

Asia-Pacific Space Cooperation Organization Convention

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ABSTRACT

The entry into force of the Convention of the Asia-Pacific Space Cooperation Organization (APSCO) in 2006 and its establishment in the near future mark an important development of regional space cooperation in Asia. This paper analyzes the characteristics of space cooperation in the Asia-Pacific region and also APSCO's background, objectives, policies and implementation, structure, and dispute settlement mechanisms.

Introduction

Space activities present high cost, high risk, and high technology characteristics. Cooperation among different nations reduces space exploration costs to individual participants, allocates risk, and allows nations to share benefits arising from a more efficient allocation of resource and technological efforts.¹ Therefore, international cooperation in

space activities is increasingly strengthened and can be observed in the growth of cooperation channels and the extension of cooperation fields.² International cooperation is not only bilateral, but also multilateral, including regional and global cooperation.

The Outer Space Treaty provides that in the exploration and use of outer space, the states shall be guided by the principle of cooperation. The Cooperation Declaration³ of the UN General Assembly insists that international cooperation in the exploration and use of outer space shall be carried out for the benefit and in the interest of all States,

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¹ Luo Kaiyuan: *The Trend of Development of International Space Cooperation* (part I)(in Chinese), Aerospace China, 2001, No. 7, p. 34.

² Ibid.

³ UNGA: *Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries.*

irrespective of their degree of economic, social or scientific and technological development, and shall be the province of all mankind. Particular account should be taken of the needs of developing countries.

Due to the Asia-Pacific region's expansive land and large population, it has the greatest need for commercial telecommunication satellites, necessitating Asia-Pacific countries to develop space technology and applications. However, due to the magnitude of technical, financial and human resources required to develop applications of space science and technology and the limits of economic and technological capability, it is difficult for an individual country in the region to achieve great success on its own. States in the Asia-Pacific region would benefit from pooling their technological, financial, and human resources to achieve benefits in space science, space technology, and peaceful applications in space. Therefore, China, Thailand and Pakistan initiated the establishment of an independent Asia-Pacific Space Cooperation Organization (APSCO or "Organization") to achieve those goals of cooperation based on the principles of peaceful uses of outer space, mutual benefits and complementarity, equal consultations and development.⁴

The Asia-Pacific Space Cooperation Organization—an inter-governmental regional organization—is a non-profit independent body with full international legal status, headquartered in Beijing. APSCO is a multilateral space cooperation effort among developing countries. APSCO's purposes include: 1) to expand the exchange and cooperation of space technology and application in Asia-Pacific countries, 2) to promote the development of space projects, and 3) to accelerate the economic and social development of the Asia-Pacific region.⁵ The basic legal document of the Organization is

the Convention of the Asia-Pacific Space Cooperation Organization ("Convention"). The Convention was signed in Beijing on October 28, 2005, and entered into force on October 12, 2006.

This cooperation embodies the spirit of The Outer Space Treaty and the Cooperation Declaration. The Convention has a positive impact on international space law and in regional space law and policy.

This paper will first review the characteristics of cooperation in the Asia-Pacific region and the processes of the Convention. The paper will also describe APSCO's objectives, fields of cooperation, structure, intellectual property rights, and dispute settlement mechanisms. As occasion requires, the article will compare the Convention and the Convention for the Establishment of a European Space Agency⁶ (ESA Convention).

I. Space Cooperation in Asia and Background of the Convention⁷

Different forms of cooperation have developed among space faring countries, such as China, Japan, India and the Republic of Korea. According to the research of Korean Professor Doo Hwan Kim, besides the bilateral cooperation with the United States, Japan has held the Asia-Pacific Regional Space Agency Forum (APRSF) every year since 1993. This has provided a forum for Asian countries to exchange views and discuss the development and cooperation in the field of space activities and to attract participants from many Asian countries and international organizations. The relevant space organization of Japan has also organized some cooperative projects, seminars, training course about space

⁴ See the Preamble of the APSCO Convention (the Convention). <http://www.apmcsta.org/>, last visited on August 29, 2007.

⁵ Huang Ju, *Huang Ju Attended the Signing Ceremony for APSCO Convention*, National Defense Industry in Science and Technology (in Chinese), 2005, No 15, p.14.

⁶ See ESA, European University Institute, *The Implementation of the ESA Convention, Lessons from the Past*, Martinus Nijhoff Publishes, p.233-276.

