

ECSL News

Bulletin of the European Centre for Space Law — Published under the auspices of the European Space Agency

Le mot du Président

Deux années fructueuses et une Europe bouillonnante...

Ce nouveau numéro d'ECSL News est avant tout un rapport d'étape sur l'évolution de notre Centre pendant ces deux dernières années qui ont vu ses activités s'intensifier de manière très importante.

Les événements organisés par l'ECSL ont connu un grand succès, particulièrement le Cours d'été de droit et politique spatiale et le Practitioners' Forum, comme le montre le Rapport biannuel et les demandes d'information addressées au Secrétariat. Ces deux expériences seront renouvelées cette année, ainsi que le concours Moot Court, et les conférences organisées par les NPOC avec le soutien de l'ECSL.

Au delà de ces événements ponctuels, l'ECSL poursuit son effort visant à développer le droit spatial en Europe et la motivation européenne pour la recherche et la production dans ce domaine. Aussi, c'est avec plaisir que nous constatons un foisonnement d'initiatives européennes ces derniers mois. En particulier, de nombreux ouvrages ont été récemment publiés, qui montrent le dynamisme et la grande qualité des juristes européens dans cette matière, comme en témoigne la rubrique Publications récentes.

Nous souhaiterions à nouveau saluer aussi le dynamisme des NPOC qui ont, ces deux années encore, apporté une importante contribution aux activités de l'ECSL. Un certain nombre d'ateliers ont pu être organisés à leur initiative ou avec leur soutien. Les NPOC sont aussi un relais indispensable aux activités du Centre et c'est pourquoi nous tenons ici à insister sur l'importance d'une bonne cohésion interne des NPOC et d'une circulation efficace des informations au sein des NPOC et avec l'ECSL. C'est dans ces conditions que notre travail portera ses fruits et que nous atteindrons les objectifs que nous nous sommes fixés.

L'Assemblée générale nous a aussi accordé son soutien pour la mise en place d'une cotisation des membres ECSL qui, bien qu'étant symbolique, permettra à

ECSL Third General Meeting

The Third General Meeting took place on 25 June 1993 in Paris, in accordance with Article 5.4 of the ECSL Charter. The day before the meeting, a demonstration of the ESALEX system was performed.

A substantial growth — Welcoming ECSL Members to this General Meeting at ESA Headquarters, Mr. Lafferranderie, Chairman of ECSL Board, outlined the tremendous growth of ECSL's activities over the past two years, especially the initiative to organise a Summer Course and the success of the Practitioners' Forum. He wished to address special thanks to Harry Tuinder, who had been the ECSL Secretary during these two years.

The Board's Biennial Report

A Biennial Report outlining the main points presented by the Board Members has been sent to all Members.

General — The Secretary presented the Biennial Report and ECSL's main lines of action over the past two years. Membership has greatly increased and reached 420 at the time of the General Meeting. The number of NPOCs have also increased: two NPOCs have been established in the two-year period in Spain and in Belgium, and exploration of cooperation with Canada is under way. A report was provided to the participants on the events organised by ECSL during this period and on the recent improvements and projects concerning ESALEX.

Bursaries — Mrs. Courteix reported on the outcome of the bursary awarded to Mr. Emmanuel Ducasse by ECSL and the work he conducted under her supervision. Emmanuel Ducasse presented himself his report entitled *L'Europe des télécommunications par satellite: entre libéralisation et coopération*. Participants at the meeting suggested that it would be interesting to organise a workshop where Mr. Ducasse could present his work in more detail. Mrs. Courteix indicated that the Board will study the possibility of modifying the bursary programme or of transforming it into a publication prize.

Summer Course — Professor Zanghi reported on the organisation of the 1992 Summer Course on Space Law and Policy in Messina and on its great success. He also underlined some of the weaknesses noted on this occasion, in particular where working materials were concerned. Professor Martin and the Secretary reported on the organisation of the 1993 course in Toulouse. The Secretary announced the

publication of a book of basic materials and presented the project.

Practitioners — Professor Böckstiegel presented the results of efforts made for practitioners, especially the organisation of the Practitioners' Forum. The idea of providing updates on specific legal problems that lawyers encounter in their daily practice was most welcomed and this initiative will be continued this year with more emphasis on discussion with the participants after each presentation. Mrs Pichler outlined the two-year plan concerning practitioners' activities. Dr. Kröner reported on a joint project with Stephen Kahn of ESTEC for procurement documentation to be added to ESALEX. This proposal is to be further discussed and decided by the Board. The proposal found favour with the General Meeting.

Budget — The Secretary reminded the participants of the budgetary realities: the ECSL budget is currently of 331 500 FF and ECSL funds amount to 91 500 FF. With such a small budget, many activities have been achieved and support has also been received in the form of donations from Members as well as funding provided by institutions, such as the British National Space Centre for the Summer Course. The search for supplementary funding is considered a priority at present if ECSL wants to maintain its activities at the same level. This situation also justifies the need for introducing a membership fee.

