The other triangle in European Space Governance: The EU, the UN, and ESA

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0. Outline

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2. European space governance
   1. Art. 189 TFEU revisited
   2. EU-ESA
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   1. The EU in the United Nations
   2. The EU in COPUOS
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5. Conclusions / recommendations
1. Introduction

Two classical topics of study:

- Institutional aspects of European space policy
- International relations of the European Union

Aim of this presentation: examine in which way and to what extent the internal European arrangements in space governance affect the EU’s external actorship as a space power
2.1 European Space Governance (1)

• Art. 4(3) and 189 TFEU revisited
  – Shared competence
    • With a proviso
  
  – Open-ended mandate for evolution of the EU-ESA relationship
  
  – Shaky underpinnings for EU in IOs
2.2 European Space Governance (2)

- EU-ESA relations post-Lisbon
  - Art. 189 TFEU: “any appropriate relations”
  - COM (2012) 671: three options
    - Enhanced cooperation under status quo
    - ESA to become IO under EU framework (cf. EDA)
    - ESA as EU regulatory agency
      - Timeline: 2020-2025

- At the same time: 2004 Framework Agreement still in force
3. The EU in International Organisations

2 sets of rules matter
• Internal EU rules
• Rules proper to the IO

• Possible issues:
  – Co-representation -> over-representation?
  – In shared competence areas: duty of sincere cooperation: Art. 4(3) TEU
3.1 The EU in the United Nations

• EU primary law:
  – Art 21(1) TEU
  – Art 220 TFEU

• UN GA: EU status upgraded in 2011: ‘enhanced’ observer status
  – Right to circulate communications
  – Right to present proposals / amendments orally
  – Right of reply
3.2 The EU in COPUOS

- **Main Committee**
  - First appearance: 2003
  - Observer status since 2007
  - 2008: presentation on ESP + statement by France on behalf of EU & UN MS on Code of Conduct project
  - 2009: statement on CoC by Czech republic
  - 2010: statement by Spain on behalf of the EU
  - 2011: observer + right to address the meeting
  - Since 2012: co-representation by Member State and EU observer

- **Legal Subcommittee:**
  - 2010: some delegations would like to debate the CoC project
  - Since 2012: EU invited to attend meetings & address them, as necessary

- Meanwhile, 17 EU member states are members of COPUOS; ESA has been observer since 1975
4. The Code of Conduct process

- Response to 2006 GA resolutions on PAROS and TCBMs in space
- 2007: Portuguese presidency responds on ‘code of conduct for outer space objects and activities’
- 2008: first ‘Draft Code of Conduct for Outer Space Activities’ adopted under French presidency
- 2010: revised draft CoC adopted in Council
- Jan. 2012: US refuses to sign
- Start of UNIDIR negotiation process
  - Consultations in Vienna in June 2012, on the basis of new draft ‘International Code of Conduct for Outer Space Activities’
  - Open-ended consultations in Kiev in May 2013
  - Open-ended consultations in Bangkok in November 2013

- Why not COPUOS
  - No mandate?
  - Too slow
  - Consensus requirement
5. Conclusions / recommendations

1. EU-ESA: evolution beyond the Framework Agreement is needed

2. EU-UN/COPUOS: at this moment, triple representation: Member States, ESA, EU
   – At this moment unavoidable, but should evolve over time

3. If the EU wants to be a full-fledged space actor, it should adopt the obligations of the space treaties
Thank you for your attention!

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