⁷ Wang Keran, Background and Achievements with Regard to the Establishment of APSCO. *Asia-Pacific Space Outlook*, September 2005, p.12-16.

activities etc, in the Asian region.⁸ In addition to India's broader international cooperative efforts in outer space, India has been involved in regional Asia-Pacific efforts. For example, India has established a Center for Space Science and Technology Education for the Asia-Pacific region that is sponsored by the UN. India has also hosted the UN-ESCAP Conference on Space Applications for Sustainable Development in Asia and the Pacific.⁹ Space cooperation among member states is also developing in regional economic integration organizations, such as ASEAN.

The establishment of APSCO is the result of the institutionalization of Asia Pacific Multilateral Cooperation in Space Technology and Applications¹⁰ (AP-MCSTA).¹¹ In a sense, the establishment of APSCO System and Mechanism is catalyzed in large part by the AP-MCSTA project.

In 1992, China, Pakistan and Thailand jointly proposed the Asia Pacific Multilateral Cooperation. An AP-MCSTA Workshop was organized in Beijing in December 1992, with the aim of discussing the approach, manner, budget and legal issues related to developing APSCO. The participants unanimously agreed to establish an AP-MCSTA Mechanism, and increasingly accelerated the process of institutionalization of the Mechanism, namely establishing APSCO. For this purpose, a Liaison Committee and a Preparatory Committee for APSCO were established, with China as coordinator. In January 1994, the First AP-MCSTA Meeting, which was organized in Bangkok, confirmed the

establishment of a Preparatory Committee, and the Secretariat of the Committee was located in China. Hereafter, seven AP-MCSTA conferences were organized in Thailand, Pakistan, Korea, Bahrain, Iran, China and Thailand respectively. These Conferences have strengthened the political mutual trust among countries in the region, and have promoted regional cooperation in space technology and applications.

In July 2001, the Secretariat of AP-MCSTA was founded in Beijing to push forward the multilateral cooperation program and the institutionalization of the AP-MCSTA Mechanism. The Secretariat has coordinated the Asia-Pacific Small Multi-Mission Satellite Project with participation by China, Thailand, Korea and Mongolia. The Secretariat also held Space Technology and Remote Sensing Application training courses for government officials and technical personnel of the Asia-Pacific countries. In August 2003, the First Meeting of the Drafting Group on the APSCO Convention was organized in Bangkok. The participating representatives agreed to establish headquarters in Beijing. In November of the same year, the Second Meeting of the Drafting Group on the Convention was organized in Beijing. The Meeting focused on four articles: financial arrangements, diplomatic privileges and immunities, industrial policy and space technology safeguards. The final version of the Convention was decided upon, establishing the legal basis for APSCO.

From December 2003 to February 2004, the Secretariat submitted the final version for approval of the Convention to 25 Asia-Pacific countries. At the end of 2004, the Secretariat organized an experts' group meeting for financial arrangements. The delegates finalized their recommendations for the organizational structure of APSCO, its budget estimates for expenditure for the year 2007 to be incurred on administration and basic activities, and the assessment of proportion of

⁸ Doo Hwan Kim, *The Possibility of Establishing an Asian Space Agency*, Singapore Journal of International and Comparative Law, 2001, pp. 218-219.

⁹ Ibid, p. 221.

¹⁰ The Internet site of AP-MCSTA: <http://www.apmcsta.org/index.aspx>, last visited on July 22, 2007.

¹¹ Luo Ge, *The Review and Future of the Institutionalization of the Asia Pacific Multilateral Cooperation in Space Technology and Applications*(in Chinese), <http://www.cnsa.gov.cn/n615708/n620172/n677078/n751578/63001.html>, last visited on July 22, 2007.

the minimum financial contribution to APSCO by the member states.¹²

On October 28 2005, the governmental representatives from eight states—Bangladesh, China, Indonesia, Iran, Mongolia, Pakistan, Peru and Thailand – signed the APSCO Convention. Turkey also signed in a later date. According to Article 29 of the Convention, the Convention will enter into force when at least 5 states of the Asia-Pacific Region, which are members of the UN, have signed it and deposited with the Host Government their instruments of ratification or acceptance, and then APSCO will be formally established shortly thereafter.

