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This volume of the Journal of Space Law features a special section: *The 50th Anniversary of the National Aeronautics and Space Act*. The year 2008 is the half-century mark for the world’s first national space law. On July 29, 1958, less than a year after the successful launch of *Sputnik I*, the National Aeronautics and Space Act of 1958 (NAS Act), also referred to as the Space Act, was passed, and the United States Congress declared that, “it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.”

It was a law the likes of which had never been passed in human history. With humanity’s combined space experience totaling only a few years, what was to become the NAS Act had to address every aspect of space activities, some known, most not. The founders of United States and international space law included Paul G. Dembling, who was general counsel to the National Advisory Committee for Aeronautics and later to the National Aeronautics and Space Administration (NASA). Along with Eilene M. Galloway, Glenn Wilson, and others, Mr. Dembling helped create the legislative foundation of NASA and the U.S. civil space program. The Journal of Space Law is honored to publish Mr. Dembling’s first-hand account of how the NAS Act came to be in his article, *The National Aeronautics and Space Act of 1958: Revisited*.

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1 Joanne Irene Gabrynowicz is the Editor-in-Chief of the Journal of Space Law. She is also a professor of space law and remote sensing law and the Director of the National Center for Remote Sensing, Air, and Space Law at the University of Mississippi School of Law. Prof. Gabrynowicz was the recipient of the 2001 Women in Aerospace Outstanding International Award and is a Director of the International Institute of Space Law and a member of the American Bar Association Forum on Air and Space Law.

2 42 U.S.C 2451 et. seq.

3 *Id.*
Moving forward in time and looking at the present, the NAS Act special section includes articles by three NASA attorneys who, on a day-to-day basis, use the foundation set out by Mr. Dembling and his colleagues. In her article, 50 Years Later: Serving a Space Agency Client – The Lawyer’s Role in International Space Cooperation, Robin J. Frank addresses the lawyer’s professional role in serving NASA to assist it in implementing U.S. national goals, missions, and policies. NASA attorney David S. Schuman addresses a very special aspect of Mr. Dembling’s work—“other transactions authority”. This is a Congressional grant of authority that is given to NASA in the NAS Act and which, according to Mr. Schuman, has achieved “widespread appreciation [that it is] the most useful among all [of the NAS Act’s provisions, and] [i]t would be no exaggeration to state that since the authority was enacted, NASA lawyers have used this authority...to help our clients achieve their mission tens of thousands of times.” Mr. Shuman sets out the details of how this is done in his article, Space Act Agreements: A Practitioner’s Guide. In The Extra-Territorial Reach of U.S. Patent Law on Space-Related Activities: Does the “International Shoe” Fit as We Reach for the Stars?, two other NASA attorneys, Kurt Hammerle and Theodore Ro, discuss the ever-growing and increasingly important aspect of space law that was not even raised at the time the NAS Act was being promulgated. As Mr. Dembling explains, the “original...bills contained no provisions relating to patents...questions of securing rights in invention [were left] to the discretion of the agency operating under the general principles of law...In fact, all of the testimony taken before both Congressional Committees related to bills not having any special patent clauses.”

The year of 2008 has had the 50th anniversary of the world’s oldest national space law and the beginning of new national space law for two major space faring nations: France and Japan. In this volume of the JOURNAL OF SPACE LAW, readers have ac-


cess to the first, unofficial English translations of France’s Law No. 2008-518 of 3 June 2008 Related to Space Operations and Japan’s Fundamental Act of Outer Space (Law No.43, 2008). The French law was translated by Philip Clerc, Head of Legal Department, and Julien Mariez, Legal Advisor, Centre National d' Etudes Spatiales Legal (CNES) Department, Paris, France. Hiroshi Kiyohara, chief attorney, Musashi International Law Office, Tokyo, translated the Japanese law. Finally, regarding national space laws, Parviz Tarikhi, the head of the Microwave Remote Sensing Department at the Mahdasht Satellite Receiving Station in Tehran, Iran, and participant in the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) since 2000, provides unofficial translations of and a comparison between the 2005 and 2008 Statutes of the Iranian Space Agency.

