Space Law and Diplomacy

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Diplomacy, understood as the dialogue between sovereign States, has been at the origin of space law during the 1960s. Since then the application of space law, the subsequent creation of space law and the use of space in general, have developed and influenced specific diplomatic approaches and practices. This Nandasiri Jasentuliyana Keynote Lecture starts with looking at the inter-relation between space law and diplomacy, by looking at space law as the subject of diplomacy, but also at space law as driving diplomacy, describing the successes and failures in this area. It then turns to some critical current and future issues in space law, such as the application and enforcement of international law and regulations, equity and fairness vs. effectiveness and efficiency, as well as maintaining a coherent and unitary space law regime. These issues are evaluated in the light of the challenges they pose to diplomacy. Lastly, the potential contribution of IISL to space law diplomacy is addressed. It will be argued that IISL builds on a successful tradition, and an excellent reputation, to face the demand for an institution, which treats current issues of space law and which also approaches the future issues of space law. But this institute has to possess one particular characteristic: it has to be so inclusive that it can explain to the global governmental as well as to the non-governmental community, engaging in tomorrow's space law diplomacy, the different understandings of space law, which will constitute the substance of the diplomacy to shape the space law of the future.

1 The inter-relation of space law and diplomacy

Diplomacy, in its traditional sense, is the dialogue between States. This understanding has been analysed since the classic study by Harold Nicolson of 1939,[1] then via the still valuable book by Adam Watson,[2] through to the Oxford Handbook of Modern Diplomacy.[3] According to these authors, diplomacy has to be distinguished from international relations as a whole, or the foreign policy of a State. Diplomacy is therefore defined as the process of dialogue and negotiation between States. Today, the restrictive definition of diplomacy

[1] Harold Nicolson, Diplomacy, Washington DC 1988; first 1939.
[2] Adam Watson, Diplomacy - The Dialogue Between States, London 1982.
[3] Andrew F. Cooper et al. (eds.), Oxford Handbook of Modern Diplomacy, Oxford 2015.

is getting blurred and an overlap with international relations can been seen.[4] Currently, further attempts are made to adapt the concept of diplomacy to the internet age and the growing role of non-governmental actors in international relations.[5]

1.1

When we look at space law, a first phase can clearly be identified where the most traditional notion of diplomacy applies. It is the period of the negotiation and adoption of OST, ARRA, LIAB and REG covering the early 1960s to the mid-1970s. The substance of the diplomatic dialogue was characterized by the search for answers to basic questions related to the use of outer space: the status of outer space (including the still unresolved definition and delimitation of outer space), the determination of actors in outer space, the setting of rules on how to interact in outer space, and the setting of limitations for the actors in outer space. For the purpose of an ordered diplomatic dialogue, a special forum, the United Nations Committee for the Peaceful Uses of Outer Space (UNCOPUOS) was established after the Sputnik flight. But it was more a balance between multilateral and bilateral diplomacy that led to the space treaties, as its well-analysed drafting history demonstrates:[6] the diplomatic axis of multilateral diplomacy in UNCOPUOS was overlaid by the bilateral axis of U.S.-Soviet Union negotiations as the only space powers at that time.

What is even more important to note is that the context of the Cold War and the diplomatic practice it generated was also decisive for the emergence of space law. This refers to the negotiation process who the one article was conceded for another article, and even the one treaty (ARRA) was the tradeoff for another (LIAB) amongst the two superpowers. It was also decisive, in that the OST can well be characterised as an arms control treaty, given its context and the relevant provisions (in particular Article IV). Nevertheless, the writing of numerous other States, made possible through the multilateral diplomatic axis of UNCOPUOS, can be distinguished, as the drafting history makes clear.

One very specific international arrangement should be included in this assessment of how early - and still basic - international space law was determined by the context and practices of diplomacy. Even if at first glance does not appear to fit, the Intergovernmental Agreement for the International Space Station (ISS-IGA) of 1998 should be included. This is the first broadly international, nonregional, agreement on creating and maintaining an

[4]Kishan S. Rana, 21st-Century Diplomacy: A Practitioner's Guide, London 2011.
[5]Corneliu Bjola, Marcus Holmes (eds.): Digital Diplomacy. Theory and Practice, Abingdon 2015.
[6]Nandasiri Jasentuliyana, R.S.K. Lee, Manual on Space Law, New York 1979 and 1981. Stephan Hobe, Bernhard Schmidt-Tedd, Kai-Uwe Schrogl (eds.), Cologne Commentary on Space Law, Cologne 2009 ff.