On October 29, 2005, the first meeting of the Interim Council of APSCO was held in Beijing, with representatives of the signatory States to the Convention. The meeting elected Mr. Kraison Pornsuti to be the Chairman of the Interim Council and as Vice Chairmen: Mr. Sun Laiyan, Administrator of China National Space Administration and Mr. Raza Hussain, Chairman of Pakistan Space and Upper Atmosphere Research Committee. The Council adopted working procedures and established special committees on law, project planning and coordination, financial management, and other activities. Consequently, the transition from “Liaison Committee to Secretariat, then to Preparatory Committee for Cooperation Mechanism, then to Interim Council” has been finished, and sufficient preparation has been achieved to finally establish the Council. The Second Meeting of the Interim Council of APSCO was held from November 28-29, 2006. The member states adopted the Draft Rules of Procedure for APSCO Council. In his working report to the Interim Council, Mr. Luo Ge, the Secretary-General of the Interim Secretariat of APSCO, introduced the activities being carried out by the Secretariat during the year 2006 and the future plan for 2007. He also explained the efforts the

¹² Luo Ge, *Establishing the Asia-Pacific Space Cooperation Organization to Promote the Regional Space Cooperation (in Chinese)*, <http://www.chinanews.com.cn/news/2005/2005-02-08/26/538877.shtml>, visited on July 23, 2007.

Interim Council had made for promoting the Convention to become effective. On October 12, 2006, the APSCO Convention entered into force, and APSCO planned to be formally established in 2008.

II. The Status and Objectives of APSCO

The Convention contains 35 articles, divided into the following 11 chapters, including: General, Fields of Cooperation and Cooperative Activities, Membership, Functional Organs, Council of the Organization, Secretariat, Finances, Disputes, other Provisions, Amendments, Ratification, and Entry into Force.

According to Article 3 of the Convention, APSCO shall have full international legal status, enjoying full international legal personality. It shall have privileges and immunities for the exercise of its function. It is a legal subject of international law. Since APSCO shall have international legal personality, it can conclude treaties with other international organizations and related countries. And pursuant to international space treaties, when it has accepted the binding force from related international space treaty through declaration, it can become a party to the treaty, as long as most member states of APSCO have joined the treaty.¹³ It shall, similar to the European Space Agency (ESA), have the capacity to acquire and dispose of movable and immovable property, and be a party to legal proceedings.¹⁴

Under the Convention, the objectives of the Organization shall be to improve the capability of the member states and promote socio-economic sustainable development of each member states by developing multilateral cooperation among member states in the field of space science, technology and

¹³ See He Qizhi, *The Situation and Legal Framework of Space Cooperation in Asia-Pacific Region*, Aerospace China, 1994, no 3, p.6.

¹⁴ See the ESA Convention, Annex 1, Privileges and Immunities, Art 1. ESA, European University Institute, *The Implementation of the ESA Convention, Lessons from the Past*, Martinus Nijhoff Publishes, p.242-246.

its application, and by taking effective actions to assist the member states in such areas as space technological research and development, applications and training. Based on the principles of “peaceful uses, mutual benefits and complementariness, equal consultations and development,” APSCO applies itself to promote and strengthen joint development in space technology among member states, to correspond member states to implement and execute space development policies, and to take effective actions in space technological research and development, applications and training. APSCO shall encourage member states and promote the cooperation in space technology and its application, and joint development, and share achievements in the field of earth observation, disaster monitoring and control, environmental monitoring and protection, satellite communications, satellite navigation and positioning, space science research, education and training, and tap the cooperative potential in space science research, as well as enhance the cooperation among relevant enterprises and institutions of the member States in the industrialization of space technology and its applications.

As “Asia has entered a space era”,¹⁵ all countries of Asia-Pacific region have realized the importance of using space technology to support national sustainable development, with the joint hope of promoting national socio-economic development through space technology and its applications, these must can help APSCO to increasingly play an important function. APSCO provides a good platform and a more effective cooperation mechanism for Asia-Pacific countries to develop their space undertaking through multilateral cooperation.

III. The Fields of Cooperation and Industry policy

¹⁵ Peter Jankowitsch, Ex-chairman of the United Nations Committee on Peaceful Use of Outer Space (COPUOS), director general of Austrian Space Agency, speech given in International Space Law Workshop 2004 in Beijing. http://jxhy2.cccme.org.cn/zc_11.asp?id=4275&columnid=1183&parentid=978&Orgid=30 , last visited on July 23, 2007.