While the last half century has seen the NAS Act develop and adapt, it has been the events of the last eighteen months that have given rise to some of the newest and most important questions in space law. In January 2007, it was reported that a Chinese anti-satellite test was carried out on January 11. On February 21, 2008, the United States shot down USA-193, a dysfunctional satellite. In his article, FY-1C and USA-193 ASAT Intercepts: An Assessment of Legal Obligations under Article 9 of the Outer Space Treaty, Michael C. Mineiro compares and contrast the two events in legal terms and reaches some conclusions regarding both of them. In a second article relating to on-orbit satellite destruction and space debris, Andrew Brearly takes another look at an earlier relevant event in his article, Reflections upon the Notion of Liability: The Instances of Kosmos 954 and Space Debris.

This volume of the JOURNAL OF SPACE LAW is rounded out by three very different, and equally important space law subjects: the U.S. International Traffic in Arms Regulations (ITAR); The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (Rescue Agreement); and antitrust litigation. In their article, International Space Exploration and Critical Transparency of Basic Research: Impact of the U.S. International Traffic in Arms Regulations, George S. Robinson and Eric McAdamis address
the legal impact of ITAR on basic research and the scientific community. This paper was written for, and presented at, the 2nd Eilene M. Galloway Symposium on Critical Space Law Issues held in Washington, D.C. on December 6, 2007. The National Center for Remote Sensing, Air, and Space Law of the University of Mississippi School of Law, the blog Res Communis, and the International Institute of Space Law sponsored the symposium. Prof. Frans G. von der Dunk addresses another significant space law anniversary in his article, A Sleeping Beauty Awakens: The 1968 Rescue Agreement after Forty Years. In his case note, The Privatization of Public Policy: EOSAT v. NASA and the Application of Antitrust Liability to Federally-Supported Monopolies, third year law student Jason Crook analyzes an important antitrust case of the 1990s that settled out of court but which had major significance to the then commercial remote sensing industry. Like Mr. Crook’s previous work, he considers the currently critical issue of the interface between public and private entities that share a goal of profit.

All of these articles, translations, and case note, combined with the JOURNAL OF SPACE LAW’s regular bibliography, Aviation and Space Law: Relevant Publications, brings the reader a wide array of new and developing space law from around the world.
CALL FOR PAPERS

JOURNAL OF SPACE LAW
UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW

A JOURNAL DEVOTED TO SPACE LAW AND THE LEGAL PROBLEMS ARISING OUT OF HUMAN ACTIVITIES IN OUTER SPACE.

Volume 35, Number 1

The National Center for Remote Sensing, Air, and Space Law of the University of Mississippi School of Law is delighted to announce that it will publish Volume 35, number 1 of the JOURNAL OF SPACE LAW in the first half of 2009.

Authors are invited to submit manuscripts, and accompanying abstracts, for review and possible publication in the JOURNAL OF SPACE LAW. Submission of manuscripts and abstracts via email is preferred.

Papers addressing all aspects of international and national space law are welcome. Additionally, papers that address the interface between aviation and space law are also welcome.

Please email manuscripts and accompanying abstracts in Microsoft Word or WordPerfect to:

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Or, alternatively, a hardcopy of the manuscript and abstract, along with a computer diskette containing them in Microsoft Word or WordPerfect format may be sent to:

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P.O. Box 1848
University, MS 38677
1-662-915-6857 (office)
1-662-915-6921 (fax)

To be considered for the next issue, submissions should be received on or before March 15, 2009. The JOURNAL OF SPACE LAW will continue to accept and review submissions on an on-going basis.

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This is an unofficial translation of Iran’s “Statute of the Iranian Space Agency”. It is being offered to the readership of the JOURNAL OF SPACE LAW as a convenience.¹

The Cabinet of the Islamic Republic of Iran in its meeting of June 11, 2005, according to proposal number 100/14310 dated 9 August 2004 of the Ministry of Communications and Information Technology and citing the Article 9 of the Law for Tasks and Authorizations of the Ministry of Communications and Information Technology approved on 10 December 2003 by the Parliament, passed the statute of the Iranian Space Agency as follows:

