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## IS IT NECESSARY TO ESTABLISH A WORLD SPACE ORGANIZATION ?

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Never has the international political environment been so amenable to the promotion of cooperation in the field of space. The abolition of the spirit of confrontation between the superpowers, the increasing complexity and cost of space programs and the resulting need to implement a rational management of resources - all these factors lead to a strengthening of the cooperation deemed essential by the international community to joint undertakings in space.

Among all the solutions from which one could choose, must one pick the establishment of an international organization ? That is the question to which this report is addressed. The report is the result of meetings of an ad hoc French working group, set by the Center of Study and Research on Space Law in Paris, which were held in 1992.

At the outset, in relation to the diverse past proposals suggesting the creation of a worldwide organization for

outer space affairs , it was important for the group to take its bearings and to ask itself whether setting up such an organization is feasible. After carefully and cataloguing the matters that might be within the jurisdiction of a new international space organization, that is to say its potential civilian and / or military purposes, the report, relying on the experience accumulated through world space cooperation, tries to look for the most appropriate legal and institutional means to strengthen it. The report's goal is thus the setting up of a modest and flexible structure with the principal task of rationalizing the international management of space activities and giving developing countries easier access to space technologies, while at the same time exercising tight control over the exportation of the most sensitive technologies and avoiding duplication of effort.

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The idea of creating a World Space Organization is not a new one. It has been set out either as a limited proposition in order to resolve restricted purposes, or in a global form.

The first expression of this idea was made during the UNISPACE-I session in Vienna in 1968. It has been restated during the UNISPACE-II organized in 1982 in view to undertake an international action program

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in the space field. One of the UNISPACE-82 recommendation focused effectively, on the enhancement and broadening of the international cooperation involving the integration of all the activities in the UN Space Division, within a UN Space Center (1).

But one had to wait the year 1986 so as to be included, in a letter addressed by the President of the USSR Council Minister to the Secretary General of the UN, the proposal of the creation of a World Space Organization. This proposal was stated in concrete form by the deposit, in June 1988 by USSR, during the 31st session of the COPUOS, of a Organization draft of the Charter (2). The purposes settled by the Soviet charter were very ambitious since the WSO was not only the axis of a wide international cooperation and coordination of the efforts of States and international organizations in the space field, but also an instrument to control the conformity of international agreements aiming to prevent the extension of arms race in space and other agreements concerning the limitation or the cessation of arms race. This global civil and military approach, has made it possible for USSR to present the WSO charter to the different UN bodies, dealing with space affairs (Space Committee Disarmament Conference, 3rd extraordinary session of the UN General Assembly devoted to Disarmament - ESD - Special Political Commission of the General Assembly ) therefore confirming the confusion between the peaceful uses and the military uses of space. This project has not received positive echo within these different authorities. Moreover, the new political situation of the ex-USSR has led it to suspend the 1988 project.

In parallel with this WSO's creation project, but within the framework of the works on disarmament, several initiatives have been taken since 1988, particularly by France, USSR and Canada (3), in order to succeed to the creation of an international Agency of arms control by satellites.

The idea of an International Agency of arms control by satellites was first proposed by France in 1978 (4) during the first ESD, but in face of the reluctances of the two space powers to provide sensitive and expensive data coming from their own monitoring satellites, France suggested ten years later, during the 3rd ESD in 1988, the setting up of the first stage foreseen by the ISMA, under the form of a Processing and Interpreting Satellite Image Agency (PISA) (5). Developing the idea put forward by France, USSR was lead, on its part to propose the creation of a military Agency called "International Monitoring Agency " ( IMA ) (6). These two proposals, the French and the Soviet one, had this in common to establish a worldwide international organization , with the essential aim to verify the disarmament agreements and to control the natural risks and disasters thanks to remote sensing techniques from space. Linked to the UN system, this type of international Agency - having some likenesses with the IAEA - represented a new approach relating to the multilateralization of verifying techniques. But for various institutional reasons (heavy UN structure, exorbitant costs ...) political reasons (disclosure of the national technical means used) and methodology (collection, distribution and interpretation of data) none of these projects never succeeded until now.