infrastructure other than satellites and satellite systems in outer space. It is again dominated by the U.S. and Russia (the original Space Station approach was without the Soviet Union/Russia). It was set up at a time of détente, and today still has to face another period of confrontation. How will bilateral U.S.- Russian diplomacy impact its further implementation? Which example will it provide, when a Moon Village or a human mission to Mars is undertaken? Looking at diplomacy in the early space age, drawing the line to the ISS-IGA and extending it to future global exploration endeavours can provide valuable insights on how the two axes of bilateral diplomacy (where the main negotiating partner of the U.S. might also change from Russia to China or Europe, or be a mixture of those), and multilateral diplomacy (UNCOPUOS or other) can work, interact or compete.

1.2

While the context and practices of diplomacy tended to determine substance and shape of space law in the early phase, the time from the 1980s saw a changed scenario. The context was the North-South conflict, and the demand for new orders, be it for the economy (New International Economic Order), communications and culture (New World Information and Communications Order), or the commons (Common Heritage of Mankind concept, CHM). In tackling related space law issues like Direct Broadcasting Satellites, Remote Sensing or the exploration of the Moon and other Celestial Bodies, UNCOPUOS "emancipated" itself from the bipolar diplomacy, and created a multilateral space law diplomacy emanating from these new topics. The drawback of this 'new diplomacy' was that its products were either soft law (UN General Assembly Resolutions), or did (at least initially) not find universal recognition (the Moon Agreement).

One special case in this era should be specifically mentioned because it was dealt with outside UNCOPUOS, and because it was successful. It is the result of the WARC-ORB Conferences of the International Telecommunication Union (ITU) of 1985 and 1988. That forum showed that equitable access and distribution of space resources, together with efficient use, can be possible and that liberal "first-come-first-served" regimes are not a necessity or a fate. There, a sign of optimism for a fairer world order was born. Its promise holds true for all global commons, and the kind of multilateral diplomacy which was behind it can equally be seen through similar negotiations towards a new Law of the Seas up to and including today's "climate diplomacy".

Most recently, space law provided the testbed for an exciting experiment in diplomacy: the Draft International Code of Conduct for Outer Space Activities (ICOC). This is (was) the major diplomatic initiative on space undertaken in the last decade. It challenged not

only the existing institutions (it was deliberately conducted outside UNCOPUOS), experimenting with various forms of interactions (regional conferences), but also setting out to elaborate a new element to space law (behaviour in outer space) with numerous additional features. At the final negotiation conference held to date in July 2015, it drew the participation of more States than the OST has signatory Parties, showing the importance of the initiative, despite its failure to reach a final consensus (so far?). The substance of the Draft ICOC will stay on the agenda (not literally spoken); this does not mean that the new, nontraditional diplomatic approach should be seen as having failed in itself.

1.3

Turning back to mainstream space law diplomacy, it can be stated that success and failure have been held in balance during the recent past. In UNCOPUOS,[7] the further development of soft law has gained a certain steadiness since the agenda reform in 1999, with a string of UN General Assembly Resolutions (Launching State, Registration Practice, National Space Legislation) and the Guidelines for Space Debris Mitigation.[8] Beyond that, the Legal Subcommittee is developing additional useful "products" such as guidelines/guidance (for small and very small satellites regulations) or compendia (space debris mitigation standards applied by States and International Organisations). Contrary to that the Conference on Disarmament (CD) experiences a continuous and apparently complete failure, where the Prevention of an Arms Race in Outer Space (PAROS) is not making any progress. So, the well-understood lack of progress in creating binding space law since the 1970s should also be looked at from the perspective of which kind of diplomacy has driven or influenced space law-making, and how space law has itself been able to define diplomacy from its substantive content.

For the near future, we continue to see the slow and incremental dealing with specific individual aspects of space law, particularly its implementation. A different diplomacy might be required to create new, binding space law. And so here we are again at the ICOC. We should not interpret its failure so as to reject the diplomatic approach of the ICOC, even if there have been mistakes and misunderstandings. Future initiatives, maybe to set up a Space Traffic Management regime, will be able to draw on this experience, optimize it and make it a useful tool for space law making. Hearing the response to the ICOC initiative should also open our eyes to the question: why has a conference of the

[7] Tare Brisibe, *Parliamentary Diplomacy in the United Nations and Progressive Development of Space Law*, European Journal of Law Reform (18) 2016, 6-34.

