région de Ghardaïa

(Algérie); les risques et changements climatiques au Burkina Faso et au Sahel... Le volet juridique s'est concentré sur le cadre légal de l'utilisation des technologies spatiales pour fournir des informations et services dans la gestion des catastrophes et situations d'urgence. L'ECSL a ainsi remplacé le thème de la conférence dans son contexte juridique international et européen. Laurence Ravillon (Université de Bourgogne) et Philippe Achilleas (Université Paris-Sud 11) ont ainsi présenté plusieurs communications sur: les aspects juridiques de l'utilisation des technologies spatiales à des fins de gestion des catastrophes; la télédétection par satellite renfort du droit international de la gestion des crises; et le cadre juridique de l'utilisation des données de télédétection et la Charte "catastrophes majeures": objectifs et principes d'utilisation.

Le recours aux technologies spatiales est ainsi de nature à renforcer la politique des Nations-Unies sur les catastrophes naturelles définie en trois temps: la Décennie internationale de la prévention des catastrophes naturelles (1990-2000), la Stratégie internationale de prévention des catastrophes adoptée en 1999 et la Conférence mondiale sur la prévention des catastrophes tenue du 18 au 22 janvier 2005

à Kobe (Hyogo, Japon). L'utilisation de l'outil spatial s'intègre également dans un contexte juridique général: droit de l'espace, droit de l'environnement, droits de l'homme et intervention humanitaire. Enfin, des règles spéciales ont été adoptées pour garantir l'utilisation des télécommunications par satellite (droit de l'UIT sur la priorité des télécommunications d'urgence; Convention de Tempere sur les télécommunications d'urgence de 1998) et de la télédétection par satellite (Principes de l'ONU de 1986 (droit d'accès aux données environnementales et relatives aux catastrophes naturelles), Directive 2007/2/CE établissant une infrastructure d'information géographique dans la CE (25/04/07). Il reste à s'accorder sur la mise en œuvre concrète de ces principes en particulier les conditions financières du recours aux applications spatiales et à l'accès aux informations par les Etats victimes. Les participants au Workshop ont ainsi adopté une recommandation sur l'amélioration des dispositifs existants sous l'angle de la technique et du droit.

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Workshop International

L'Outil Spatial au Service de la Gestion des Catastrophes et des Situations d'Urgence en Afrique Aspects Techniques, Organisationnels et Juridiques

Rabat (Maroc)

les 10, 11 et 12 novembre 2008

The 3rd Eilene M. Galloway Symposium on Critical Issues in Space Law

The third Symposium on Critical Issues in Space Law being held in honour of Dr. Eilene M. Galloway, on "Article VI of the Outer Space Treaty: Issues and Implementation", took place 11 December 2008 at the Cosmos Club in Washington, attracting some 60 participants. The Symposium had been organised by the National Center for Remote Sensing, Air and Space Law at the University of Mississippi School of Law, the Journal of Space Law, the International Institute of Space Law (IISL) and Arianespace, Inc.

Dr. Eilene M. Galloway is generally considered to be one of the founding giants of space law, as one of the leading participants in the legislative process on the national US level leading to the establishment of NASA in 1958 and subsequently one of the great contributors to the evolution of space law at the international level through the UN space treaties of the 60's and 70's and beyond.

The Symposium kicked off by opening remarks on behalf of the various organizing entities, notably Prof. Gabrynowicz on behalf of the National Center for Remote Sensing, Air and Space Law and the Journal of Space Law, Mrs. Masson-Zwaan in her capacity as President of the International Institute of Space Law (IISL), and Mr. Mowry on behalf of the third main sponsor of the Symposium, Arianespace Inc. As Dr. Galloway herself had not been able to join the Symposium, her

son, Prof. Galloway, presented a message of welcome and thanks on her behalf. The first speaker of the first substantive session, on "Article VI: The Legal Landscape", was Prof. Gabrynowicz, provided an "Overview of State Responsibility in a Global Commons". She was followed by the representative of ECSL, Board member Prof. Von der Dunk, who addressed the subject of "Article VI of the Outer Space Treaty in the European Context". The third speaker was Prof. Jakhu, who spoke about "Implementation of Article VI of the Outer Space Treaty in North America", whereas the session was concluded with the presentation by Mrs. Masson-Zwaan on "Article VI of the Outer Space Treaty and Private Human Access to Space".

After a coffee break, the second session dealt with the "National Implementation of Article VI by Governments". The first speaker in the session was Mr. Clerc, tackling the subject from his position as Head of the Legal Service of the French space agency CNES. Then, Mrs. Roberts shared her perspective as Senior Attorney at the Office of General Counsel of the US National Aeronautics and Space Agency (NASA) with the audience. Third in line was Mr. Tallia, who spoke from his perspective as Senior Counselor for Atmospheric and Space Services, and Research with the US Department of Commerce, more precisely with NOAA as the

national authority responsible *inter alia* for licensing private remote sensing operators in the United States. The fourth and final speaker of that session was Mr. Crowther, from the Science and Technology Facilities Council of the British National Space Centre (BNSC) in the United Kingdom.

During lunch, the participants were informed by Mr. Dodge of the establishment of an Andrew G. Haley Archive at the National Center for Remote Sensing, Air and Space Law, announced as "The Work Product of the World's First Space Law Practitioner", and he proceeded to present the audience with a number of highlights from the documents thus archived.

After the lunch break, the third and final session focused on the private sector, "Operating a Space Business Under National Laws that Implement Article VI". The first speaker here was Mr. DalBello, in his capacity as Vice-President of Government Affairs with Intelsat General, followed by Mr. Gold, the Legal Counsel for Bigelow Aerospace. The final speaker of that session was Mrs. Schroeder, of Fish & Richardson in Washington.

Frans von der Dunk
Member of the ECSL Board



Galloway Symposium

2009 Calendar of Major Upcoming Events

For regular updates, check the ECSL website www.esa.int/SPECIALS/ECSL

March 2009:	55th ECSL Board Meeting
Friday, 30 January 2009	Manfred Lachs Space Law Moot Court Competition: Registration Deadline
Friday, 13 February 2009	Deadline for Submission of Requests for Clarifications to the Moot Problem
Tuesday, 17 March 2009	Deadline for Submission of Memorials
April 2009	European Regional Rounds, dates and place to be announced
March 2009, Vienna, Austria:	IISL/ECSL Symposium at the 48th Session of the Legal Subcommittee
June 2009:	56th ECSL Board Meeting
September 2009:	18th ECSL Summer Course on Space Law and Policy, dates and place to be announced
Monday 12 – Friday 16 October 2009:	18th World Finals of the Manfred Lachs Space Law Moot Court Competition, Daejeon Republic of Korea;
December 2009:	ECSL Practitioners' Forum.

A simple e-mail to keep us informed!

Dear ECSL Members, we kindly ask you to promptly send us an e-mail (melanie.vincent@esa.int) whenever you change your address or contact details.

In this way, you will help us to keep the ECSL database always updated, avoiding envelopes to be returned to us and therefore, reducing our expenditures.

Thank you!

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