In 1989, as everyone knows, the international situation, especially in Europe, has completely changed and these

modifications had created, as it seems to us, an exceptionally favorable climate for a cooperation in the space field.

Indeed, the abolition of the spirit of confrontation between the superpowers, the increasing complexity and costs of programs and the necessity resulting from it to assure a rational management of resources : all these factors lead to the enhancement of a cooperation considered today as essential by the international community.

After having briefly indicated the reasons why one can ask, again, the question of the possible creation of a WSO, with new chances to succeed, I still have to explain how the problem has been formulated in this new context.

It is the Center for Study and Research on Space Law of the Institute of Comparative Law which took the initiative to gather a French Ad Hoc Group, allowing a permanent confrontation between theorists and practitioners of Law, with the assistance of scientific specialists on space questions.

From an assessment of the world wide space cooperation, either in its scientific aspects or in its commercial applications, a certain number of notions interesting the possible creation of a WSO have been passed in review : they concern especially the concept of Common Heritage of Mankind, the problem of the access of the developing countries to space technologies, and consequently the control of exports of "sensitive" technologies, particularly the ballistics ones; finally the question of the arms control and the task of verification from space, along with the institutional legal aspects on the organic form to give to the WSO, the essential purpose of which would be to rationalize the international

management of space activities and avoid redundancies.

After these preliminary remarks, we were engaged in three directions : the first one consisted in characterizing the present situation of the international cooperation in the space field related to the identification of the new needs requiring some internationalization forms; the second dealt with the research of problems rose up by the possible creation of a WSO; finally bringing out these problems has lead the group to define the most realistic possible approach of a specific international cooperation form including the WSO's creation. As a general conclusion, the group finally was attached to give to its remarks a constructive form by elaborating a certain number of recommendations dealing as much to the tasks to entrust the WSO, as to the form it could have (7).

This report will therefore link up four points.

#### I - Characteristics of the present situation of international cooperation in the space field and its new requirements (8).

The most outstanding characters seemed to be :

##### 1) The extent of the international cooperation

It can be assessed :

- by the very numerous agreements on space cooperation concluded between States. They do not only concern the space powers, and they take into account the most various items going from the simple exchange of information to the use of

installations and the enforcement of programs common to two or more partners;

- by the whole range of institutional cooperation since, currently do work at the same time international space organization with a general competence or with specific scientific purposes or also aiming to operate certain commercial space uses (9).

- by the existence of structures within the UN framework, such as the Space Affairs Division, the COPUOS...

2) The extreme range of its forms and the very fragmented character of this cooperation in the present international order.

This range is certainly due to the empirism which has often marked its birth. One sees clearly indeed that even many of the organizations have been created for historical or political reasons, or at last to satisfy the requirements of some users. The result of all this is a multiplicity of functions, a plurality of structures with a probably unavoidable risk of interferences and overlappings.

3) The appearance of new demands in this last years international context.

as the radical modifications that occurred in this context, marked by the lack of confrontation between the superpowers, has favored forms of cooperation, hardly imaginable until then.

4) The birth of new needs being the result of the very evolution of the space activities themselves, requiring certain internationalization forms.

Among these new needs, one will of course quote the use of the Moon for scientific purposes, putting into orbit large space stations or exploring the deep space as well as the transportation systems allowing the access to celestial bodies. These projects require the gathering of countries really able to cooperate to such plans together. One has nevertheless to be aware that the developing countries will not want to be totally excluded from these plans. It remains then to find an associating form. However the real responsibility will rely, for an even long period, on some space faring States which have shown on one hand a political will and on the other hand have recognized the scientific and the industrial interest of these projects.

To sum up, the international space cooperation, which exists since the beginning of the space era under different forms, receives today, within the current post- cold war context, a new support. Having few political reasons not to cooperate and a lot of economical justifications to put together their resources in these recession periods, States restarted the international cooperation, considering that it is one of the best ways to realize their space programs.

