

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
Space Law in a Networked World (7)

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NEW SPACE LAW CREATED TO ENABLE SPACE INNOVATION WHILE PRESERVING THE RF
ENVIRONMENT IN SPACE; NOTABLE OUTCOMES OF THE ITU'S 2019 WORLD RADIO
CONFERENCE

Abstract

Low Earth orbit is suddenly becoming increasingly crowded. As the first “Mega-LEO” constellations of hundreds and thousands of small communications satellites are being launched, there are also an increasing number of smaller satellites, including cubesats, being launched by newly space-faring nations and their educational and research institutions. In both cases, there is an urgent need for appropriate global and national legal/regulatory frameworks to support and govern these innovations within the framework of the Outer Space Treaty. One venerable regulatory institution is addressing this challenge: the International Telecommunication Union (ITU). The ITU's ongoing activities to incrementally prepare a basis in international law to both encourage and regulate these new space innovations quietly establishes a proven a model for the world to follow.

In 2019, the ITU and its members gathered for its quadrennial treaty conference, the World Radio-communication Conference (WRC-19) in Sharm el-Sheikh, Egypt, to address, among many other items, how to handle the filings for new very large non-geostationary satellite constellations and the growing number of cubesats, which are often launched without adherence to the ITU's Radio Regulations, a treaty instrument which addresses use of radiofrequency spectrum and the geostationary and non-geostationary orbits. WRC-19 was the largest WRC in history with approximately 3,400 delegates from 163 Member States.

This paper will examine how the ITU, including its Member State and private sector members, work together to develop a legal framework to balance the encouragement of innovative new space services whilst ensuring that existing international legal norms are observed. In particular, it will provide insights on this process and the innovative results achieved by WRC-19.

The ITU's longstanding history of successfully facilitating new space technologies is remarkable and offers an often overlooked model for other institutions for adopting new provisions of space law.