Outlook on Space Law Over the Next 30 Years

Gabriel Lafferranderie (Editor), *Introduction*, at 6

The global nature of this field of law can be seen from the [following] range of commercial activities. It is called upon to regulate (international trade and launch services, insurance and liability, copyright, intellectual property rights) by the new legal concerns which it is quite naturally called upon to accommodate, as new legal instruments are negotiated. ... A paradigm case is the international space station, a cooperative venture involving a number of states and designed to support a very wide range of activities covering scientific research and applications, with people of various nationalities called upon to handle experiments proposed by various investigators and users. The station, linked directly to laboratories on the ground and resupplied by a fleet of space vehicles coming under the jurisdictions of a number of countries, gives rise to something akin to “global law,” a “melting-pot” of various national legal provisions fashioned for the purposes of the utilisation of space, ... in pursuance of international cooperative activities undertaken for the benefit of all mankind but with due regard for the specific interests, rights and obligations of the promoters.

Most activities undertaken on Earth can also be carried out in space—in Earth orbit, on the Moon, en route to other celestial bodies. Securing understanding of the Earth’s environment and hence a better standard of living for the whole planet ... improving our knowledge of the Universe and hence our origins and our future: space as the new cradle of mankind to adapt Tsiolkowski’s well-known expression. Activities in these various areas—research, exploration, and now the utilisation of space—imply the need for legal provisions and these must encompass the securing of the necessary financial and technological resources. ... In many fields of law a major question today is whether it is possible to stand aside from the construction of this global law [as well as] ... the contribution which space exploitation can make to the maintenance of international peace and security.

The players: space law is no longer the sole prerogative of States. Space activities will in the future be conducted on three fronts—by States, international organization and the private sector. International organizations have come to the fore as structures for cooperation and as generators of legal texts; they should aim for similar prominence in the development of [space law] norms.

Defining space activity and the use of space for peaceful purposes, delimiting airspace and outerspace; from the outset opinions were divided on the case for legal definitions of these concepts. ... Astronauts in space or on the Moon thus be able to rely on a special regime and would have their rights and obligations more clearly defined. Well-established themes such as liability, registration and settlement of disputes will themselves be affected by new forms of space activity and will have to be further developed and perhaps adapted to new circumstances.
[A]rticle IV of the [1967 Moon] Treaty fails to address the question of the militarisation of space. This is an astonishing omission if one looks back to the emergence of projects such as the [Reagan, and now Bush “Star Wars”] Strategic Defense Initiative and considers that space is today an integral part of military planning ..., with the development of anti-satellite weapons etc.