STATUTE OF THE IRANIAN SPACE AGENCY

Article 1- Aiming at implementing the approvals of the Space Supreme Council of Iran and the study, research, designing, engineering and conducting the issues of space service and remote sensing technologies, and strengthening the communication networks and space technology inside and out of the country, and collection of the sovereignty activities of the Iranian Remote Sensing Center and the Ministry of Communications and Information Technology, benefiting the facilities and human resource of the Department of Design, Engineering and Installation of Satellite Communications and Department of Maintenance of Satellite Communications both affiliated with

¹ Translated by Parviz Tarikhi (28 August 2008). The Persian version is available at http://www.itna.ir/archives/documents/010742.php. Mr. Tarikhi heads the Microwave Remote Sensing Department at the Mahdasht Satellite Receiving Station. He has been involved with the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) since 2000, including as second vice-chair and rapporteur in 2004-06 of the committee bureau. Since 2001 he has co-chaired Action Team number 1 of UNISPACE-III with the mission “to develop a comprehensive worldwide environmental monitoring strategy”. From 2004-07 he conducted the Office for Specialized International Co-operation of the Iranian Space Agency. He is also a freelance journalist and technical writer. Some of Mr. Tarikhi’s writings may be found on the National Center for Remote Sensing, Air, and Space Law’s website blog at http://rescommunis.wordpress.com.
the Telecommunications Company of Iran, the Iranian Space Agency which is briefly referred to as “Agency” in this Statute, is established.

**Article 2**- As a legal entity, the Agency is a financially independent official foundation affiliated with the Ministry of Communications and Information Technology.

**Article 3**- Agency's tasks and authorizations are as follows:

I. Pursuance and implementing the approvals of the Space Supreme Council,

II. Preparing and regulation of mid and long-term programs for country's space sector in cooperation with related institutions for proposing to the Space Supreme Council,

III. Study for policy making in designing, manufacturing, launching and using research and applied satellites and providing space services for proposing to the Space Supreme Council,

IV. Planning to conduct and develop of the peaceful uses of outer space and space technology, strengthening the national, regional and international communication networks by the state, cooperative and private sectors and monitoring their implementation at the framework of the policies approved by the Space Supreme Council,

V. Applied specific study, research and education in developing space science and technologies,

VI. Studying the requirements and implementing satellite and other space technology projects in the framework of the approvals of the Space Supreme Council,

VII. Contribution to the implementation of the regional and national satellite projects in the framework of the approvals of the Space Supreme Council,

VIII. Issuing the authorization for the space activities aiming at sustained and coordinated exploitation of space technologies and facilities including satellites, direct receiving and transmitting stations, and satellite control in the framework of the approvals of the Space Supreme Council,
IX. Cooperation with related clients for assessing the competence of non-governmental contractors and advisors for implementing space related executive and research issues in different parts of the country,

X. Representing, membership and attending related international and regional societies and unions aiming at protecting national interests in the framework of the regime's main policies and other laws and regulations,

XI. Implementing regional and international cooperation programs in space issues in the framework of the regime's main policies,

XII. Management and exploitation of satellite and orbital positions in coordination with responsible bodies and pursuing their international registration for optimum use of the space sources,

XIII. Preparing and formulating the regulations and statutes related to the tasks included in the Article 9 of the Law for Tasks and Authorizations of the Ministry of Communications and Information Technology approved in 2003, for proposing to the legal clients.

XIV. Establishing national archive and centralizing store, classification and updating of space data.

Nota Bene 1- The Agency is obliged to apply the highest capacity of the non-governmental sector in the framework of the policies of the Space Supreme Council for implementing its tasks and affairs.

Nota Bene 2- Distinguishing the security competence in the cases of the clauses VIII and IX in this Article will be the responsibility of the related clients.

Article 4- Agency's required credits will be provisioned and secured through the public funds and credits in the country's annual budget.

Nota Bene 1- The facilities, records, human resources and funds of the ongoing national and research projects in the Ministry of Communications and Information Technology is transferred to the Agency.
Nota Bene 2- By coordination of the Management and Planning Organization of Iran and in the framework of the annual budgets the Agency could use the assistance and other fund sources of the Ministry of Communications and Information Technology and its affiliated organizations and companies, and other institutions.

Article 5- The organizational chart of the Agency after formulating by the Agency and confirmation of the Management and Planning Organization of Iran will be effectual.

