

61st IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
10th Nandasiri Jasentuliyana Keynote Lecture on Space Law and Young Scholars Session (1)

Author: Ms. Anne-Sophie Martin
Sapienza University of Rome, Italy

THE NEW LEGAL PERSPECTIVES OF DUAL-USE SATELLITES: SUPPORTING MILITARY AND
COMMERCIAL CHALLENGES OF SPACE ACTIVITIES.

Abstract

The paper will present the new systems of dual-use satellites and their governance. Governmental and military services requirements for satellites continue to represent a very substantial portion of all commercial satellite services and satellite systems have had to adapt to this situation in terms of capacity, availability, flexibility, and certain types of encryption and security requirements. The duality can be seen as a new *modus operandi* by meeting both civil and military needs. This concept of “dual-use” is not new. What is new is that the volume of traffic is growing exponentially and the type of requirements is expanding. The growing synergy between civil/military technologies and applications is irreversible.

This will create new horizons for the exploration and exploitation of space applications, so that several new civilian uses of high-resolution Earth observation data, mobile telecommunications, and compact positioning equipment will expand the commercial services.

The paper will address the new challenges face to the military use of outer space and the risk of use of force. What will be the status of a dual-use satellite in case of conflict? It will be analyze the application of the *jus in bello* and the *jus ad bellum* in case of conflict in outer space but more specifically in the case of dual use satellites.

The paper will highlight another aspect of the duality which is the data coming from dual-use satellite. Indeed, the exponential growth in the amount of data produced and disseminated consequently creates multiple legal challenges. The most prominent one is related to data privacy, protection and cybersecurity. Furthermore, there is a necessity to manage the balance between data openness and data protection in case of security concerns.

The existing legal and regulatory regime has not kept pace the remarkable technological and commercial progress of space activities since 1957. This represents a major challenge in relation to the ongoing development of effective legal principles. In this context, it is of utmost importance to develop some guidelines related to the utilization of dual-use satellites, by taking into account new standards on the use of their data. It is important to understand what, and how, existing legal principles apply to any space activities involving dual-use satellites and to determine what needs to be done to provide, from a regulatory perspective, an appropriate framework to regulate better these activities in the future.