Publications — Mr. Bourély reported on ECSL publications, especially ECSL News, and presented ECSL's recent publications: the new version of the booklet *Space Law Teaching in Europe* and the *ECSL Space Law and Policy Summer Course Basic Materials*. Some explanations were also provided on the initiative of ECSL Board to

chacun d'exprimer individuellement son soutien à nos activités, et viendra donner à notre budget une bouffée d'oxygène.

L'ECSL est sur la bonne voie et les deux prochaines années seront des années de consolidation de nos acquis pour nous permettre d'aller plus loin, et faire encore mieux.

G. Lafferranderie
Président de l'ECSL

foster cooperation among space law editors.

NPOCs – The NPOCs attending the meeting reported on their activities over the past two years. Presentations were made by Professor Böckstiegel for the German NPOC, Mr. von der Dunk for the Dutch NPOC, Mr. Bourély for the French NPOC, Mr. Lopez-Aguilar for the Spanish NPOC and Professor Zanghi for the Italian NPOC. These presentations showed the constructive efforts made by the NPOCs both at national level and in their relations with ECSL.

Amendments to the Charter – Dr Kröner reported on the work done by the Board concerning the structure of ECSL and explained that for the time being no major changes were needed. However, the role of the NPOCs should be recognised in the Charter (Res. 3). Also, a yearly membership fee should be introduced (Res. 1 and 2). Resolution 1 on the principle of membership fees was adopted unanimously. The question was raised of an obligation for the Board to report every two years on the management of the concerned funds, and it was agreed that such obligation was not to be written into the Resolution but would be fulfilled through the Biennial Report as is current practice. Resolution 2 on the amount of the membership fee raised more discussion, some participants being of the opinion that students should be exempted. Finally a new wording was proposed setting the fee at 100 FF for students, 200 FF for other individuals and 1000 FF for corporate members. Prof. Detter de Lupis Frankopan submitted an amendment to Resolution 3. The General Meeting, however, did not retain the proposed amendment and adopted Resolution 3.

Elections

The Secretary briefly recalled the main points of the election guidelines and the reasoning behind them. Participants, although recognising that such procedure eased the election process, noted some drawbacks. The General Meeting

requested the Board to prepare better election guidelines for the next elections. Following this year's written election, the Board was elected as follows:

Prof. Böckstiegel,
Prof. Courteix,
Prof. Detter de Lupis Frankopan,
Prof. De Faraminan,
Dr. Kröner,
Prof. Lyall,
Dr. Madders,
Dr. Masson-Zwaan,
Dr. Pichler,
Prof. Zanghi.

The Chairman raised the question of expanding the number of Board Members and proposed to have three more members with immediate effect. However, the General Meeting was not prepared to discuss that item, there being reservations

about the legal grounds for such a decision. The General Meeting proposed that the Board study the matter. It was suggested that thirteen members be elected next time, to be ratified by the General Meeting.

Future

Professor De Faraminan presented ECSL's Two-Year Plan which will guide all steps taken by the Board and the Secretariat in the coming two years. Major activities were outlined as well as the basic work to improve the efficiency of ECSL.

The Chairman thanked all the participants for their inputs and comments and closed the meeting.

Faut-il créer une organisation mondiale de l'Espace?

**Colloque, Académie Diplomatique Internationale,
Paris, 28 juin 1993**

L'idée selon laquelle il serait utile de créer une organisation mondiale de l'Espace n'est pas nouvelle, et elle a déjà fait l'objet de plusieurs propositions qui n'ont cependant pas encore abouti. Estimant qu'une réflexion sur ce sujet ne pourrait que servir l'intérêt général, le Centre d'Etudes et de Recherches sur le Droit de l'Espace (CERDE) a réuni l'an dernier un groupe de travail sur cette question, dont les conclusions ont été publiées dans un ouvrage intitulé '*Faut-il créer une organisation mondiale de l'Espace?*' (Documentation française). Le même thème a été retenu par l'Académie Diplomatique Internationale et l'Association française pour les Nations-Unies pour le Colloque qu'elles ont organisé en commun à Paris le 28 juin 1993.

Dédié à la mémoire du doyen Claude-André Colliard, qui fut à l'origine de la création du CERDE, ce Colloque a tenté de faire à son tour un inventaire des raisons qui justifieraient la création d'une organisation mondiale de l'Espace (OME), et des difficultés d'une telle entreprise.

La question centrale est évidemment celle des objectifs qui seraient assignés à une OME: répondre aux besoins des Etats en matière de contrôle des divers types d'armements et de vérification des accords de limitation ou de non-prolifération; intervenir

dans les activités autres que militaires, pour développer la coopération internationale dans les activités spatiales et pour favoriser notamment le transfert des technologies au bénéfice des puissances spatiales émergentes et des pays en développement...

La discussion qui s'est engagée après les rapports présentés sur tous ces points n'a pas permis de dégager une conclusion unanime. S'il a bien été reconnu par tous que la création d'une OME contribuerait au maintien de la paix dans le monde, que ses activités ne pourraient qu'être bénéfiques sur le plan économique, il a aussi été souligné que l'époque actuelle n'était pas favorable à la création d'institutions mondiales nouvelles et que les aspects institutionnels d'une telle organisation seraient difficiles à régler.

