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Introduction : The Legal Aspects of Inhabited Space Stations

By DR. I.H.PH. DIEDERIKS-VERSCHOOR

INTRODUCTION

The legal status of orbiting inhabited space stations is currently one of the most important considerations of outer space law. Space stations, like other space objects, will be governed by general principles laid down in international space conventions. At present, international agreements in force do not contain any special rules for space stations.

The idea of developing inhabited space stations is not new. As early as the 1960's, President Johnson of the United States was in favor of developing such a vehicle but until recently, American efforts to develop inhabited space stations have been hampered by lack of financial resources. In contrast, the U.S.S.R. has already constructed small and temporary inhabited orbiting space stations, such as the Salyut. Canada, Germany, Italy, Japan and the European Space Agency (ESA) are also studying the feasibility of placing inhabited space stations in orbit. On January 25, 1984, President Ronald Reagan announced in his State of the Union address that the United States will also pursue development of a permanent inhabited station.

As a result of the interest in inhabited space stations, several legal problems are emerging. The most significant issues include the legal status of inhabited space stations, station commanders and crew; the right of ownership of the station when more than one country is involved; registration of the station;¹ and responsibility for safe rescue and return of the crew in an emergency.

Other issues to be decided pertain to the exercise of control over the spacecraft, the need for an international agreement to determine jurisdiction in cases where more than one country is involved,² and the question

1. One potential registration problem arises from the situation where a space station consists of separate elements transported into space via separate flights, which raises the question of whether each part should be registered separately.

2. C. CHRISTOL, *THE MODERN INTERNATIONAL LAW OF OUTER SPACE* 824 (1982). While international organizations have no jurisdiction over space stations under current law, certain commentators suggest lodging jurisdiction and control in intergovernmental organiza-

of liability for damages caused or sustained by the station. Finally, these issues may be further complicated by the fact that future space stations could be designed and constructed through international cooperation, and the crew may be composed of nationals of different countries.

The interest in inhabited space stations lies in the many possibilities the space stations offer for practical uses. While there is no single definition of what a space station is, it has been envisioned as a station in space inhabited by a crew and constructed to serve as a long-term dwelling or research laboratory. According to Kamenetskaya³ the most effective space stations will be long-term orbital stations designed for particular purposes and tasks. The Soviet Union is already operating such a system, called the Soviet Space Complex. Salyut 6 is a part of that system.

Professor Hamilton DeSaussure, in his lecture for the Budapest Colloquium,⁴ compares an inhabited space station with a ship at sea. The comparison, while attractive, is in my opinion not adequate because a sailing ship and space station are subject to quite different jurisdictional regimes. The sailing ship is subject to rules of law valid on the Earth, where the element of sovereignty is dominant. In contrast, the importance of sovereignty is greatly reduced in space law. The analogy would be apt, however, between the position of the space station commander and that of the ship's captain.

The European Space Agency started a new project in 1982, called the European Retrievable Carrier (Eureca). This project is funded by eight participating member states⁵ and consists of a free flying platform which would be transported into space by a space shuttle, left in orbit for up to six months and then retrieved. The platform, instruments and experiment facilities would be reusable. Eureca would satisfy the immediate needs of many scientific communities, and it would also serve as a stepping stone to further developments. The first launch and retrieval of Eureca is planned for 1987.

In addition to the many legal issues outlined above, the development

tions. It must be noted, however, that the Moon stations are covered by the Moon Treaty of 1980, so that they have a special status.

3. E. Kamenetskaya, *Certain Problems of Registration, Jurisdiction and Control*, PROCEEDINGS OF THE TWENTY THIRD COLLOQUIUM ON THE LAW OF OUTER SPACE, INT'L INST. OF SPACE LAW 179 (Tokyo 1980).

4. H. DeSaussure, *International Cooperation and Orbital Manned Space Stations*, PROCEEDINGS OF THE TWENTY SIXTH COLLOQUIUM ON THE LAW OF OUTER SPACE, INT'L INST. OF SPACE LAW (Budapest 1983).

5. The participating member states are Belgium, Denmark, France, Germany, Italy, Spain, Switzerland and the United Kingdom. EUROPEAN SPACE AGENCY, Br-16, EURECA, AN INTRODUCTION TO EUROPE'S FREE-FLYING RETRIEVABLE CARRIER 1 (1983).

of space stations must include consideration of technological, economic and political factors. In the future, large space systems will become necessary from practical and scientific points of view. The systems will hopefully contribute to further development of space applications for the benefit of all humankind. The importance of these future developments mandates full consideration of the issues raised thereby as soon as possible. Thus, it is a very appropriate moment for *Hastings International and Comparative Law Review* to devote a special issue to this subject.