[8] Irmgard Marboe (ed.), Soft Law in Outer Space, Vienna 2012. Kai-Uwe Schrogl, *The 2014 and 2015 Sessions of the UNCOPUOS Legal Subcommittee – A Personal Assessment*, German Journal for Air and Space Law ZLW (64) 2015, 481-488.

States parties to the OST (or other space law treaties) so far never been called, when this is common in other fields, with huge diplomatic machineries emerging from this as a result, such as the Conference of Parties (COP) series of the UN Framework on Climate Change, to name the most prominent? This itself calls for an investigation about what purpose and what benefit such an approach could have for space law, and with this, opening a completely new door of space law diplomacy.

2 Critical issues of space law in the perspective of diplomacy

The previous section depicted the understanding of what approaches of diplomacy have been applied in the past - and could be applied in the future - to the field of space law. This can now be the framework for analysing key critical issues of space law from the perspective of diplomacy as the application and enforcement of international space law and regulations, equity and fairness vs. effectiveness and efficiency, maintaining a unitary space law regime. With this, we can possibly shed new light on the problems which space law development is facing and the way they can be tackled.

2.1

The application and enforcement of international space law and regulations can be divided into three groups; the basic problem, existing problems and problems already looming on the horizon. To start with the basic problem, it is apparent that during the time of negotiating the core space law during the 1960s and 1970s, neither was time ripe nor was the superpower confrontation apt to establish enforcement mechanisms for space law. A special court like the later International Tribunal for the Law of the Sea was out of question, and also the Claims Commission in LIAB Art. XIV ff was more a potential than a practical tool. Also, States are reluctant to bring issues on space law to the International Court of Justice, and the notion of "policing in space" has rarely been used.

In fact, up to now, few and only rather minor issues have arisen in the application of international space law, which would lead to a diplomatic frown. Amongst them are a sometimes lax registration of space objects, but this does not shake the foundations of space law. Neither have astronauts stranded nor have objects which have fallen on Earth not been returned to their launching States, in so far as those have been identified and their return has been requested. One could argue that anti-satellite tests might only require advance consultations to discuss possible harmful interference with other space activities (OST Art. IX). Does that mean that space law does not need enforcement today or in the future?

There is, however, an existing problem, which has been pondered over without a real solution during the past 50 years: the border between peaceful and non-peaceful uses of outer space.[9] The character of the OST as an arms control treaty brought with it the recognition that military uses of outer space are allowed, with only one substantive limitation (Art. IV). Contrary to the Moon Agreement, the OST is no disarmament or arms-race-prevention agreement – except for the far away area of celestial bodies. The practice of military uses of outer space in the fields of communication, positioning, remote sensing, electronic intelligence etc. has been conducted in view of the postulate of peaceful uses (brought forward in the preamble of the OST but not defined further on).

But where does military use turn into non-peaceful use? Is it the attack on a space object of another State? Clearly, this would be the case in view of the UN Charter. But would the jamming of satellite signals fall under the same category? And even less obvious and direct, would the use of a positioning satellite for guiding missiles constitute a non-peaceful act? The vision of "Star Wars" from the 1980s turned into the reality of wars via space since the First Gulf War. In addition, we see doctrines of States, which outline that adversaries might have under specific conditions to face rejections of the exercising the freedom of use of outer space. Diplomacy has not really taken up these issues. It failed with trying to define what a weapon in space could be. This is not a good precondition for tackling these even more touchy issues.

Diplomatic tools of today are obviously not fit for taking up this task. And space law does not have the practice of ITU or ICAO to handle the dual-use character of its medium, as is managed for the frequency spectrum and air space. Following this line of assessment, one of the key issues related to non-peaceful uses of outer space is their character seen in relation to behaviour in outer space. The focus of traditional space law on the status of outer space and the related actors, has not sufficiently taken into account the necessity also to regulate the behaviour in outer space.

Approaches as the ICOC or the report of the Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space (GGE) of 2013[10] show that different approaches in dealing with the issue of peaceful uses are necessary and that they

[9] For a comprehensive account on space security in all its aspects, see Kai-Uwe Schrogl/Peter L. Hays/Jana Robinson/Denis Moura/Christina Giannopapa (eds.), Handbook of Space Security. Policies, Applications and Programs, 2 vols., New York et.al. (Springer) 2015.