Could the creation of a WSO comply with these new needs and to the necessity of a rationalization of the efforts in this field ?  
And first of all

## II - Appraisal of the problems raised by the creation of a WSO.

What ever the justifications we could give to the creation of a WSO, we did not hide ourselves that such an initiative would raise several types of problems which we

tried to apprehend, by filing them in four categories :

- 1 - Some depend on the very nature of the space activities, their cost, the effects of competition and the imperatives of national security.

- 2 - Others are of political nature and concern as much the proper policy of the space powers, sometimes reluctant to international cooperation as their relationships with developing countries.

As for the developing countries, several conditions must meet in order that the assistance given to them by a WSO would be effective. Among these conditions, one will enumerate the need of a standardization of the information in order to enable their flow not only in the North / South way but also in the South / South way, a correct analysis of the needs of these countries, lying on a study of the local capacities and structures, the integration of the project to the concerned country's policy, the assessment of the urgency level, and of the priority of the project and finally a strict definition of this project (10).

As for the economic and political obstacles, if one takes as example the launching problems, one meets a series of specific problems. They are depending on their commercial applications, dominated by the competition, expressing the economical state which underlie them. One can only notice that until now, States which have launching means and bases, are in a very limited number : USA, Europe, Japan, Russia, China. But these States are not ready to distribute, within a global framework, the technologies, proper to launchers. The idea of a WSO is thus unrealistic for this type of technology, without prejudice of the crucial

core of the problem raised by their "dual" uses (11).

- 3 - A certain number of obstacles can result from economical considerations and put a brake on an initiative tending to create new international organizations.

- 4 - At last, a serious difficulty lies in the competence of a possible organization when military activities are concerned, even if carried on peaceful purposes, as it is foreseen in the outer space treaty of 1967. Here the dual nature of most space activities usable both for civil and military purposes shows through. We will explain this aspect later on in this paper.

### III - Towards the definition of a new form of international cooperation .

The realistic approach of which the group was attached not to depart from has lead it :

- 1 - to put aside a WSO endowed with general purposes,

- 2 - to propose the setting up of a WSO with limited purposes, which would  
- be conducted on a worldwide scale,  
- be conducted in the names of States,

- not be operational,  
- not be used for commercial ends.

- 3 - to reserve the issue of military activities since it would not make a unanimous opinion among the group.

The issue raised was to know if the space cooperation mission and the ballistic technology control are to be assumed within the unique framework of a WSO (12).

Indeed two opinions were conflicting :

- According to the first opinion, the cooperation and control objectives are antinomic : the first one tend to favor the technology transfers, the second to control the exports. Joining them in a single international organization seems then unrealizable.

According to the other one, this antinomy has been insuperable as long as the control was assimilated to an embargo on the exports and was exercised at the frontiers. On the other side, evolutions have occurred, transforming the mechanisms and the nature of the control. The frontiers tend to become today less tightened. The control itself gives place to negotiations between suppliers and users in which the first ones verify the good faith of the second ones. One will apply rules of conduct and flexible mechanisms which, finally, are no more opposed to the commercial flows but on the contrary tend to accompany them. Control and cooperation are now part of a whole.

It has therefore become nearly impossible to dissociate military technology and civil technology and through the "dual" technologies, the differences between the military matters and the civil matters have ceased to be significant. In these conditions, and for the supporters of this second point of view, even a WSO with a strict civil mission could not avoid, with the implementation of a control of "sensitive" technologies , to be concerned with questions of military nature. The problem lies then in the choice of the missions to entrust the organization. One of these missions could precisely be to give an international legitimation to the multilateral control mechanism of the "sensitive" technologies as it tends to develop itself, through norms and an international

framework accepted by all, safeguarding also, in exchange for the developing countries an access to the space activities and a participation to the advantages taken of the use of space. According to this point of view thus, only a WSO could bring an issue allowing both to control the spread of technologies, in particular the ballistic ones and at the same time to promote the space cooperation both for civil and scientific purposes.

After having briefly given a picture of the existing cooperation, of some new internationalization needs, still unsatisfied and of the problem raised by the possible creation of a worldwide organization, we will synthesize in a last point the recommendations adopted by our working group either on the tasks to entrust WSO, than on the form it should take.