Mais c'est la définition du rôle d'une OME qui a soulevé le plus d'interrogations. Doit-elle avoir exclusivement compétence en matière militaire? Ou au contraire, dans d'autres matières? Doit-elle avoir une compétence double? La question reste ouverte. S'il n'a pas pu y répondre, ce Colloque aura au moins eu le mérite de la poser très clairement et de dégager les éléments qui permettront de continuer la réflexion.

Michel Bourély

ECSL summarised two-year plan

The recently-completed two-year plan of ECSL was successfully carried out and the activities of ECSL grew substantially. The objectives that the previous General Meeting identified for the Board and Executive of ECSL were surpassed. The new two-year plan is one of consolidation of the current structure and activities of ECSL. There are four main lines: the strengthening of the existing resources; development and improvement of activities launched under the previous plan; continuation of research projects under way and selection of new topics; search for supplementary means of funding.

1. Strengthening of the existing resources

There are two main ideas: a more efficient use of the existing means; better coordination with the NPOCs.

The principal tool at the disposal of ECSL, courtesy of ESA, is the legal database ESALEX. One of the main objectives for the next two years is to improve this tool by the following means:

- an in-depth analysis of past use and suitability for users' needs
- the renewal of the ESALEX structure
- clarification of the users manual
- promotion of ESALEX in Europe targeting in particular libraries
- finally, ESALEX training will be organised at all NPOCs, according to their interest and needs, as well as on the occasion of all important events organised by ECSL or NPOC

Another working tool of ECSL is the ECSL Inventory of Materials available at ESA Headquarters. The Inventory so far has been compiled on a pragmatic basis. The library will be transferred to new software and we will investigate the possibility of elaborating the inventory more frequently and by a simpler method.

Thirdly, we intend to carry out a cataloguing of research works by students and researchers donated to ECSL or ESA in conjunction with the library to give all users access to this information.

Finally, cooperation with NPOCs should be improved. The establishment of NPOCs has been a great success and has enabled a great number of activities to be carried out. This institution could be further improved by better internal organisation of NPOCs and better communication between NPOCs and ECSL to afford activities of the NPOCs better ECSL support.

2. Development of activities launched under the previous plan

This task should aim at satisfying the needs of all ECSL Members.

Academic Activities

ECSL will continue to provide support to students in their research. For the past two

years, the library has welcomed an important number of students. However, the support provided is not always satisfactory. We envisage two main actions to improve the situation: updating of the inventory and facilitating of research by students, in particular through the installation of the new system in the library and access on computer to the library references; a better preparation of students by their professors to help them use appropriate methods of research.

Summer Course. The first Summer Course on Space Law and Policy, held in Messina in 1992, was a tremendous success. Accordingly, it was decided that the summer course be continued. The second Summer Course will be held this year in Toulouse and the subsequent ones will be held in Granada and in The Netherlands. Some improvements have already been introduced this year, in particular through the publication of a book of basic materials for students. The summer course should be further improved by: upgrading the criteria for selection of students; stimulating the interest of practitioners to have them participate in the course and to give presentations; developing the quality of tutors; finding supplementary funding.

Moot Court Competitions. ECSL has organised, jointly with IISL, the 1993 European Preliminaries of the Space Law Moot Court Competition. This activity will be continued and improved.

Practitioners' Activities

The main activity of ECSL for practitioners is the Practitioners' Forum. The First Practitioners' Forum was organised in November 1992 and was a great success. It is planned to have a second Practitioners' Forum in November 1993 and to continue with this initiative in the future. Secondly, ECSL wishes to make practitioners more aware of the materials held at ESA, access to them, and the advantages of using ESALEX. Thirdly, the possibility of co-operation between academics and practitioners should be examined, as well as the feasibility of ECSL playing the role of an intermediary to facilitate such cooperation.

Overall Activities

These activities will be guided by three main lines.

- ECSL is directing efforts towards

developing knowledge of the space community (publication of a booklet on national space agencies, publication of a directory of legal departments of the space industry...).

- ECSL will continue the publication of *ECSL News*, which has encountered wide success and which is now sent, besides ECSL Members, to a large number of readers worldwide. *ECSL News* will remain for the main part an information newsletter for ECSL Members, underlining in particular ECSL events. The idea of having topics presented from time to time should also be continued and we would particularly like to encourage ECSL Members to contribute with papers. *ECSL News* should also devote significant space to practitioners' concerns and contributions. ECSL would also like to contribute to cooperation among editors of space law journals to have them share their views on possible coordination and co-operation among themselves.
- ECSL will also continue supporting and initiating colloquia and workshops in Europe.
- Finally, cooperation will be sought, whenever feasible and where there is an interest, with similar institutions worldwide, and ECSL will try to be as open as possible to activities taking place in other countries.

