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The conference ended with a plenary discussion that gave room to debate specific aspects brought forward in the presentations. Altogether, the meeting was very well perceived by the participants not only due to its excellent organization. In particular, the concise soft law perspective on a range of well-known space law instruments highlighted that - based on the various functions of soft norms - space activities are already considerably influenced by soft law rules. The conference presentations will be further elaborated and included in a book that is due for publication presumably by the end of 2011. Besides the contributions presented by the speakers during the conference, the book will also contain additional papers from further authors.

5th Eilene M. Galloway Symposium on Critical Issues in Space Law on Article IX of the Outer Space Treaty and Peaceful Purposes: Issues and Implementation, Washington December 2, 2010

*By P.J. Blount, Mississippi**

The 5th Eilene M. Galloway Symposium focused on Art. IX of the Outer Space Treaty (OST) and Peaceful Purposes: Issues and Implementation. The Symposium, held at the Cosmos Club in Washington D.C., was sponsored by the National Center for Remote Sensing, Air, and Space Law (NCRSASL) of the University of Mississippi School of Law and the International Institute of Space Law (IISL). The theme was designed in order to facilitate conversations amongst panelists and participants on the history and current content of the norms found in Art. IX. The discussion was geared towards understanding Art. IX in the current context of increased scientific exploration and increased commercialization. This was done in light of the vague language that composes Art. IX, and the resulting lack of clarity of the rights and obligations it creates. See below for a full program with a complete list of panelists.

The first panel began after welcoming statements made by *Joanne Irene Gabrynowicz*, Director of the NCRSASL, and *Tanja Masson-Zwaan*, President of the IISL. The panel focused on the history of Art. IX. The inquiries made by this panel focused on examining the initial formulation of Art. IX and the norms the drafters intended to be contained therein. *Gabrynowicz* led with a presentation that highlighted the context in which Art. IX was negotiated. She paid special attention to four main principles of Art. IX: 1) International Cooperation, 2) Due Regard, 3) International Cooperation, and 4) International Consultations. She discussed these principles in light of the geopolitical landscape at the time of negotiations, namely the Cold War, and stated that much of the resulting OST reflects a world in which there were two major space powers. *Gabrynowicz* was followed by Prof. *Sergio Marchisio*, University Sapienza of Rome. His presentation drew on research he did for the *Cologne Commentary on Space Law*. He also highlighted the central four principles, and then parsed them into their individual international obligations. He noted that there is a great deal of vagueness in Art. IX, and this vagueness leads to the Art. being a weak in terms of seeing tangible results from State parties. Finally, *Les Tennan*, Law Offices of *Sterns and Tennan*, presented a paper he coauthored with *Patricia Sterns*, also of the Law Offices of *Sterns and Tennan*. His presentation engaged with early documents that surrounded the material found in Art. IX. Specifically, he noted the concern of negotiators not only for the global envi-

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ronment, but also for the space environment, and how these concerns were born out in the rights and obligations found in Art. IX.

Once the historical background and framework were established, the next two panels engaged in discourse on the environmental aspects of Art. IX including both concepts of planetary protection and of non-biological contamination of the space environment. These panels were very tied to questions of where science and scientists fit into the Art. IX regime; therefore, these panels consisted of both lawyers and scientists. Of particular interest was the presentation "Planetary Protection and Art. IX OST," given by *Dr. Catharine Conely*, Planetary Protection Officer, NASA. Her presentation highlighted how COSPAR and NASA guidelines on planetary protection function within the parameters of Art. IX. These guidelines and policies could be the beginnings of a normative structure for understanding Art. IX. Other panelists from this block suggested other sources for such structures such as International Environmental Law or the development of a protocol to Art. IX.

The final panel of presentations sought to parse out specific obligations under Art. IX. These panelists sought to engage with specific parts of the treaty text and sought to discover whether an underlying norm could be attributed to the text. For instance, *Theresa Hitchens*, Director, UN Institute for Disarmament Research, presentation reflected on whether a duty to exchange space situational awareness data was created via the "due regard" and the "consultation" clauses. She concluded that these sorts of exchanges could be very helpful in assisting states to fulfill Art. IX obligations, but that it would be difficult to claim that there was an affirmative obligation to share such data created by Art. IX. These presentations investigated the nature of the actual norms in Art. IX as it is currently interpreted by States, which is important to understanding how Art. IX works in the current context of international space law.