[10] UN Doc. A/68/189 of 29 July 2013. *See also* Jana Robinson, *The Role of Transparency and Confidence-Building Measure in Advancing Space Security*, ESPI Report 28, Vienna 2010.

have to be accompanied by respective diplomatic approaches in establishing a consensus on peaceful uses and on how to enforce, or at least to encourage, application of the rules and ensure compliance.

Lastly, the primary looming problem of application and enforcement of space law has to be addressed. It is the issue of non-appropriation as contained in Art. II OST. How shall the world community react, if a State directly tries to appropriate a portion of outer space? How shall the world community react, if this happens indirectly via non-governmental entities? Who can determine, and by which diplomatic means, when appropriation actually takes place and who would be in a position to police and enforce?

This raises the question of where we see the "red lines" of non-compliance with international space law. How can which diplomacy tool help in identifying cases for such red lines, define noncompliance and organise responses to it? The tool box of unilateral or multilateral, ad-hoc or structured institutional diplomacy is at hand and will have to be employed in a reasonable and smart way based on the experience of the past and the context of today.

2.2

Equitability and fairness vs. effectiveness and efficiency is an issue, which has been sidelined recently under the impression of making the world community believe that everything has to be done to unleash the potential of private space activities, moguls and "investors". At a time, when the living conditions on Earth are blindly destroyed further and further, and the very last blank spots on Earth such as the Arctic and soon also Antarctica are grabbed by profit and interest, it is no surprise that the legal regime for outer space is attacked by the same attitude and the same actors. There exists an OST and there exists a Moon Agreement, which intend to prevent a "first-come first-served" of a global common but at the same time recognize the prospect of using the resources. Why not trying seriously - with the help of the fitting diplomatic means - to strike the balance between the concept of equitability and fairness (as enshrined in Art. I OST) and the concept of effectiveness and efficiency (as the banner of the liberalist movement).

So far untouchable, but now even questioned from inside the North by politics (Bernie Sanders, Podemos Five Star Movement, Syriza etc.) and academics and think tanks ("Prosperity without Growth"),[11] the liberalism leading to further increasing the gap between

[11] Tim Jackson, Prosperity without Growth - Economics for a Finite planet, Abingdon 2009. Jeremy Rifkin, The Third Industrial Revolution - How Lateral Power is Transforming Energy, the Economy and

rich and poor and destroying the living conditions is coming under pressure. Together with a movement to re-institute the State as a legitimate and credible actor and investor,[12] the trend to leave everything to the private sector with its known consequences, is under challenge. Why should in such a situation, the space law regime, which has been serving the purposes of equitability and effectiveness so well during the past 50 years be changed? Commercial, even private space activities are possible and have been conducted in the past and today in a manner, which does not distort the balance.

This balance is not only an abstract idea. It is possible, is identifiable and proven by, inter alia, the ITU regime relating to the access to and use of the GSO, and by the Deep Seabed mining regime of UNCLOS. When asking diplomats: why should we, with such good and successful practices, be afraid of negotiating a balanced regime to govern the exploitation of the natural resources of the Moon and other celestial bodies, non-substantive stereotypes prevail in response? The question of what consequences the crossing of the "red line" of actual appropriation have, itself is taboo. To be realistic, there is and there has to be place for all kinds of actors in space: for governmental and non-governmental, for civilian and military. Their activities, however, have to be ruled by international law. This current internal law is based on principles, which are so far shared by all space-faring nations (even if only a little more than half of all Member States of the UN have ratified the OST). These principles have so far served the balance between equitability and fairness vs. effectiveness and efficiency quite well. This balance is currently challenged and it is a matter also of diplomacy, how this challenge is responded to.

2.3

Maintaining a unitary space law regime is the last critical issue to be mentioned in this section. International space law is not only the booklet that is published by the UN Office for Outer Space Affairs (UNOOSA). While it contains the treaties and UNGA Resolutions, which were negotiated in UNCOPUOS, space law is actually much broader.[13] It can be argued that the Partial Testban Treaty of 1963 is actually the first space law, or at least space law related treaty, since it deals with the limitation of actions in outer space.

The greater part of space law created outside UNCOPUOS is, however, developed by

the World, New York, 2011.