3. ECSL Research

The previous two-year plan listed a number of research topics to be undertaken. Two research projects were carried out, as presented in the 1991-93 Biennial Report. It is proposed to keep the remaining topics for the next two years. These topics are as follows:

- commercialisation, with special attention to launch contracts;
- actual and emerging EC law relating to satellite commercialisation/ deregulation;
- a legal regime for life in space;
- settlement of disputes in relation to such specific areas as intellectual property rights, remote-sensing, DBS and HDTV;
- jurisdiction and control: commercial implications;
- strict liability or risk liability for environmental harm caused by spacecraft;
- analyses of regimes, problems and potential solutions connected with the

- development of space law norms;
- a comparative analysis of the regulation of liability and insurance questions in space activities;
- a comparative analysis of procurement law and practice.

These items will, of course, be adapted to new developments on a regular basis by the ECSL Board. Some thinking will have to be done on the bursary programme of ECSL which has not encountered very great success in the past years. This programme will be examined for possible improvements, or alternative solutions could be found such as ECSL support for publication of exceptional research work, in the form of a publication prize.

4. Search for supplementary sources of funding

Although ESA provides ECSL with substantial financial support, we should now be looking for supplementary sources of funding for our activities. ECSL will be looking to industry, practitioners, national space agencies. The General Meeting has also voted for the introduction of a yearly membership fee, which will ensure additional funding for ECSL. We will endeavour to consolidate, and possibly increase ERASMUS' financing of the summer course. Other sources of financing will have to be identified such as the European Communities or the Council of Europe. Specific sources of funding could also be identified for particular research projects.

ESALEX Demonstration

This very complete demonstration, attended by some twenty ECSL Members, conducted the participants through the existing ESALEX system, with the help of a small guide elaborated for this occasion and called *Exploring ESALEX in 50 Steps*. Explanations were then given on the future improvements of ESALEX when transferred onto the new ESA Databases system. Finally, a prototype version of ESALEX on CD-ROM was showed to the participants. This format of ESALEX, which is easier to use than the network, raised great interest. Participants suggested that ECSL further study the feasibility of ESALEX being distributed on CD-ROM.

Next issue...

The theme of next *ECSL News* issue will be 'Space Law Editing and Publishing in Europe'. ECSL Members and readers are welcomed to send their suggestions and inputs on this theme as well as on further possible subjects.

International Colloquia

The Implementation of the ESA Convention - Lessons from the Past

Florence, 25-26 October 1993

A Colloquium, organised by ESA, ECSL and the European University Institute will take place in Florence on the Implementation of the ESA Convention. This Colloquium will present the main issues raised by the Convention both from a historical and a prospective point of view. After an introduction given by Prof. Reimar Lüst, the Colloquium will be divided into four sessions: the Birth and Evolution of the ESA Convention, chaired by Mr. Roy Gibson; Geographical Return, chaired by Dr. George van Reeth; Commercialisation (from Independence to Integration), chaired by Prof. Massimo Trella; the Agency and the Evolution of the International Environment, chaired by Mr. Enrik Grage. The aim of this colloquium is to permit an exchange of views among speakers and participants on all these issues.

Further information may be obtained from Mrs. E. Vermeer ESA, Paris (tel. +33-1. 4273 7161), or from Ms. B. de Hartogh, EUI, Florence (tel. +39-55. 468 5379).

Second ECSL Practitioners' Forum

10 November 1993

Following the resounding success of the First Practitioners' Forum held in November last year, ECSL decided to continue with this initiative. The aim of this Forum is to discuss the specific legal problems that lawyers encounter in their day-to-day practice when dealing with space activities. ECSL has, again this year, been able to attract a number of outstanding specialists who will bring the participants up-to-date on the current legal issues surrounding space activities.

The Forum will be divided into two panels. The morning panel will deal mostly with *Actual Space law Developments*. It will be chaired by Prof. K. H. Böckstiegel. Presentations will be given on *Satellite Communications* by Mr. Phillip Dann, Bird & Bird London; *Intellectual Property Issues* by Mr. Sa'id Mosteshar, Mosteshar London; *Regulatory and Policy Developments in the European Community* by Dr. Tim Howell, Deputy Head Space Telecommunications Policy Unit, European Commission, DG XIII; *A Broadcasters' Point of View on these EC Developments* by Dr. Marenin

Pichler, Legal Adviser CLT Multimedia, Luxembourg.

The afternoon panel will deal with *Issues in Space Contracts*. It will be chaired by Dr. Ralph Kröner, Trenite van Doorn, Rotterdam. Presentations will be given on *ESA Contracts* by Dr. Winfried Thoma, Head Contracts Department ESA; *Public Procurement* by Dr. Steven Kahn, Head of Rules and Procedures, Contracts Department ESTEC; *Liability* by Dr. Curt Dombek, Bryan Cave London; and *Insurance* by Mr. Dhabi, Faugère et Jutheau, Paris. Each presentation will be followed by a discussion.

Admittance to the Forum is free of charge but we can only welcome a limited number of participants. For more information please contact Miss Valérie Kayser, ECSL Secretary, 8-10 rue Mario Nikis, 75738 Paris Cedex 15.
Tel: (+33-1) 4273 7605.
Fax: (+33-1) 4273 7560.

