

# Concluding remarks

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## Concluding remarks

19-03-2010

ECSL Practitioners' Forum

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# 1

- Institutional landscape since 2003: EU & ESA no longer joint parents, but EC owner & ESA procurement agency – & happy with that, too!
- Convergence ESA & EU
  - ESA's fair return is not in all cases excluding competition / anti-competitive & EU has through competitive dialogue procedure acknowledged some of the realities of the space sector



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# 2

## ■ Procurement as per Reg. 683

- 3 out of 6 contracts allotted
- SMEs seem well represented so far
- EU procurement rules & GPA have no problem with that
- On a more practical level, certain aspects operate differently as between EU & ESA

**Main Q:** To what extent will future adaptations to specific space sector be necessary / occur?



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# 3

## ■ Liability requires:

1. Analysis *lex lata* & applicability to Galileo signals & services alike, noting technical / operational characteristics & various areas concerned
  2. Developing specific liability regime(s) based on experience with IOV & development governance + operational structures post-2013/14
- EU discussion forum process would be proper place to do that, in particular if EU law should do the trick ...



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# 4

## ➔ Preliminary analysis *lex lata* on liability

- No dedicated international regime
  - Many national regimes applicable
  - Bits of EU law, e.g. on harmonising applicable private international law rules
  - Key distinctions between contract, tort & product liability law need to be taken into consideration
- ➔ Case for a EU Regulation on third-party liability  
– noting inherent *a priori* limitation to EU &  
noting various types of Galileo services



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# 5

- EU may well be showing the way
  - Unlikelihood of USA & Russia accepting global liability regime for primary system operations & resulting SIS ↔ Eurocontrol contractual chain
  - Noting also interest all other states in some sort of liability acceptance → bilateral extensions
- So indeed today we have clearly contributed to setting the stage for Galileo also in the legal sense



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*Seven years from now I am sure we can offer our Chairman a satisfying array of possible options to sue – even though I am sure he will find some of us on the other side of the dispute*

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