

Space Law & Military Operations



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- **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???