Other Coming Events

Second ERS-1 Symposium : Final Results. Hamburg, 11-14 October 1993.
Contact: Ms. Carole Tapp, ESA.
Tel: +33.1-4273 7285. Fax: 4273 7560

44th International Astronautical Federation Congress, IAF 1993. Graz, Austria, 16-22 October 1993.

Space Law Moot Court Competition. Finals. Graz, 21 October 1993. Team of Leiden University against team of Georges Washington University.

Workshop of the Belgian NPOC, 'Review of Assistance and Cooperation Agreements with Russia in the Space and Other High Technology Fields', Université Libre de Bruxelles, 24 November 1993 (to be confirmed).
Contact: N. Sybesma Knol, tel: +32-2 641.2641 or K. Madders 32-2 648.9840

Space Law Note Pad

On 16 August, the US Court of Federal Claims has ruled, after 20 years of Court struggle, that NASA and the Pentagon infringed on the patent of Hughes Aircraft Co. Eighty-four civilian and military spacecraft are affected by the infringement. The amount of the compensation is still to be calculated, but could be around \$100 million or more. An analysis of this case will be provided in the next *ECSL News* issue.

Concours de droit spatial 'Moot Court'

Eliminatoires européennes

Le concours de droit spatial est un procès fictif de droit international devant la Cour Internationale de Justice, qui se déroule en deux phases – dépôt d'un mémoire et plaidoiries – dont les participants sont des étudiants de facultés de droit ou enseignant le droit de l'espace. Le but est de promouvoir la connaissance du droit de l'espace chez les étudiants en leur permettant d'échanger des idées et d'approfondir leur compréhension de ce domaine du droit.

L'idée d'organiser un concours de droit spatial est très récente. En effet, la première édition a été mise en place aux Etats-Unis en 1992, par l'Association (AUSMIILL) des membres américains de l'International Institute of Space Law (IISL). Cette initiative ayant rencontré un très large succès, elle a été reprise et élargie géographiquement. Les épreuves éliminatoires ont été organisées aux Etats-Unis et en Europe, respectivement par AUSMIILS et ECSL.

Chaque Université peut présenter une équipe, composée de deux étudiants inscrits pour l'année académique en cours et assistant ou ayant assisté au cours sur le droit de l'espace. L'équipe peut inclure un remplaçant, mais seuls deux étudiants peuvent plaider. Chaque équipe est dirigée par un conseiller universitaire qui doit limiter son rôle à aider, discuter les questions générales, suggérer des sources de recherches et garantir que les mémoires et les plaidoiries sont bien les travaux des étudiants. Pour les qualifications, un mémoire et une plaidoirie doivent être préparés séparément pour le demandeur et le défenseur. La langue officielle du concours est l'anglais.

Au niveau européen, sur les 30 universités contactées par l'ECSL, quatre répondirent favorablement: Leiden, Amsterdam, Rome et Paris. Après les forfaits de dernière minute de Paris et d'Amsterdam, il ne restait en lice pour les éliminatoires européennes que Leiden et Rome.

Les deux équipes argumentaient sur l'exploitation commerciale de la Lune, sujet d'actualité à un double point de vue: d'une part, le Traité sur la Lune doit être révisé en 1994 (son entrée en vigueur n'étant que relative car seulement sept Etats, dont ne font pas partie les principales puissances spatiales, l'ont ratifié); d'autre part, la Lune est la seconde étape de la conquête vers Mars (station spatiale internationale Lune-Mars). Les mémoires ont tout d'abord été soumis par les deux équipes à un jury composé de Dr. S. Hobe, Prof. P. M. Martin et Dr. K. Madders. La compétition orale s'est, quant à elle, déroulée au siège de l'Agence spatiale européenne à Paris. Les



deux parties au procès, d'une part l'Université de Leiden, représentée par E. Boucher et G. van Leeuwen (tuteur: Prof. Wassenbergh) et, d'autre part, l'Université de Rome, représentée par A. Felli et R. Nevola (tuteur: Prof. Catalano-Sgrossi), ont plaidé devant un jury composé d'éminents spécialistes du droit spatial, Prof. F. Lyall, M. M. Bourély et M. Fasan.

Le temps de parole était limité à 30 minutes. Il devait être réparti de façon à conserver du temps pour les questions posées par les juges et pour répliquer à la plaidoirie adverse, fut scrupuleusement respecté par les parties et minutieusement contrôlé par les chronométreurs de l'Université de Paris.

La décision des trois juges a démontré que la compétition était d'un bon niveau et a fait apparaître un quasi-équilibre entre les deux équipes. Les résultats ont en effet été les suivants: l'Université de Leiden a obtenu 36,5 sur 50 pour le mémoire et 41 pour la plaidoirie, totalisant un total de 77,5 sur 100. L'Université de Rome a obtenu 36,6 sur 50 pour le mémoire et 39 sur 50 pour la plaidoirie, totalisant un total de 75,6 sur 100. C'est donc à l'Université de Leiden, dont les frais de participation au concours seront pris en charge par l'ECSL,

qu'il incombera de défendre l'honneur européen face à l'Université George Washington, vainqueur des éliminatoires américaines, lors de la Finale qui aura lieu le 21 octobre prochain à Graz (Autriche) pendant le Congrès de la Fédération Internationale d'Astronautique (IAF).