In accordance with the Article 6 of the Convention, APSCO may carry out activities in the following fields of cooperation: space technology and programs of its applications; earth observation, disaster management, environmental protection, satellite communications and satellite navigation and positioning; space science research; education, training and exchange of scientists and technologists; establishment of a central data bank for the development of programs and dissemination of technical and other information relating to the programs and activities; other cooperative programs agreed upon by the member states. In fact, as mentioned above, before the establishment of APSCO, member states had commenced some space cooperation efforts. One might suggest that APSCO is the result of the Asia-Pacific Small Multi-Mission Satellite (SMMS) Project, which is mainly operated by China and other participating countries, such as Thailand and Iran, which mainly assisted the work of establishing Satellite Ground Application Station.

As Article 7 and Article 8 of the Convention provided, APSCO cooperation activities include basic activities and optional activities. The basic activities, which all member states ought to participate in, shall include: establishment of the Organization’s plans for space activities and development; carrying out fundamental research concerning space technology and its applications; extending the applications of matured space technology; conducting education and training activities concerning space science and technology and their applications; managing and maintaining the branch offices and the relevant facilities as well as the network system of the Organization; undertaking other necessary activities to achieve the objectives of the Organization. In terms of the optional activities, APSCO shall recommend and organize suitable space science, technology and their applications programs for joint implementation by its member states, which choose to participate in such programs.

APSCO also requires the Council to devise the industrial policy to meet the requirements of its programs and activities as well as the collaborative programs with the member states, in a cost-effective manner; preference/opportunity shall be given, to the maximum possible extent, to the industry in all member states to participate in the tasks related to the implementation of the Organization's programs and activities; and, ensure all member states participate in the Organization's programs and activities, in an equitable manner. "Fair-return" is the corner stone of the Organization's industry policy. Fair return is the conceptual basis whereby member states receive profits proportionate to their investment. This principle not only promotes member states to participate in Organization activities by balancing investment and risk, but rewards participants with technological capability and economic return in multilateral cooperation relating to space activities, promoting the overall level of space activities in Asia-Pacific countries. The goal of the industrial policy is to develop Asia-Pacific industry by competitive bidding, resulting in relevant technologies being spread among the member states to create the special capacities necessary for the Organization's programs and activities.¹⁶

IV. The Membership of APSCO

In accordance with membership provisions in Article 9 of the Convention, the Organization shall be open to all UN members in the Asia-Pacific Region. To understand the question of APSCO membership, it is first necessary to define the Asia-Pacific region. The Asia-Pacific region is generally accepted as being the geographic area in Southeast Asia and Australasia near the Pacific Ocean plus the states in the ocean itself (Oceania). In some contexts, the region may extend further to include major Asian countries, as well as those around the Pacific Rim stretching from Oceania, up to Russia, and down the western coast of the Americas. When APEC was founded, it was essentially a regional economic forum and consultative institution. Ten years later, it has increasingly

evolved to be a significant economic cooperation forum in Asia-Pacific region, and it has played an irreplaceable role in the field of promoting the liberalization in regional commercial investment and strengthening the economic and technological cooperation among member states. At present, 21 member states comprise APEC, including: Australia, Canada, China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, Thailand, and USA.¹⁷ Secondly, it is necessary to note that a member of APSCO also must be a member state of the United Nations, so only a UN member state can be an APSCO member. In addition, international organizations and other entities can not become a member. And pursuant to the Convention the member states shall have full voting rights, and all member states shall be entitled to participate in the cooperation programs and activities pursued by the Organization. These are provisions on the right of member states. Besides, under the Convention, all member states shall make financial contributions for operation of the Organization. Any member state that fails to fulfill its obligations shall be deprived of its membership of the Organization following a decision of the Council taken by a two-thirds majority vote.¹⁸

Although APSCO is open to the countries in the Asia-Pacific region, a state outside the Asia-Pacific region or a member of the United Nations can apply for associate member status. The Council, by consensus, may decide about its entry into the Organization. The Council may also decide, by consensus, about its terms and conditions (financial contribution, participation in basic and cooperative activities of the Organization, etc.). The associate member shall not have any voting right in the Council meetings.

Any state member of the UN or any international organization involved in space activities may be granted Observer's status

¹⁶ See the Convention, Article 5.

¹⁷ Xinhua Net: http://news.xinhuanet.com/misc/2002-10/11/content_598763.htm, last visited on July 23, 2007.

