Legal Solutions for International Partnerships for Exploration:
The European Space Agency perspective

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The European Space Agency

- International intergovernmental organisation
- 22 Member States
- Founded in 1975
- International legal personality
- 2300 staff, 6 B€/y budget
- Active promoter of space law and observer at UN-COPUOS
- Accepted rights/obligations of 3 UN treaties: ARRA, LIAB, REG
- ESA policies for:
  - Launching State Liability
  - Space Debris Mitigation
  - Space Object Registration
  - Frequency Management
ESA and international cooperation 1/2

- ESA is both **mechanism and actor** of international cooperation in space activities.
- ESA cooperates with
  - its Member States
  - international organisations and institutions
  - Governments and institutions of non-member States
- **400+ international agreements (Art. XIV ESA Convention)**
  - European Union
  - Long-standing cooperation with USA, Russia, Japan, India, China, Canada (associated state)
  - Various ad-hoc cooperations with states around the globe
Standardisation of legal clauses

- No exchange of funds
- Exchange of data and goods, Intellectual Property
- Cross-waiver of liability
- ESA’s privileges/immunities, dispute settlement (no national courts, arbitration)

Frame agreement approach

- First level: international treaty with foreign government
- Second level: Implementing Arrangements or other legal instruments for concrete cooperation projects with space agency or other entity

Ad-hoc cooperation agreements

- Concluded on a case-by-case basis with space agency or other entity
European Service Module for NASA’s Orion spaceship

- Long-term cooperation on an element of strategic importance
- First flight unit (FU) delivered to US in Nov 2018
- FU 1 and 2 provided under an Implementing Arrangement pursuant to ISS IGA/MOU
- Additional FUs may be provided by ESA as ISS barter elements or contribution to another cooperation
- Continued supply secured through combination of licensing and guaranteed supply regime („reproducibility“)
Commercial ISS external payload platform “Bartolomeo”

- Developed and operated by Airbus DS under ESA’s recent exploration commercial partnership initiative
- Increases attractiveness of ISS as a research platform
- Involves new ways of cooperation
  - Learning from NASA experience in ISS commercialization
  - Securing necessary non-European capabilities not yet covered by ISS acquired rights (e.g. airlock)
  - Cooperation between Agencies and commercial entities, and between commercial entities