Article 6- The president of the Agency that is the Deputy Minister of Communications and Information Technology and the secretary of the Space Supreme Council at the same time, will be appointed by the Minister of Communications and Information Technology and will hold the highest executive position at the Agency.

Article 7- The president of the Agency is responsible for well implementing the affairs, protecting the rights, interests and assets of the Agency, and for managing the Agency and implementing the approvals of the Space Supreme Council will have full right and authorization in the framework of the regulations. He/she will represent the Agency before all legal authorities and real and legal entities with the right to depute the authorization to others, and he/she can delegate on his recognition and trust part of his/her authorization by the official notification to either of his/her deputies, managers or Agency’s staff.

The Guardian Council according to the letter number 84/30/12612 dated 18 June 2005 passed this Statute.

Translated to English by: Parviz Tarikhi
10 July 2008
This is an unofficial translation of Iran’s “Statute of the Iranian Space Agency”. It is being offered to the readership of the JOURNAL OF SPACE LAW as a convenience.¹

The Cabinet of the Islamic Republic of Iran in its meeting of June 16, 2008, according to proposal number 1/27560 dated 9 August 2007 of the Ministry of Communications and Information Technology and citing Article 9 of the Law for Tasks and Authorizations of the Ministry of Communications and Information Technology approved on December 10, 2003 by the Parliament of the Islamic Republic of Iran, passed the statute of the Iranian Space Agency as follows:

STATUTE OF THE IRANIAN SPACE AGENCY

Article 1- Aiming at implementing its legal tasks and the study, research, designing, engineering and conducting the issues of space service and remote sensing technologies, and strengthening the communication networks and space technology inside and out of the country, and collecting of the sovereignty activities of the Iranian Remote Sensing Center and the Ministry of Communications and Information Technology, benefiting the facilities and human resource of the Department of Design, Engineering and Installation of Satellite Communications and Department of Maintenance of Satellite Communications both affiliated with the Telecommunications Company of

¹ Translated by Parviz Tarikhi (28 August 2008). The Persian version is available at http://www.itna.ir/archives/documents/010742.php. Mr. Tarikhi heads the Microwave Remote Sensing Department at the Mahdasht Satellite Receiving Station. He has been involved with the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) since 2000, including as second vice-chair and rapporteur in 2004-06 of the committee bureau. Since 2001 he has co-chaired Action Team number 1 of UNISPACE-III with the mission “to develop a comprehensive worldwide environmental monitoring strategy”. From 2004-07 he conducted the Office for Specialized International Co-operation of the Iranian Space Agency. He is also a freelance journalist and technical writer. Some of Mr. Tarikhi’s writings may be found on the National Center for Remote Sensing, Air, and Space Law’s website blog at http://rescommunis.wordpress.com.
Iran, the Iranian Space Agency which is briefly referred to as “Agency” in this Statute, is established.

**Article 2-** As a legal entity, the Agency is a financially independent official foundation affiliated with the Ministry of Communications and Information Technology and will be managed based on its specific financial and trade laws and regulations in the framework of the laws and regulations of the Islamic Republic of Iran.

**Article 3-** Agency’s tasks and authorizations are as follows:

I. Implementing the study, research, designing, engineering and operating issues in the fields of space service technologies, remote sensing and strengthening the communications and space technology networks inside and outside of the country as well as the sovereignty tasks of the Iranian Remote Sensing Center and the Ministry of Communications and Information Technology,

II. Preparing and regulating the mid and long-term programs for country’s space sector in cooperation with related institutions for proposing to the relevant referents,

III. Study for policy making in designing, manufacturing, launching and using research and applied satellites and providing space services for proposing to the legally cognizable referents,

IV. Doing research, designing, manufacturing and launch of the commercial, scientific and research satellites, and designing and establishing control center and launch of national satellites in cooperation with related institutions,

*Nota Bene-* The above said issues excluding launch and satellite control center could be implemented by the non-governmental sector in care of the Agency.