¹⁸ See the Convention, Article 32.

with the Organization with the unanimous approval of the Council in accordance with the Convention. The observers shall not have the right to vote in the Council's meetings.

V. The Structure of APSCO

The organs of the Organization shall include: the Council and the Secretariat, as well as subsidiary institutions to be established by the Organization, as it deems necessary.

A. The Council

The Council is the highest decision-making body of the Organization, and shall consist of ministers or ministerial representatives of the national space agencies of the member states. Each member state shall nominate one minister or ministerial representative for representation at the Council. The Council shall elect a Chairman and two Vice-Chairmen whose term of office shall be two years.¹⁹ The Chairman is the head of the Council.

The Council is tasked with a range of responsibilities, including: defining policy and laws, regulations; approving, depriving and terminating the membership of the members, observers and associate members; approving programs, budgets and financial contribution; appointing officials, including Secretary-General; deciding to establish branch offices; and interpreting the Convention. There are 14 aspects in all.²⁰

The Council shall meet as when required but at least once annually. The meetings shall be held at the Organization's headquarters. The participation of the official delegates from a two-thirds majority of all member states shall be necessary to form a quorum at any meeting of the Council.²¹ Each member state of the Council shall have one vote. Unless otherwise unanimously provided for by the Council, the Council shall make every effort to reach decisions upon matters by

consensus.²² And under the Convention, only in very rare cases, the Council can make decisions by a two-thirds majority vote.²³

Making decisions through consensus is a unique feature of the United Nations Committee on Peaceful Use of Outer Space (COPUOS) in drafting relevant international treaties on outer space and making other decisions. This process has promoted the formation of the international space law system and ensuring the sovereign will of each country. However, this also presents one negative outcome: when one state insists on opposing a particular case, a decision is delayed or cannot be made, causing inefficiency in the decision-making process. At present, the COPUOS has not achieved substantial progress since 1979 in international space legislation, which is at least partially explained by its relative inefficiency in decision-making. In most cases, decisions of the Council of the ESA shall be taken by a simple majority, and in some cases, by a two-thirds majority, thereby maintaining some degree of efficiency.²⁴

B. The Secretariat

The Secretariat is the executive organ of the Organization, and it consists of the Secretary-General and Secretariat staff members. The Secretary-General is the leader of the Secretariat and the chief executive officer of the Organization and its legal representative, a status similar to that of the ESA Director General. The Council shall appoint a Secretary-General for a period of five years, which may be extended for an additional five-year term. The Secretary-General shall participate in the meetings of the Council without the right to vote. The Secretary-General shall report to the Council, and in accordance with the directives issued by the Council, the Secretary-General shall be responsible for: executing and implementing all the policies of the Organization, as desired by the Council; achieving the objectives of the Organization; managing and functioning

¹⁹ Ibid, Article 11.

²⁰ Ibid, Article 12.

²¹ Ibid, Article 13.

²² Ibid, Article 14.

²³ Ibid, Article 18.

²⁴ Article 11 of the ESA Convention.

of the Organization; drawing up annual reports, working plans and financial budgets of the Organization for approval of the Council; formulating and implementing the internal management provisions of the Secretariat; submitting proposals to the Council concerning programs and activities as well as measures designed to achieve the objectives of the programs and activities of the Organization; recruiting and managing the staff of internal divisions from the member states according to the Service Regulations set by the Council; appointing on contract basis scientists, technologists and other experts who are not regular staff members for carrying out the assigned jobs of the Organization; negotiating and signing international cooperative agreements with the approval of the Council.²⁵ We can foresee that the Secretariat will be an efficient team consisting of staff from different member states and the country of the headquarters in its founding period, and the number of its staff will increase with the development of the Organization.

According to the Convention, the responsibilities of the Secretary-General and the staff, whether regular or on contract, with regard to the Organization shall be exclusively international in character. During the course of the discharge of their duties with APSCO, they shall not seek or receive instructions from any government or from any authority external to the Organization. Each member state shall also respect international character of the responsibilities of the Secretary-General and the staff members, and shall not exert any influence on them in any manner or form during the course of discharging their duties with APSCO.

VI. The Financial Arrangements of APSCO

Pursuant to Article 18 of the Convention, the funds for APSCO shall be provided through three ways: firstly, the contributions of the member states; secondly, voluntary

grants from the Host Government and other member states, donations/subsidies received from other organizations; and, thirdly, the income from the services provided to others. China has undertaken the expense of the Organization in its preparatory period. After APSCO has been formally established and operated, the expense will be mainly from the contributions of the member states.