#### IV - Recommendations.

##### A. Tasks of a WSO.

- a - The principle is to give the new organization tasks which cannot be undertaken through other forms of international cooperation.
- b - The main objective is to implement those provisions of the outer space treaty that are not, or cannot be applied within the existing framework.

Consequently, the WSO is above all :

- a forum in which the space powers can converse with other countries,
- it does not carry out space activities itself but use, whenever possible, technical facilities that already exist, or are to create, such as regional cooperation mechanisms.

These different trends lead to define the tasks of such an organization in the following way :

- draw up international rules and monitor the application of such rules, including the gather of technical information on space activities conducted under existing legal texts ( on registration, recovery liability, satellites with nuclear power sources ) or future texts ( debris, ..),

- encourage the transfers of space technologies to developing countries, the training of specialists, wide circulation of data gathered in the course of space activities, specially adapted to these countries (for ex : distribution of remote sensing data). To this respect, it seems imperative to choose the objectives in function of their own interest and not for their return of investment or other motivations. So a particularly vigilant attention have to be drawn to the organization, on the legal and operational levels of the supply of data to all the potential users.

- coordinate environment monitoring by satellite,

- promote the development of major cooperation programs on space, which will be the XXIst Century's mainspring , especially the exploration of Mars and the other planets, conceived as an enterprise for the interest of all mankind.

Even though divergent opinions had been set forth on the suitability to entrust the WSO military powers, the group nevertheless has specified the points on which such powers should have to concern if they were accepted.

The group has then been lead :

- 1 - to rule out the idea of a WSO with the tasks of controlling weapons by satellites, either because its financing is an important problem, in addition of which one has to take account of the reluctance of the industrial countries, holders of the technologies, and the present evolution of the international situation which strengthen the tendency not to resort to multilateralism in areas where bilateral relations have obviously priority, as we can see nowadays with the Russo-American relations (13).

- 2 - Not to withhold the idea of a WSO dealing with the prevention of militarization of space by arranging inspection systems.

These two issues have been otherwise studied in other frameworks; see especially the projects of an international agency of arms control which are under consideration.

- 3 - To recognize unanimously the importance of the problem of the non-proliferation of ballistic weapons. However the Group considered that this problem should be dealt in the wider context of disarmament control because it is more a problem associated with the global control of the proliferation of chemical, bacteriological, nuclear and ballistic weapons.

On this point, the group has nevertheless recalled that in case the WSO should assume military tasks, they should be limited to the two following points :

- legitimization of the existing system for controlling the proliferation of ballistic weapons (14) and

- establishment of a system for processing and interpreting satellite images for international security purposes.

### B. Form of a WSO.

Considering the previous observations, the group wishes the establishment of a flexible structure with terms of reference that can be modified depending on requirements. In this respect:

- 1 - The idea of a UN Center for space which was planned by the UNISPACE-82 could be revived, the new international cooperation dynamic and a rediscovery, since the War of the Gulf, of the irreplaceable role of the United Nations, making this creation easier than ten years ago. A worldwide and an autonomous framework should be maintained on order to meet the requirements of a certain number of objectives. In this way, the WSO could become a reflection authority on the feasibility of programs. The developing countries would then have the possibility of being heard and have a new dialogue with industrialized countries on the conditions of the best access to the benefits of space activities. This is especially true for the objectives involving immediate terrestrial impacts, such as the use of satellites for environment monitoring, activity for which all mankind must take advantage of the results and for which the participation of all States of the planet appears necessary (15).

- 2 - For some tasks the existing structures of the UN Space Division, the COPUOS and its legal sub-committee should be retained, with closer link between these structures and the International Law Commission; these institutions and the scientific and technical sub-committee could make part of the Center.

The scientific and technical sub-committee should furthermore be promoted to the level of a real scientific and technical Council. This advisory body, composed of about fifteen experts, could indeed implement an assistance to developing countries ( by replacing the task presently assumed in the UN by a "specialist of space technical applications ") and also coordinate the actions that are currently conducted piecemeal through specialized agencies responsible in the space field, such as the FAO, the UNEP, the World Bank, Intelsat, and so on.. with a view to defining an dynamic and effective policy to aid the developing countries.