[12] Mariana Mazzucato, *The Entrepreneurial State. Debunking Public vs. Private Sector Myths*, London 2013.

[13] The broadest understanding of space law is comprised in the four volume collection Space Law: Basic Legal Documents; edited by Karlheinz Boeckstiegel and Marietta Benkoe, The Hague, Installment 18, 2016.

the ITU.[14] It creates international law even regarding the status of outer space. In Art. 44 of its 2014 Constitution, it states that any orbits (associated to radio frequencies) are limited natural resources, and derives therefrom specific terms for their use. While the GSO was already listed some thirty years ago as a limited natural resource, the extension to "any orbits" is rather recent. The concept of "limited natural resource" is not comprised in the corpus of space law developed by UNCOPUOS. The far greater number of States Parties to the ITU Constitution have therefore set a concept with consequences, translated into concrete provisions in the Radio Regulations, which are themselves international law and into an even broad set of standardisations. UNCOPUOS, which has been established by the UN General Assembly as the main body to develop space cooperation and space law, was not involved in this space law-making process. It did not even take notice of the extension of the limited natural resources concept (and its consequences) when taking place in ITU.

UNCOPUOS is therefore threatened with the loss of its role as the central organ or guardian for international space law. This could happen despite its role as the unique intergovernmental body to bring together the scientific-technical as well as the legal dimensions and an effective and respected Secretariat taking all efforts in serving the Member States. It struggles to maintain the character of a clearing house for all space law developments, which are spreading further and further. The process for the ICOC is only the most visible and overt case of sidelining UNCOPUOS. The next organisation besides ITU, which enters into the space law development will be the International Civil Aviation Organisation (ICAO). As early as 2005, its Council showed interest in the topic of space traffic management. Since 2015, it has hosted a "learning group" on civil space travel. This is, due to its character as informal discussion platform instituted for dialogue among various stakeholders, at least conducted with the involvement of UNOOSA. Regional organisations like the European Aviation Safety Agency (EASA) are looking into private human space flight, as is their counterpart in the U.S., the Federal Aviation Administration (FAA), more or less under the radar of UNCOPUOS.

Only the preparation of the Unidroit Space Protocol to the Cape Town Convention of 2012 was brought to the attention of UNCOPUOS by an engaged representative of Unidroit itself, in order to align this legal text properly to space law provisions.[15] A completely different picture exists again for the field of peaceful/non peaceful uses, where UNCOP-

[14] Yvon Henri, *Orbit/Spectrum Interntional Regulatory Framework: Challenges in the 21st century*, IISL Proceedings 2014, 3-11.

[15] It was in 1999 that Martin Stanford approached the space law community to receive advice, which eventually led to an LSC agenda item. Martin Stanford received an IISL Award of Appreciation in 2015.

UOS and CD have been kept apart by the Member States. This extends until today in issues like an adequate reflection of the GGE report also in UNCOPUOS. There is also no link between UNCOPUOS' Legal Subcommittee and the International Organization for Standardization (ISO), which deals with space debris.

In the broad field of space applications and their regulation, it seems that oversight and even overview have got lost. The latest example may be the UN General Assembly Resolution "A global geodetic reference frame for sustainable development" of 2015,[16] which has a direct impact on remote sensing data use, but which was negotiated without any reference to the Remote Sensing Principles of 1986 or the involvement of UNCOPUOS. On the other hand, the recent agreement in the Long-Term Sustainability (LTS) process on a first set and a detailed time bound workplan for the remaining draft guidelines demonstrates in my opinion the unique ability of COPUOS to show determination and persistence and overcome political conflicts. The further LTS process in connection with UNISPACE+50 gives a unique platform for diplomacy where, at the end, innovative decisions may be made. This is proof of COPUOS's quality as global platform for space governance.

The biggest challenge for a unitary and coherent international space law, however, comes from national space legislation. Due to its genesis more as a reaction to national developments and its status as soft law, it cannot be expected from the UNGA Resolution on National Space Legislation of 2013 that it would be a strong tool for guidance; this holds true in particular for those States that have already enacted national space legislation. So we will continue to have home-made nationally-set delimitations of air space and outer space, different applications of liability for nongovernmental entities operating from inside or outside the respective territories, and - as mentioned before - different applications of the non-appropriation principle.