As the Convention provided, each member state shall contribute to the budget of APSCO in accordance with the financial arrangements to be decided by the Council. The Council through consensus shall decide the scale of financial contribution of each member state. It shall be reviewed every three years. The scale of the financial contribution of each member state shall be calculated in accordance with the level of its economic development and average gross domestic product (GDP) per capita. And each member state shall be required to make a minimum financial contribution, called the "floor" to the Organization, to be decided by the Council by a two-thirds majority vote. In addition, no member state shall be required to make financial contribution in excess of 18 % of the approved budget of the Organization.

There are also some provisions relating to donations. Subject to any directions given by the Council, the Secretary-General may accept donations, gifts or legacies to the Organization provided that these do not entail any conditions contrary to the objectives of APSCO. .

VII. Intellectual Property and Technology Safeguard

Provisions related to intellectual property are specified in Article 22 of the Convention. Intellectual property rights of those inventions, products, technical data or techniques as well as other intellectual properties resulting from any programs and activities that are carried out by the Organization or through use of the resources owned by the Organization shall be owned by APSCO. The Council shall adopt guidelines and procedure for use by the member states of inventions, products, technical data or techniques as well as other

²⁵ See the Convention, Article 17.

intellectual properties owned by the Organization. The Council shall adopt guidelines and procedure for use by the Organization and member states of inventions, products, technical data or techniques as well as other intellectual properties owned by a member state through appropriate agreements or contracts. APSCO shall abide by international conventions concerning protection of intellectual properties.²⁶

Article 33 of the Convention provided for some provisions referring to technology safeguard and export control. APSCO shall not allow any unauthorized access to protected information, items and related technologies or measures in order to ensure the fulfillment of the duties by the representatives and the personnel of the member states, competent to handle such protected items or products and also to take appropriate measures aimed at their protection and monitoring as well as for elaboration and implementation of specific technology security plans. With a view to implementing cooperative activities, programs and projects of the Organization, the member states shall conclude agreements on technology safeguard measures, and in specific cases promote the conclusion of such agreements by competent organizations and other designated organizations in order to elaborate and implement specific technology security plans. The member states shall act in accordance with their respective national regulations and export control legislation concerning the goods and services included in the export control list.

VIII. Settlement of Disputes

Any dispute between two or more member states or between any of them and APSCO concerning the interpretation or application of the Convention shall be resolved through two methods. One option is through cordial consultations. This is the diplomatic method for dispute settlement. This presents the advantage for retaining more freedom for the disputing parties and

when an agreement is reached, it can be relatively easy to execute. The second option for dispute resolution is arbitration. In case of non-settlement of the dispute by consultation, it shall be settled through arbitration in accordance with the rules adopted by the Council through consensus. Its advantage is that it can keep some independence of the parties to the dispute, though the tribunal shall handle the case according to the law. For example, there is more flexibility in selecting arbitrators than the stricter international judicial procedure. And the arbitral award shall have legal binding force, so the parties must comply with the decision. In the process of joining the international organization, China generally prefers a political solution instead of the legal procedures involved in dispute settlements. The Convention has incorporated some of the features of dispute settlement mechanisms of other international organizations, such as ESA.²⁷ However, there are two differences between the Convention and the ESA Convention. First, the ESA Convention insists that the dispute shall initially be settled by the Council, and the APSCO emphasizes cordial consultations, reflecting the usual standpoint that Asian countries (e.g., China) prefer to resolve international disputes through political solutions. Second, although there are arbitration provisions in both Conventions, the corresponding rules of ESA are more detailed. The ESA emphasizes that the arbitral award shall be final and binding on all parties of the dispute and no appeal can be made. The parties shall comply with the award without delay.

Furthermore, under the Convention, the Organization shall cooperate with the agencies in the United Nations system, in particular, COPUOS.²⁸ As a typical treaty of international public law, pursuant to the Convention, the amendments to the Convention shall be adopted by the Council

²⁶ Ibid, Article 22.

²⁷ Any dispute between two or more Member States, or between any of them and the Agency, which is not settled by or through the Council, shall be submitted to arbitration. (the Convention of Establish European Space Agency, Article 17).