V. Planning to conduct and develop the peaceful uses of outer space, celestial bodies, astronomy and space technology, strengthening the national, regional and international communication networks by the state,
cooperative and private sectors and monitoring their implementation in the framework of the major policies of the country,

VI. Study, research, technology development and applied specific education in developing space science and technologies,

VII. Studying the requirements and implementing satellite and other space technology projects in the framework of the related laws and regulations,

VIII. Contribution to the implementation of the national, regional and international satellite projects in the framework of the major policies of the regime and other related laws and regulations,

IX. Implementing the allotted sovereignty tasks through providing space sector signal (including voice, image and data) for the land sector applicants, issuing authorization for the activities in space aiming at integral management of the country’s space sector and sustained and coordinated exploitation of space technologies and facilities including satellites, network of private or national satellites (including satellite mobile), direct receiving and transmitting stations, and satellite control in the framework of the related rules and regulations,

X. Getting the approved tariffs for offering space services and issuing the authorization for activity in space,

XI. Assessing the competence of non-governmental contractors and advisors for implementing space related executive and research issues in different parts of the country in the framework of related laws and regulations,

XII. Representing, membership and attending related international and regional societies and unions aiming at protecting national interests in the framework of the regime’s major policies and other laws and regulations,

XIII. Implementing regional and international cooperation programs in space issues in the framework of the regime’s major policies,
XIV. Management and exploitation of satellite and orbital positions in coordination with responsible bodies and pursuing their international registration for optimum use of space sources,

XV. Study and planning for securing the space sector needs of the country’s whole satellite networks for providing satellite services through the national, regional and international satellites in the framework of the laws and regulations,

XVI. Preparing and formulating the regulations and statutes related to the tasks included in the article 9 of the Law for Tasks and Authorizations of the Ministry of Communications and Information Technology approved in 2003, for proposing to the legal referents for approval,

XVII. Establishing national archive and centralizing store, classification and updating of space data.

*Nota Bene 1*- The Agency is obliged to apply the highest capacity of the non-governmental sector in the framework of the major policies of the regime for implementing its tasks and affairs.

*Nota Bene 2*- Distinguishing the security competence in the cases of the clauses IX and XI in this article will be the responsibility of the related referents.

*Nota Bene 3*- The Agency is authorized to proceed for establishing space research centers and firms with the endorsement of the Council for Development of Higher Education in the framework of the laws and regulations.

*Nota Bene 4*- Regarding the clause X, the Agency is obliged to act based on the rates approved by the Cabinet and settle the funds to the public revenue account (near the General Treasurer).

**Article 4**- Agency’s required credits will be provisioned and secured through the public funds and credits in the country’s annual budget and will be expended in the framework of the Agency’s specific statutes subject of the article 2 of this Statute and other related laws and regulations.

*Nota Bene*- In coordination of the Planning and Strategic Monitoring Deputyship of the President of the Islamic Republic
of Iran and in the framework of the annual budgets, the Agency is authorized to use the financial allowance and other trust funds of the Ministry of Communications and Information Technology and its affiliated organizations and firms and other institutions.

**Article 5**- In implementing clause 10 of article 68 of the Law for Management of Country Service approved in 2007, the Agency in coordination of the Management and Human Assets Development Deputyship of the President of the Islamic Republic of Iran is authorized to make necessary superior payments with the endorsement of the Cabinet to draw and retain appropriate human resources for the specialized and managerial positions.

**Article 6**- The organizational chart of the Agency after formulating by the Agency and confirmation of the Management and Human Assets Development Deputyship of the President of the Islamic Republic of Iran will be effectual.

**Article 6**- The president of the Agency that is the Deputy Minister of Communications and Information Technology will be appointed by the above-mentioned Minister and will hold the highest executive position at the Agency.

**Article 7**- The president of the Agency is responsible for well implementing the affairs, protecting the rights, interests and assets of the Agency, and for managing the Agency will have full right and authorization in the framework of the regulations. He/she will represent the Agency before all legal authorities and real and legal entities with the right to depute the authorization to others, and he/she can delegate on his recognition part of his/her authorization by the official notification to either of his/her deputies, managers or Agency’s staff.

The Guardian Council of the Constitution of the Islamic Republic of Iran according to letter number 87/30/27483 dated 2 July 2008 passed this Statute.

The Ministry of Communications and Information Technology is noticed of this approval through letter number 62999 T 38571 H on July 15, 2008.