

# Space Law & Military Operations



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## *Overview*

- **Space operational law – now and the foreseeable future**
- **Weapons and the use of force in space**
  - **Relevant treaty provisions**
- **THE FUTURE???**



# *Space Operational Law*

- **Well established since 1967**
- **Relevant law (except, perhaps, the ABM Treaty) is unlikely to change**
- **Technological advances and changed circumstances may change its application**
- **But, most space operational law should remain the same**



## *Weapons and Force in Space*

- **Space has a legal regime**
- **It addresses military, weapons, and use of force in space**
  - **But, it's neither de-weaponized nor de-militarized**
- **Cornerstone: Outer Space Treaty of 1967**



# *Outer Space Treaty of 1967*

- Cold War
- Broad, general principles
- *Res communis*
  - “province of all mankind” [Art I]
  - “free for exploration and use by all States” [Art I]



## *Outer Space Treaty (cont'd)*

### **Preamble--**

**“Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for *peaceful purposes....*” (Emphasis added)**



## *Outer Space Treaty (cont'd)*

**Peaceful = Non-Aggressive**



## *Outer Space Treaty (cont'd)*

**A legal regime --**

**“in accordance with international law,  
including the Charter of the United Nations,  
in the interest of maintaining international  
peace and security ....” [Art III]**





## *Outer Space Treaty (cont'd)*

- **UN Charter**
  - **Refrain from threat or use of aggressive force [Art 2(4)]**
  - **UNSC -- Threat to peace, breach of peace, acts of aggression [Art 39]**
  - **UNSC -- Authorized use of force [Art42]**
  - **Inherent right of self-defense [Art 51]**
    - **Anticipatory self-defense**



## *Outer Space Treaty (cont'd)*

- **Self-defense (DoDD 3100.10, para 4.2.1)**
  - **Purposeful interference with US *space systems***
  - **Infringement on our sovereign rights**
  - **May take all appropriate self-defense measures including, if directed by NCA, the use of force**



## *Outer Space Treaty (cont'd)*

- **Weapons [Art IV]**
  - **Moon and other celestial bodies**
  - **Earth orbit**
- **What is a “weapon of mass destruction”?**
- **ASATs are not *per se* prohibited**
- **Tactical denial vs. kinetic kill**



## *Other Limited Restrictions*

**For example, ABM Treaty of 1972 –**

**“Each Party [U.S. & Russia] undertakes not to interfere with the national technical means of verification of the other Party....” [Art XII (2)]**



# *Weapons and Force in Space*

## **Bottom Line --**

- **Space has a legal regime**
- **But, it's neither de-militarized nor de-weaponized**



## ***THE FUTURE???***

- **Demise of ABM Treaty???**
  - **Threat from proliferation of WMD and delivery vehicles?**
- **Technological advances**
  - **Remote sensing – increasingly available**
  - **New space vehicles? (Manned?)**
  - **ASATs; advanced laser weapons**
  - **Computer network attacks**



## ***THE FUTURE???** (cont'd)*

- **“FAA” or “ICAO” for space?**
  - **Co-location issues**
  - **Mandatory? Voluntary?**



## *Conclusion*

- **Most space operational law has been well established since 1967**
- **It's unlikely to change within foreseeable future—except, perhaps, the ABM Treaty**
- **Technological advances and changed circumstances may change its application**
- **But, most space operational law should remain the same**





*Conclusion*

**QUESTIONS???**