Le succès des préliminaires s'est concrétisé par la décision récente de l'ECSL de renouveler cette initiative en 1994. Les préliminaires européens seront à nouveau organisés par l'ECSL et l'IISL et se dérouleront au siège de l'Agence spatiale européenne à Paris. La finale internationale aura lieu lors du Congrès IAF de Jérusalem. Les invitations à participer et les sujets seront distribués beaucoup plus tôt que l'an dernier, afin d'obtenir des candidatures d'un plus grand nombre d'universités et de disposer de davantage de temps pour préparer des mémoires et des plaidoiries d'une grande qualité.

Anne Baillif

The 32nd session of the UNCOPUOS Legal Sub-Committee*

This year the regular UNCOPUOS session took place in UN Headquarters, New York, from 22 March to 8 April 1993, following the scheme of a general debate by Members of the UNCOPUOS on the following three items on the Agenda.

1. Early review and possible revision of the principles relevant to the use of nuclear power sources in outer space. Because of the adoption by the General Assembly last year of the Principles relevant to the use of Nuclear Power Sources in outer space, discussions were at a very early stage.

The US Delegation stated that it was not prepared to put forward any suggestions for revision of the NPS Principles at this year's session, whilst other delegations stressed the usefulness of the Principles and requested that they remain on the agenda for possible future revision.

There was recognition that it would be difficult to revise the Principles at this stage given that they were adopted only a few months ago after many years of preparation, and that there has been no practice so far.

The UK emphasised the legal mandate of this sub-committee and the need to hear the views of the technical and scientific sub-committee before assessing the need for revision of the Principles.

2. Definition and delimitation of outer space; character and utilisation of the geostationary orbit; ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

The general debate this year again recorded the views of a number of equatorial States claiming that a special legal regime for geostationary orbit is necessary and logical as a follow-up to generally accepted principles already embodied in international law (such as the ITU Convention). In keeping with this trend, the prospect of such a regime extending to the regulation of the safe use of outer space, which might also include the debris issue, was also discussed. There was talk of the space debris issue being included in future agendas but no decisive steps were taken to this end.

A more animated exchange of views was provoked again this year by the issue of delimitation as channelled now by the Russian proposal on future exploitation of aerospace systems which was introduced last year by the former USSR initiative as

documented by a UN paper. The inference is that since there is a substantive difference between air and space, a spaceplane should be viewed differently according to its location.

The European Delegations, having held a special coordination meeting on this subject, were united in presenting the European view. Germany in particular, with the open support of several European States, highlighted how this definition might raise the question of passage rights. The developed countries' declared objective has been to reiterate that the delimitation of outer space is for the time being unnecessary, inappropriate and even risky as it could hinder the free development of future technology. As a conclusion to this reasoning it was suggested that more information be made available by those States with some experience in this field before addressing the issues, thus challenging the idea of already forming customary law, and inviting the Russian delegation to disclose their trajectories of re-entry for Buran.

3. Legal aspects related to the application of the principle that exploration and utilisation of outer space should be carried out for the benefit of all States, taking into particular account the needs of developing countries.

For a second year in a row, discussions on this item focused on the principles contained in a working document presented by a group of 10 States, (seven of them from Latin America) which had been revised to take into account comments made during the 1992 session. The principles outlined in the document are far-reaching but could be seen as variations on two main themes: a) States are sovereign in deciding the modalities of their cooperation, and b) the main objective to be pursued by international cooperation in Outer Space should be the development by all States of indigenous capability in space science and technology and their applications. The scope of these two themes is broad enough to allow delegations, whatever their sensitivity with regard to the issue, to make a significant contribution to the debate, thus moving away from what could have been an adversarial exchange of views between developed and developing countries. Some fine-tuning was also made as

regards the actual wording of the text put forward for the discussion, with delegations commenting on the meaning that should be attached to expressions widely used in UN legal instruments, such as 'solidarity', 'non-discriminatory' and 'equitable'.

One European State's delegation may have set the tone for the developed countries' approach to next year's debate by stressing that in view of the current economic and social constraints which influence governments' action with regard to international cooperation, it will be necessary to determine the precise implications of the provisions submitted to the Sub-committee for consideration so that corresponding decisions are taken with full knowledge of the facts. It is expected that the 1994 session will provide an occasion for discussion once again on the basis of a revised version of the working paper referred to above. There is a need for delegations of European States to develop further their views on this matter for next year's debate and to proceed with appropriate coordination with a view to identifying a common European position.

While the session as a whole was characterised by a general decrease in momentum, certain issues still appear to have provoked some significant reactions and positions, which should have repercussions on future sessions.

The duration of the Sub-committee session remains three weeks although developed countries have indicated that they would prefer it to be shortened or at least made more flexible in the future.

