

**INTERNATIONAL INSTITUTE OF SPACE LAW**

OF THE INTERNATIONAL ASTRONAUTICAL FEDERATION

**INSTITUT INTERNATIONAL DE DROIT SPATIAL**

DE LA FEDERATION ASTRONAUTIQUE INTERNATIONALE

3-5, RUE MARIO NIKIS  
75015 PARIS - FRANCE

Tél. 33-1-45.67.42.60  
Telefax 33-1-42.73.21.20

**Manfred Lachs Space Law Moot Court Competition 1993**

**Case Concerning the Commercial Exploitation of the Moon**

**XAVAGE**

**vs.**

**ADASTRA**

**THE PROBLEM**

The State ADASTRAs and three other States, all party to the 1967 Outer Space Treaty and the 1972 Liability Convention, have jointly undertaken a 5 year intensive mapping programme of the Moon surface, making use for this purpose of Moon observation satellites. These activities were conducted pursuant to the Memorandum of Understanding (MoU) on the Mapping of the Moon Programme (MOM) concluded by the above-mentioned States. Although being the result of a mission intended primarily for scientific purposes, the data collected throughout the implementation of this mapping programme were communicated only to the partner States, in accordance with Article 2 of the MoU.

State XAVAGE, not party to the MoU, has requested access to the mapping data collected by the partner States claiming that such data would generally enhance its understanding of the Moon, while at the same time providing much needed information on potential risks, including possible harmful modifications of the Moon environment that may result from the exploitation of the Moon's resources. The four partner States have continuously denied other States access to the data on the basis that such data constitute confidential information of a commercial nature and of strategic national interest.

Upon conclusion of the MOM Programme, the same partner States immediately concluded a multilateral treaty entitled «The Provisional Understanding Regarding Mining on the Moon» in which they recognised each others' exclusive rights for the exploration and mining of areas of the Moon.

The provisions of this Provisional Understanding were incorporated into the national legislation of the four partner States in the months following the date of signature. Relevant Articles are annexed.

State ADASTRAs, which has signed the 1979 Moon Agreement, has a Moon station established by

its Military Space Command near the Sea of Tranquility and its personnel has been exploring a particular area where it recently discovered a new Mineral, Zirconium. This substance is extremely valuable because it can be used to make wire that will conduct an electrical current without any resistance. Scientists have determined that the mineral may have been deposited on this area of the Moon as a result of the fall of an asteroid millions of years ago.

The area containing Zirconium is 10 by 30 kilometres (hereinafter referred to as "the Area"). State ADASTRA, which has announced its intent to commercially exploit this area on an exclusive basis, has filed its claim with the other Parties to the Agreement pursuant to the Provisional Understanding. State ADASTRA has erected a laser beam "fence" around the Area. The moon station of State ADASTRA is situated in the south east corner of "the Area".

Following the filing of the claim, State ADASTRA issued a licence to the multinational company SOLLARS, which has its corporate headquarters in the capital of State ELUSIVE, for the exploitation of the Area.

Company SOLLARS' shareholders come from five countries with a majority share owned by Nationals of State ADASTRA.

Company SOLLARS posted signs designating a "Keep Out Zone" covering a radius of 20 kilometres surrounding "the Area" marked "KEEP OUT - THIS MEANS YOU!" The extremely powerful laser beam is powered by a nuclear reactor.

State XAVAGE, which is a party to the Outer Space Treaty, the Liability Convention, and to the 1979 Moon Agreement, announces its intention to undertake a scientific mission in "the Area" for the purpose of obtaining a better understanding of the characteristics of the newly-discovered mineral. This mission would entail limited mining activities and State XAVAGE therefore installed a mining station funded by a Department of Defense programme just outside the North east corner of "the Area".

State XAVAGE is in the process of awarding Company TROFIT a contract to mine and research "the Area" for five years. Company TROFIT announced its intention to mine the fenced-in area. But state ADASTRA's security equipment prevents State XAVAGE from having access to "the Area".

State XAVAGE has therefore destroyed the NPS powering the fence, in order to obtain access to the area. This action of State XAVAGE temporarily prevented further mining of "the Area" by the company SOLLARS.

*The Governments of State ADASTRA and State XAVAGE have submitted the matter by special Agreement to the International Court of Justice pursuant to Article 36, paragraph 1, of the Statute of the Court.*

## **CLAIMS**

The Government of State XAVAGE respectfully asks the Court to declare that:

- 1) The Government of State ADASTRA violated International Law by the conclusion of the Provisional Understanding and the consequent granting of a license to company SOLLARS to mine a part of the Moon; and
- 2) The Government of ADASTRA violated its obligations under International Law by installing a

nuclear power source on the Moon and by allowing the creation of a "Keep-Out" zone relevant thereto.

The Government of State ADASTRA respectfully asks the Court to declare that:

- 1) The infringement of the "Keep-Out Zone" and "the Area" by State XAVAGE is an illegal act under International Law; and
- 2) The destruction of the power source of the Nuclear Power station by State XAVAGE constitutes a violation of International Law and State XAVAGE is liable for the damage resulting from that act, including the economic damages caused to Company SOLLARS because of a three month delay in its mining activities.

## **ANNEX I**

### **Relevant Articles of the Provisional Understanding Regarding Mining on the Moon**

(concluded between the State of ADASTRA and three other States)

#### **ARTICLE 1**

The purpose of this Understanding is to define the terms and conditions of:

- a) Acceptance of each others' exclusive claims on areas of the Moon filed pursuant to this Understanding.
- b) Licensing by the States Party to this Provisional Understanding with a view to the commercial exploration of the Moon
- c) Mutual acceptance of National Licenses awarded by the States Party to the Provisional Understanding
- d) Cooperation between the States Party to the Provisional Understanding in the field of the commercial exploitation of the Moon
- e) Settlement of Disputes as to the interpretation or implementation of the terms of this Provisional Understanding

#### **ARTICLE II**

The States party to this Understanding may issue licenses for the commercial exploitation of the Moon in accordance with the provisions set forward in this Understanding. The licenses duly awarded under this Understanding will automatically be recognized and respected by the other States Party to the Understanding.

#### **ARTICLE III**

The activities carried out by virtue of the licenses as provided under Article II shall be in accordance with the Outer Space Treaty and other General Principles of International Law and the Charter of the United Nations.

#### **ARTICLE X**

This Provisional Understanding shall enter into force after the four instruments of ratification have been deposited in QUALA, the capital of State ADASTRA.

#### **ARTICLE XI**

This Provisional Understanding may be revised at any time by mutual written agreement of the Parties.