The impression arose some time ago that States are not really interested in a coherent and unitary development of international space law, and go shopping for law-making wherever it seems convenient, practicable or simply in their own interest. What type of diplomacy is this? Which diplomacy is required to change or rectify this? Why should we promote a coherent and unitary space law system, if States apparently do not want this? Is it actually necessary? In fact, it took considerable efforts to unify the Law of the Sea and it takes a strong institutional setting to maintain coherence in aviation and telecommunication law. Space law has been going for some time in the opposite direction. It has not yet been properly assessed by States, whether this is also in their best interests tomorrow, and in

[16] UNGA Res. 69/266 of 11 March 2015.

the best interest of outer space as a global common.[17]

3 The contribution of the IISL to space law diplomacy

States follow their interests. This somewhat dry assessment can obviously also be made for the field of space law. While space law contains some of the most optimistic and high-spirited provisions in international law (freedom of use, sharing of benefits, envoys of mankind etc.), we are today facing a rather down-to-earth approach as to how space law is made and which expectations of the States in space law are visible. Not to speak of the diplomatic incoherence, which is felt for every single issue that is discussed. So what role can an organisation like IISL play in this context and which role in space law diplomacy could or should it play?

IISL has state of the art statutes and bylaws only recently amended in an open and inclusive process, which at its outset contains the Institute's purposes and objectives (IISL Statutes, Art. II). Members, however, have to substantiate this well set frame. So this lecture, in dealing with space law and diplomacy, will necessarily also have to ask about what and how, IISL could and should contribute to space law implementation and development. It is also the attempt as the newly elected President to offer a few major aspects on focal points for the Institute in the near future.

3.1

The first point to be mentioned might not be the one that immediately comes to mind, because it is one for the future, but rather that is one, which will play an enormous role. Among the overarching global trends many analysts list, the creeping loss of the predominance of the traditional "Western model" is frequently included.[18] This will have consequences for world politics, and also for international law. It can also be expected that the approach to space law could be challenged. but it is not yet clear by whom ("the

[17] The upcoming IAA study on STM, the second following the 2006 one, will argue that negotiating an STM regime could take the shape of UNCLOS.

[18] As a few examples, see Jose Monserrat Filho, *Governance with Transparency and Confidence in the Sky as well as on Earth*, IISL Proceedings 2014, 345-363. Tare C. Brisibe, *A Normative System for Outer Space Activities in the Next Half Century*, IISL Proceedings 2013, 3-28. V. Gopalakriashnan/M.Y.S. Prasad, *Space Debris Remediation – Common but Differentiated Responsibility*, IISL Proceedings 2013, 379-394. Nie Jingjing/Yang Hui, *Revisiting the Concept of International Custom in International Space Law*, IISL Proceedings 2012, 348-356. Vladlen S. Vereshchetin/G.M. Danilenko, *Custom as a source of International Law of Outer Space*, Journal of Space Law (13) 1985, 22-23. Setsuko Aoki, *Common elements in Latin American mechanisms in cooperation in the peaceful uses of outer space*, IISL IAC-16.E.7.5.4.

East", "the South", "autocrats/democrats" etc.?), and for which fields. The only substantive challenge so far has been raised by private entities - as part of the "Western" context - which are demanding property rights. While this is real and current, we have to concede that we do not know about the future challenges of conceptual scope. IISL, however, is excellently suited to look into this.

With its membership currently comprising 48 nationalities from all continents and professional backgrounds (academic, governmental, private sector), it is the only forum, which can authentically investigate the future different "understandings" of space law and can become the voice to explain these and their potential consequences. UNCOPUOS or any other intergovernmental forum is by its nature and diplomatic practice not suited for such a role, but IISL by its very character as global non-governmental organization of experts certainly is. This is, why this role should be build up in a careful and reasonable way. It shall not stimulate a "clash of civilizations", but it shall provide explanation and understanding for the intergovernmental diplomacy, which will, without such knowledge, certainly loose energy in misunderstanding and conflicts or miss opportunities for space law development responding to the major challenges.

3.2

Now the more obvious role of IISL can be addressed. This is to treat the current issues of space law and space law making. In the classical sense of diplomacy, IISL is already involved as an institution in the space law process in that it has gained the position of an observer to UNCOPUOS. This encompasses participation in the sessions and with special permission even in the working groups, in particular the Legal Subcommittee, also the organisation of the annual IISL/ECSL Symposia on the first session days of LSC. These are excellent opportunities to drive debates and support deliberations under specific agenda items. It further provides IISL with the opportunity to respond to the requests for input and questionnaires, sent out by the Secretariat, so that the Subcommittee is provided with written material for its deliberations.