- 3 - This United Nations Center could also have new responsibilities for processing and interpreting satellite images for environmental monitoring purposes. This task would be accomplished under its auspices by a team of sworn image interpreters. Besides this, if the Center were given military competence, the same task could be carried out on behalf of the UN Security Council at its request.

In this way a permanent space watch of the planet could be assured, by centralizing Earth observation information transmitted by national or regional, public or private Agencies.

- 4 - The problems of ballistic proliferation could be dealt by this Center, allowing then the legitimation of the informal existing control system.

- 5 - Finally, the space powers' standing should be safeguarding, in particular by laying down flexible rules of procedure, such as on one hand a system of weighed votes for decision-taking ( along the



lines of UN financial agencies or international space organizations such as Intelsat or Inmarsat ) and on the other hand, two levels of responsibility :

- A general Assembly, deliberating organ joining all members together,

- An restricted executive organ to resolve the operational problems ( on the model of the ICAO ).

A series of advantages could be expected from the setting up of a flexible and modest structure :

- the reinforcement of international security and a fair sharing-out of the spin-off from space activities by the adoption of international rules on conditions of access to remote sensing data ( and, where necessary, military reconnaissance data ) ;

- the implementation of more balanced solutions in the framework of North-South technology transfers, especially in the case of " dual purpose " technologies.

In this way the creation of a WSO would rectify the shortcomings that still exist in international space cooperation, as well as in the application of some provisions of the Outer Space Treaty.

Finally a very important point is that a political drive at the highest level should be given to mobilize States to this initiative, possibly taking the form of a solemn statement by Heads of States setting out objectives and prospects for the long term. Lets be aware that this drive will be necessary not only to set up the organization but also during a subsequent period. It could be given by the G 7 Group which includes States having besides the capacity to undertake space activities implied by the

definition and the implementation of complex projects. This G 7 should moreover be enlarged to CIS States and, on principle be subsequently opened to all States interested.

I must point out that on this point the authors of a study, realized by the US Center for Research and Education on Strategy and Technology on " International cooperation in Space : Strategies for the New Century ", published in May 1993, have get to recommendations very similar to ours, proposing specially that Heads of States of the seven more industrialized countries and Russia, make a joint statement on common space objectives during their 1994 economical summit (16) .

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## NOTES

(1) - cf. U.N.G.A. Res. 37/90 ( Dec. 10, 1982 ) on UNISPACE-II and "UNISPACE-82, développement des activités spatiales " in *ONU chronique*, Oct. 1982.

(2) - Working document presented by USSR before the UNCOPUOS : *Fundamental Provisions of a World Space Organization's Charter*, UN, 1988. See also A.S. Piradov, "Creating a World Space Organization, a global Approach to Mastering space" in *Space Policy*, vol. 4, n°4, May 1988, p. 112; K.B. Serafimov, "Achieving Worldwide Cooperation in space" in *Space Policy*, vol. 5, n°2, May 1989, p. 111 and V. Vereshchetin & E. Kamenetskay, "On the way to a World Space Organization" in *Annals of Air and Space Law*, vol. XII, 1987, p. 337.

(3) - *Le concept Paksat. Techniques de télédétection à partir de l'espace appliquées à la vérification du contrôle des armements*

*et du désarmement*, Department of Canadian Foreign Affairs, booklet on the verification, n°2 1986 48 p.

(4) - Working document presented by France, UN, A / S-10 / AC. 1/ 7, June 1, 1978; Secretary general Report, U.N. Doc. A/ AC. 206 / 14, Aug. 6, 1981 and U.N.G.A. Res. 37/78, Dec. 9, 1982 : *Verification of disarmament agreements and reinforcement of international security: project of creation of an international satellite control Agency*. See also S. Courteix, "Les satellites bleus au service de la paix et du désarmement", in *German Yearbook of International Law*, vol. 24, 1981; R.J. Dupuy, "Les structures et le rôle d'une agence internationale de satellites de contrôle", in *Annals of Air and Space Law*, vol. VI, 1981, p. 333 and B. Jasani, "ISMA- will it ever happen ?" in *Space Policy*, Feb., 1991, p. 13.