The vagaries that have plagued Art. IX's effectiveness and application have been extensively debated in the academic literature on the provision. Scholars have argued that its lack of definition has crippled it substantively. However, an alternate view is to examine State practice with regard to Art. IX as a way to discern the contours of the content of the Art. The Fifth Galloway Symposium facilitated this sort of inquiry. By evaluating the history of Art. IX and its current interplay with space activities, panelists were able to describe possible normative structures that support the various rights and obligations within the Art. These are important steps in advancing the discourse on Art. IX. The idea that Art. IX is dead letter law is counterproductive to understanding its content. Instead, examination of the Art. as a living body of law and examination of how States engage with it can help provide clarity as to its meaning and scope. The symposium papers and presentations (available at http://www.spacelaw.olemiss.edu/event_Galloway2010.html) provide an excellent starting place for inquiry into the nature of Art. IX. This is especially so in light of increasing move towards commercialization of space, wherein States may be responsible (via Art. VI) for violations of Art. IX by non-governmental actors. This interplay makes elucidation of Art. IX all the more important as space activities proliferate. This topic was covered by the final panel of the day, which was a discussion among a mix of both government and commercial actors. This panel discussed practical application of Art. IX from their respective points of view.

Any scholar or practitioner interested in the theoretical underpinnings or the practical application of Art. IX would be well served by the materials from the Fifth Galloway Symposium. They provide a robust and multilayered approach to discerning the content of Art. IX as a rule of law. These materials will be printed in the 2011 edition of the Proceedings of the IISL as well as on a CD-ROM from the NCRSASL.

Annex**Program of the Symposium**

Welcome and Introduction: *Prof. Joanne Irene Gabrynowicz*, Director, NCRSASL, Univ. of Mississippi; Director, IISL and *Tanja Masson-Zwaan*, President, IISL; International Institute of Air & Space Law, Leiden University.

Art. IX Background: *Prof. Joanne Irene Gabrynowicz* - Art. IX OST: Context and Considerations ; *Prof. Sergio Marchisio*, University Sapienza of Rome, Director Institute for International Legal Studies (National Research Council, Italy) - Art. IX (OST): An Overview; *Patricia Margaret Sterns* and *Les Tennen*, Honorary Director IISL, Former Commissioner, Arizona Space Commissioner, Law Offices of *Sterns* and *Tennen*: - Consideration of Heavenly Matters and the Evolution of Art. IX

Planetary Protection: Moderator: *Tanja Masson-Zwaan*

Dr. Catharine Conely, Planetary Protection Officer, NASA and *Dr. Gerhard Kmínek*, Planetary Protection Officer, ESA - Planetary Protection and Art. IX OST; *Jean-François Mayence*, LLM Head of the Legal Unit "International Relations" Belgian Federal Office for Science Policy: - Planetary Protection: Towards a Space Environment Law?; *Dr. George Robinson*, *Robinson* and *Robinson*, LLC - Art. IX and Extraterrestrial Contamination: Quarantine, the U.S. Constitution, and National Legislation

The Space Environment: Nonbiological Contamination and Other Issues: Moderator: *Les Tennen*, *Sterns* and *Tennen*

Howard A. Baker, M.E.S., LL.M., D.C.L. Senior Counsel, Department of Justice, Government of Canada - Environmental Protection in Outer Space: Toward a Protocol to Art. IX OST; *Prof. Frank Lyall*, Emeritus Professor of Public Law, University of Aberdeen, Scotland, UK OST - Art. IX, Improvements: Cultural and Natural Heritage Elements; *Mark Williamson*, Space Technology Consultant, U.K. - A Pragmatic Approach to the "Harmful Contamination" Concept in Art. IX OST.

Lunch and Presentation: *Marcia Smith*, President Space and Technology Policy Group, LLC Past Vice President, IISL - The 2010 U.S. National Space Policy and Its Potential for Upholding the Principles of the OST Regime

International Relations and Foreign Affairs: Moderator: *Dr. Marietta Benkö*, Executive Editor, German Journal of Air and Space Law, University of Cologne/Institute of Air and Space Law, Germany

Dr. Bin Li, Associate Professor; Asst. Dean; Director, Institute of Space Law; Assoc. Director, Institute of Aviation Law, Beihang University School of Law - China's Current Legislative Efforts to Control and Manage Space Debris; *Theresa Hitchens*, Director, UN Institute for Disarmament Research, Geneva, Switzerland - Art. IX OST, Data Sharing, and Space Situational Awareness; *Prof. Sergio Marchisio*, University Sapienza of Rome, Director Institute for International Legal Studies (National Research Council, Italy) - The Principle of no Harmful Interference and the Draft Code of Conduct on Space Activities; *Michael Mineiro*, McGill University, Canada - Principles of Peaceful Purposes and the Obligation to Undertake Appropriate International Consultations Under Art. IX OST

Discussion: Moderator: *Prof. Joanne Irene Gabrynowicz*

Arthur M. (Art) Dula CEO, Excalibur Almaz Limited; *Sam McDonald*, U.S. Department of State, Office of the Legal Advisor; *Rafael Moro-Aguilar* Head of Legal Affairs, Orbospace Engineering; Member, Delegation of Spain, UNCOPUOS; *E. Jason (Jay) Steptoe* Associate General Counsel for International Law, NASA General Counsel's Office, Washington, DC