By decision of the UNCOPUOS plenary session in June 1993, the Vienna offices of the UN have, for the first time and on a provisional basis, been retained as the venue for the 1994 session of both the scientific and legal Sub-committees and the full UNCOPUOS. Alternative arrangements with other UN offices such as Geneva or New York would still be considered. We will see the follow up of these discussions next spring in Vienna

Marco Ferrazzani

* The views expressed here do not necessarily represent those of ESA or of its Member States

Workshop on Intellectual Property Rights in Outer Space

A Workshop on Intellectual Property Rights in Outer Space was organised on 26 May 1993 by ECSL in coordination with the Spanish Centre for Space Law.

The meeting took place at the Diplomatic School in Madrid and was opened by its Director, Mr. Armengod and Professor Pastor Ridruejo, the President of the Spanish National Point of Contact. Fifty to sixty people from several European countries actively participated in the sessions. After a video presentation on microgravity sciences, Mr. J.-J. Dordain, Head of ESA Microgravity Programme, analysed its historical importance and major results obtained in the microgravity environment, more specifically aboard space stations and space platforms.

Mr. A. Tramposch, from the World Intellectual Property Organisation summarised the existing legal framework, particularly insofar as it could be applied to the protection of inventions made and used in relation to space activities. Following his presentation, Dr. M. Oehm, Legal Adviser of ERNO and Prof. G. Ghidini, of Milano University, reported on practical issues, i.e. the legal criteria to be adopted in order to accommodate the standard patent system to the



phenomenon of IOS (Inventions in Outer Space...)

The afternoon session started with a concrete analysis of the legal aspects of the International Space Station addressed by Mr. A. Farand, from ESA. Finally, Mrs. A.-M. Balsano, expert on Intellectual Property issues in the ESA Legal Affairs Department, presented the results of the ECSL Research on Intellectual Property Rights in Outer Space.

That important study, together with the questions raised and answers received, emphasises the urgent need to harmonise international legislation. Due to the insufficiency of current patent laws, the participants, after an exchange of viewpoints and

opinions, decided to transmit to ESA, WIPO and national authorities..., their interest in punctual follow-up of the main issues and conclusions.

The creation of an ad-hoc group was envisaged and before the end of the year, a new meeting will allow interested institutions and experts to work efficiently on this subject.

J. M. Lopez-Aguilar
Centro Espanol de Derecho Espacial
Spanish NPOC

Le droit face aux techniques de télédétection par satellites au service de l'environnement

Organisé à l'initiative du Centre de Droit de l'Environnement, du Centre d'Etudes et de Recherches sur le Droit de l'Espace, du Groupement scientifique de Télédétection spatiale et du Groupe Universitaire et d'Etudes sur l'Espace, les 2, 3 et 4 juin derniers au Conseil de l'Europe à Strasbourg, ce Colloque résolument interdisciplinaire sur le droit face aux techniques de télédétection a permis de mettre en rapport les différents utilisateurs de la télédétection. Les juristes, à l'écoute des scientifiques et des sociétés productrices de données satellitaires ont ainsi pu confronter leurs points de vue quant aux besoins et contraintes rencontrées par chacun dans l'exercice de ses fonctions.

La première journée a été consacrée à la présentation scientifique des grands problèmes de l'environnement (effet de serre et réchauffement global de la Terre, destruction de la couche d'ozone, déforestation et désertification, pollution et enfin catastrophes naturelles). Cette session résumait les besoins et demandes des spé-

cialistes de l'environnement auxquelles ont répondu les spécialistes de la télédétection (les catégories des mesures télédéetectées). Le lendemain, une description détaillée a été faite des types de données et des systèmes de collecte et de distribution (cadre technique et institutionnel) par des responsables des différents opérateurs de satellites qui visent au contrôle de l'environnement (ERS, Landsat, Radarsat, Spot, MOS-JERS, le système soviétique). Enfin, le troisième jour, les conditions d'accès aux données ont été abordées (les principes adoptés par les Nations Unies en 1986, la Convention de Moscou de 1978, les systèmes juridiques communautaires et nationaux), suivies d'une séance sur la possibilité de créer un système global de données sur l'environnement, abordant l'idée de création d'une Agence internationale de diffusion des données satellitaires. Les conclusions ont été tirées par M. Paul Fauteux du Ministère Canadien des Affaires Etrangères.

Les Actes du Colloque sont en cours de publication. Pour tous renseignements s'adresser à Mme Courteix, CERDE, Institut de Droit Comparé, 28 rue Saint Guillaume, 75007 Paris.

Catherine Smith

Meeting of Space Law Editors

The Board of ECSL discussed at its last meeting the advantages that could accrue from closer cooperation between editors and publishers of space law journals and books. The Board felt that ECSL should play a positive role in bringing about such cooperation. In this context, a meeting was organised, right after the General Meeting, which gathered representatives of *Revue française de Droit aérien*, *Space Policy*, *Chronique des Activités spatiales*, *Zeitschrift für Luft und Weltraumrecht*, *Il Diritto Aereo, Air and Space Law* (Kluwer Publishers), Martinus Nijhoff Publishers, and ECSL. Discussion centered on what could be achieved by coordination, in particular insofar as articles on the same topic are concerned, the interest of exchanging articles or their translation, as well as of exchanging copies of the journals and cross-advertising. Another important topic concerned the possible ways in which ECSL could help editors. Ideas given favourable airings included keeping editors informed of forthcoming ECSL events at which they might exhibit their publications, and the listing of publications in *ECSL News*. The editors of *ECSL News* were also considering a special issue of the periodical with major items on space law editing and publishing in Europe.