Besides this institutional aspect, it can be noted with some satisfaction that the attractiveness of IISL to individuals being part of the space law making community is so high that the IISL Board included at one point in time three Chairs of the UNCOPUOS Legal Subcommittee (Marchisio, Brisibe, Schrogl), plus two LSC working group chairs (Marboe, Aoki). While IISL is no secret order or a free mason club, it would be surprising if exchanges and deliberations in the Institute did not have any influence on these individuals. Individual IISL members are thus acting in the corresponding forums as diplomatic practi-

tioners (primarily of course as representatives of their respective States), possibly informed and inspired by interaction in IISL.

Further to the classical diplomacy, we have learned that a "digital diplomacy" has emerged characterized by a globalized civil society, maintained by the tools provided by the internet. IISL is also part of this context. But even with the greatest efforts, the Institute will not reach a huge audience and move the masses like pop stars through internet-based means (website, twitter, facebook etc.). What IISL, however, should have in mind and what it can contribute to digital diplomacy, is to offer explanations to an interested audience and provide understanding about the role of space law in global relations and for global society.

Since this global society is evolving rapidly, IISL has to place a particular focus on the next generation. It will not compete with the fine academic institutions in the field of space law in educating young people (as the Institute is not the place to prepare better handbooks or commentaries than the members can produce in Bangalore, Beijing, Cologne, Leiden, Lincoln, Mississippi, Montreal, Moscow, Paris, Tokyo or other places around the world). But it can, and actually is already through the Young Scholars Session, the Moot Court and competitions, as well as the prospective membership scheme, providing the opportunity to the next generation for early interacting with the traditional space law diplomacy and community. Interacting means here, learning, and at the same time contributing ideas and visions.

3.3

The preceding exposé already gives some hints on how IISL can approach the future critical issues of space law. As outlined, the use of space is changing rapidly with more and more actors, a strained space environment (by space debris, miniaturisation or the advent of megaconstellations), an explosion of new ways to use space data and services, and in addition to that the dawn of new industrial internet-based approaches to space hardware manufacturing. In section 2 only a few key problems, which arise from this have been mentioned and the diplomatic practices regarding space law have been assessed. IISL cannot provide solutions to all these issues and problems. It should not even strive to provide the single answer to such issues. IISL can, however, endeavour to provide the platform for building a truly inclusive voice - which would be a unique characteristic. With this, the ability to inform and to explain in particular about potentially different "understandings" of space law, key elements of the statutes can be met.

To reach this, IISL has to continue to open up to various other space and non-space com-

munities in order to capture current and potential future developments the use of space will be undergoing. Many steps have already been taken in this direction, which are solid stepping stones for further initiatives. Mirroring this with the theme of this lecture, it means that the diplomatic contexts of these areas have to be taken into account as well in order to derive possible lessons or practices from those for the field of space law diplomacy. This broadened interaction can also offer chances to promote space law to other communities. The enormous knowledge and the variety of professional backgrounds assembled in IISL's membership provide an outstanding opportunity.

IISL's involvement in and contribution to space law diplomacy can be summarized in one phrase:

IISL is an association of all and for all, who intend to promote a space law diplomacy, which provides perspective, inclusion and adheres to the principle that the rule of law is at the basis for benefit, welfare, fairness, as well as efficiency.

Cyber diplomacy and cyber defense should become the bread and butter of our foreign and security policy debates. Cyber Norms and International Law. International law is often misleadingly dismissed as window dressing on realpolitik. But that approach understates the importance of international agreements in maintaining peace and security. For liberal democracies that respect the rule of law, international law shapes governmentsâ€™ activities. At difficult and unstable times, it is even more important that our like-minded countries demonstrate commitments to international law and the values that The 1967 Outer Space Treaty, with 107 nations as parties, is considered the backbone of international space law and diplomacy, and an important tool to ensure the peaceful exploration and use of space. EXPLORATION & COMMERCIALIZATION. The International Space Station is an unprecedented achievement in global human endeavors to plan, build, operate, and utilize a research platform in space, providing over 17 years of continuous human presence in space. The Presidentâ€™s Space Policy Directive 1 (SPD-1) will return American astronauts to the Moon for long-term exploration and utilization, follo