(5) - Working document presented by France before the disarmament conference: *L'espace au service de la verification : proposition d'agence de traitement des images satellitaires.*, U.N. Doc., CD / 945 Aug. 1, 1989.

(6) - Working document presented by USSR before the disarmament conference: *création d'une Agence internationale de surveillance spatiale*, U.N. Doc., CD/OS/WP.39, Aug. 2, 1989.

(7) - Cf. Center of Study and Research on Space Law ( CERDE ), *Faut-il créer une Organisation Mondiale de l'Espace*, Paris, la Documentation française, 1992, 164 p. See also O. de Saint Lager, "Should there be a World Space Organization", *Proc. 34th Colloquium on the Law of Outer Space*, p. 162 (1992) and K.S. Pedersen, " Is it time to create a World Space Agency? ", in *Space Policy*, May 1993, p. 89.

(8) - Concerning the international space cooperation, cf. particularly Office of Technology Assessment, *International Cooperation and Competition in Civilian Space Activities*, Washington, D.C., 1985, 419 p.; J. Johnson-Freese, *Changing Patterns of International Cooperation in Space*, Orbit Book Company, Malabar, 1990, 122 p; K.S. Pedersen, "The Changing Face of International Space Cooperation" and "Thoughts on International Space Cooperation and Interests in the post-cold War World", in *Space Policy*, n° 2, May 1986, p. 122 and n°3, Aug. 1992, p. 205; G. Van Reeth & K. Madders, "Reflections on the Quest for International Cooperation", in *Space Policy*, Aug. 1992, p. 221; AIAA, *International Space Cooperation, Learning from the Past, Planning for the Future*, Report of an AIAA workshop, March 1993; and *Partners in Space. International Cooperation in Space : Strategies for the New Century*. The Final Project Report, US. CREST, Arlington, May 1993, 108 p.

(9) - On the international space organizations, see particularly U.N. Doc. A/AC.105/358, 1986, 301 p.; S.E. Doyle, "International Space Plans and Policies : Future Roles of International Organizations", in *Journal of Space Law*, vol. 18, n°2, 1990, p. 123; E. Galloway, "International Institutions to Ensure Peaceful Uses of Outer Space", in *Annals of Air and Space Law*, vol. IX, 1984, p. 303; A. Gorbiel, "International Organizations and Outer Space Activities", Universytet Lodzki, Lodz, 1984, 117 p; N. M. Matte, " Outer Space and International Organizations ", *A Handbook on International Organizations*, Académie de Droit International de la Haye, Dordrecht, Nijhoff, 1988, 685 p.; N. Jasentuliyana, *Space and International Organizations*,

American Political Science Association Meeting, Chicago, 1987.

(10) - M. Bied-Charreton, "La coopération pour l'accès des pays en développement aux utilisations de l'espace", in CERDE, *op. cit.*, note 7, p. 85.

(11) - A. Chappe, "La coopération dans le domaine des applications commerciales de l'espace et plus particulièrement dans le domaine du transport spatial", in CERDE, *op. cit.*, note 7, p. 74.

(12) - B. Warusfel, "Le contrôle de la non-prolifération balistique et des technologies sensibles", in CERDE, *op. cit.*, note 7, p. 98.

(13) - S. Sur, "Les fonctions de vérification du désarmement et de contrôle des armements", in CERDE, *op. cit.*, note 7, p. 111.

(14) - "Directives pour les transferts sensibles se rapportant aux missiles (Paris, April 16, 1987)", in *Zeitschrift für Luft und Weltraumrecht*, vol. 4, 1987, p. 374.

(15) - In this respect see particularly S. Courteix, "L'utilisation de l'espace pour la protection de l'environnement : aspects institutionnels", in *Annals of Air and Space Law*, vol. XV, 1990, p. 275; He Qizhi, "Legal Aspects of Monitoring and Protecting Earth Environment by Space Technology", in *Journal of Space Law*, vol. 20, n°2, 1992, p. 111; N. R. Helm & B.I. Edelson, *An International Organization for Remote Sensing*, IAF - 91-112.

(16) - See note 8, *op. cit.*, Executive Summary.