Félicitations

Nous adressons, au nom de l'ECSL, toutes nos félicitations à M. Gabriel Lafferranderie qui a reçu le 15 mars 1993, de M. Hubert Curien, ministre de la Recherche et de l'Espace, les insignes de chevalier dans l'Ordre national du Mérite. Cette distinction vient couronner des années de contribution à l'Europe spatiale, d'efforts pour développer la science juridique dans ce domaine, et d'initiatives fructueuses au nombre desquelles figure l'ECSL qui lui doit beaucoup.



Recent Publications

European scholars have been particularly active these last months and quite a few interesting books have been published which will contribute to Europe's image in the field of space law.

Manned Space Flight, Legal Aspects in the Light of Scientific and Technical Development. Proc. Intl. Coll., Cologne, 20-22 May 1992, K.H. Böckstiegel edit., 1993. XIV + 404 p, Carl Heymans Verlag.

L. Peyrefitte, *Droit de l'Espace*, Précis Dalloz, 350 p., Dalloz, Paris, 1993.

I.H.Ph. Diederiks Verschoor, *An Introduction to Space Law*, 238 p, Kluwer Law & Taxation Publ., Deventer 1993.

M. N. Andem, *International Legal Problems in the Peaceful Exploration and Use of Outer Space*, 500 p, Univ. of Lapland Publ. in Law, Series B20, Rovaniemi 1992.

Yearbook of International Environmental Law, Vol. 3, 1992, VII.2. Outer Space, Peter Malanczuk, 864 p, Graham & Trotman/M. Nijhoff Publ., London etc.

Space Policy, Aug. 1993, Vol. 9, N° 3. Authors: A. Ade Abiodun, Ad Hoc Expert Group IAA; W. Pritchard; H. Qizhi; P. M. Sterns & L. I. Tennen; J. S. Greenberg...

S. Hobe, *Die Rechtlichen Rahmen Bedingungen der Wirtschaftlichen Nutzung des Weltraums*, 315 p, Duncker & Humblot, Berlin 1992.

Sa'id Mosteshar, *EC Regulation of Telecommunications, Telecommunications Systems and Services*, 200 p, Martinus Nijhoff Publ., 1993.

P.-M. Martin, *Droit des Activités spatiales*, Masson, Droit Sciences Economiques, 1992, 214 p.

V. Kayser, 'Une initiative européenne pour

ECSL/Dutch NPOC Workshop on New Opportunities for Cooperation in European Space Activities ESTEC, 26 March 1993

Some forty persons attended this second Dutch NPOC/ECSL Workshop which was originally planned to be held in 1992. Due to the Ministerial Conference of ESA in Granada in 1992, the Workshop was postponed until March 1993. The Workshop was chaired by F. von der Dunk, co-director of the Leiden Institute of Air and Space Law. All current issues in the changing landscape for European space activities were addressed in this Workshop which therefore served the purpose of briefing the NPOC members on the latest developments with regard to relations between ESA and the CIS countries, the initiatives

taken by the European Commission, the position of Germany vis-à-vis former 'East Block' countries (Germany for example is a member State of Intersputnik as a result of reunification), and the negotiation of contracts between ESA and Russian companies implementing the increased cooperation as decided by the ESA Council. Finally, also the Dutch position in ESA was addressed to provide an example of the position of small countries in the Agency and their specific needs and problems. A panel discussion with the participation of all speakers concluded the Workshop. It can be said in conclusion, that this Workshop proved valuable in informing the NPOC members on the latest developments in Europe. The Proceedings of the Workshop are expected at the end of the year.

Harry Tuinder

le développement du droit des activités spatiales: le Centre européen de droit de l'espace (ECSL)', *Bull. Asso. suisse de Droit aérien et spatial*, Sept. 1993.

ECSL Space Law and Policy Summer Course, Basic Materials, M. Nijhoff Publ. 1993. Avail. at ECSL: 185 FF; ECSL members: 150 FF until end 93.

Centre d'études et de recherches sur le droit de l'espace, *Chronique des Activités spatiales*, Janv. 91 - Mai 92. Inst. Droit comparé, Univ. Paris II & CNRS. Avail. at 28 St-Guillaume Paris.

Zeitschrift für Luft und Weltraumrecht, N° 3, 1993. Authors: P. Salin; W. von Kries; H.-J. Heintze...

E. Ducasse, *L'Europe des télécommunications par satellite : entre libéralisation et coopération*, Etude sous la direction de Mme Courteix avec le concours d'ECSL, mai 93. (free at ECSL).

ECSL, *Space Law Teaching in Europe*, M. Nijhoff Publ. 1993. (free at ECSL).

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