²⁸ See the Convention, Article 24.

by consensus;²⁹ after this Convention has entered into force for a period of five years, any member state can apply for withdrawal;³⁰ the Organization shall be dissolved by an agreement among all its member states or its membership comes to less than four member states.³¹

Conclusion – Towards an Asian Space Agency?

At present, the Convention has entered into force, APSCO has operated as an Interim Institution, and is expected to be fully functioning in 2008. However, the current Organization is still in its early stages. In terms of membership, it is not very representative of the Asia-Pacific region. As a result of the effect and influence from political bias, geographical strategy, international competition and the dual utility of the space technology, as well as the technological gap,³² there are some difficult issues regarding cooperation in space activities. Currently, a number of space faring countries in the Asia-Pacific region, such as the United States, Russia, India, Japan and Korea, have not joined the Organization. With the exception of China, the 9 member states belonging to the Organization have limited space activity capability. Therefore, on the one hand, APSCO needs to become an operating institution rapidly, develop the relevant space cooperation programs as soon as possible, and continuously encourage and develop cooperation among the member states; on the other hand, it must also expand Organization membership, especially space faring states.

Due to the vastness of the Asia-Pacific region and the myriad of differences among the nations in this region, it appears difficult

²⁹ Ibid, Article 27.

³⁰ Ibid, Article 33.

³¹ Ibid, Article 34.

³² Ling Shang, Li Zhiqiang, Li Chuangbao, Zou Shangan, *An Analysis on the Restrictive Factors of Chinese International Cooperation and the Tactics Study*, Studies in Dialectics of Nature(in Chinese), Vol.19, No 12, Dec.2003, pp. 47-50.

to establish a space cooperation organization as large as APEC. Some experts, such as Korean scholar Professor Doo Hwan Kim have offered their opinions regarding the establishment of an Asian Space Agency (ASA). Professor Kim suggests that the ASA could benefit all Asian countries, but that it first requires the political will of each country.³³ He deemed that the necessity of establishing the ASA arises from the competition among the Asian countries and the developed countries, such as the USA, Russia, Canada, and EU countries, in the growing Asian space market. It is necessary for the Asian countries to work collaboratively, to strengthen cooperation in research for the benefit of all the people in Asia.³⁴ However, under present circumstances, it is extremely difficult to establish a closely cooperative regional organization to include all the countries in Asia. In addition to the characteristics of international space cooperation mentioned above, there are also other challenges, including historical, political, economic and cultural differences among Asian countries.

At present, the global economy is becoming more regionalized and human rights more universal. Without more regional economic integrative organizations and regional human rights protection mechanisms for all or a majority of Asian countries, Asia will fall behind Europe and perhaps even Africa and Latin America. Although the idea of establishing an ASA with all Asian countries within its membership presents advantages, it will be difficult to realize in the near future. However, the author shares a common view with Professor Doo Hwan Kim: Asia must establish an Asia Center for Space

³³ Doo Hwan Kim, The Possibility of Establishing an Asian Space Agency, *Singapore Journal of International and Comparative Law*, 2001, pp. 214-226.

³⁴ Doo Hwan Kim, The National Space Programme, Policy and Legislation in Korea, 2004 Space Law Conference Paper Assemble, Beijing, China, 25-27 April, 2004, p91. In this article published in 2004, Professor Doo Hwan Kim had already changed the title of the Asian Space Agency to the "Asian Space Development Agency".

Law, responsible for the education, training and expansion of space law in Asia. Professor Doo Hwan Kim believed that the establishment of the Center was a starting point of the future ASA.³⁵ The author asserts that it seems to be more practical and feasible to establish an Asia-Pacific Center for Space Law in the framework of APSCO in the near future.³⁶ However, this also requires a joint agreement from all APSCO member states.

Until more recently, China has seldom been designated as an international organization host state. The Shanghai Cooperation Organization was the first China-based international organization with broad influence in international relations. APSCO is an inter-governmental international organization, which was initiated and promoted by China and other nations. We look forward the rapid development of APSCO and to the prospects of China becoming the host state of more international organizations, which will allow China to assume even greater responsibilities as the world's largest developing country.

³⁵ Ibid.

³⁶ See Zhao Haifeng, *The Current Situation and Future of the Teaching and Research of Outer Space Law in China*, Chinese Space Law Review Vol.1, edited by Zhao Haifeng, Harbin Institute of Technology Press, 2006, p. 55.