

SPACE LAW AND POLICY  
WITH SIMULATED NEGOTIATIONS  
[10]

[2] MILITARY USES OF OUTER SPACE:  
SPACE WEAPONS AND CONFIDENCE-BUILDING MEASURES

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SPACE NEWS:

BBC News [18 June 2016]

**British astronaut Tim Peake's 'incredible experience'**

British astronaut Tim Peake has said he is elated to be back on earth after six months on board the international space station.

After his capsule landed in Kazakhstan on Saturday morning, he said it had been an incredible experience.

(BBC science editor David Shukman reports from Kazakhstan. )

<http://www.bbc.com/news/science-environment-36570453>

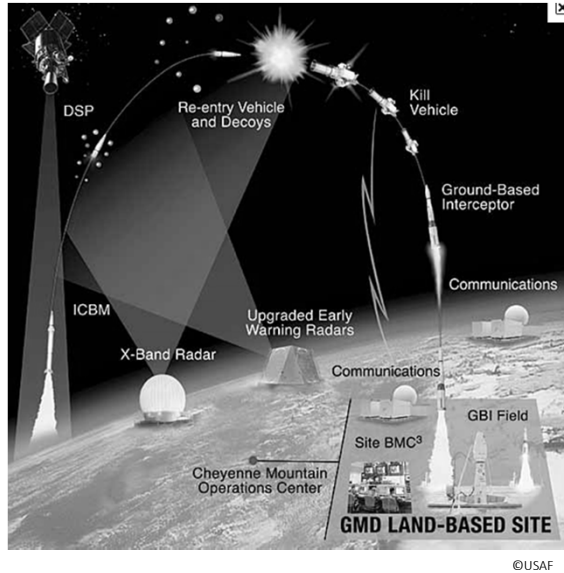
## SPACE WEAPONS AND CONFIDENCE-BUILDING MEASURES

To understand the debate over ASAT in the 1980s,  
today's lecture is partly based on the following article:  
Dana J. St. James, *The Legality of Antisatellites*, 3 B.C. Int'l & Comp. L. Rev. 467 (1980s).<sup>3</sup>

### 1. BACKGROUND: WHEN DID SPACE WEAPONS GET ATTENTION?

- ◆ Triggered by: US announcement to start Strategic Defense Initiatives in 1983; and  
September 11 in 2001 when US withdrew from the ABM Treaty of 1972.  
<https://www.youtube.com/watch?v=4hGLBA65tZg>
- ◆ How did International Community respond?
  - ◇ In the 1980s-1990s:  
Due to the mandate of UN COPUOS,  
ad hoc Committee on the Prevention of an Arms Race in Outer Space (PAROS Committee)  
was established in the Conference on Disarmament, in 1984, to consider  
the existing space treaties, potential countermeasures and  
the application of Confidence-Building Measures (CBMs).
  - ◇ In the 2000s:  
The same issue was raised by re-phrasing PAROS as “non-weaponization of outer space” and  
Transparency and Confidence-Building Measures (TCBM) have been studied. (←next week)

## 1. BACKGROUND: WHAT IS BEHIND?



### ◆ Military Programmes using Inter-Continental Ballistic Missiles (ICBMs)

The original idea of Strategic Defensive Initiatives has been taken over to....

In the 1990s

National Missile Defence

(aiming for security of the US)

In the 2000s

Missile Defense

(aiming for collective security of  
the US and its allies)

## 1. BACKGROUND: NO TREATY?

□ Peaceful Uses → UN Committee on the Peaceful Uses of Outer Space: UNCOPUOS  
established as ad hoc committee by UNGA Res. 1148 (XII) in 1957  
established as permanent committee by UNGA Res. 1348 (XII) in 1958  
current agenda item of STSC “Long-term sustainability of outer space activities”

□ Military Uses of Outer Space → Conference on Disarmament (~~X~~ UN)  
1985-1994 Ad Hoc Committee on Prevention of an Arms Race in Outer Space  
established by UNGA Res. 39/59 in 1984  
in response to former US President Reagan on its “Star Wars” project  
to consider: (1) Prevention of an Arms Race in Outer Space  
(2) the existing treaties related to outer space  
(3) existing proposals and initiatives in future

1994- Periodically PAROS symposium has been organized within the CD

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## 2. DEFINITION OF SPACE WEAPONS (ASAT)

### ◆ Anti-Satellite (ASAT) weapon:

is referred to as satellite interceptors or hunter-killer satellites;  
has the potential to interfere with the purpose of other space objects; and  
uses the following energy;

1. kinetic energy – disables enemy's space objects  
by explosive fragmentation or by a simple nonexplosive collision
2. a directed-energy system (example: high energy laser)
3. radiation from a nuclear explosion to neutralize a space object.

### ◆ Multi-capacity satellites:

designed primarily to perform other functions but have ASAT capabilities. 7  
(example: US Space Shuttle, suspected by USSR in the 1970s)

## 3. ASAT DEVELOPMENT IN THE PAST

(In the present, no ASAT is officially placed in orbit around the Earth)

### ◆ The Soviet Union

Since 1962, ASAT testing and development started

Between 1968 to 1971, Kinetic-type ASATs were tested in orbit around the Earth

When Strategic Arms Limitation Talks (SALT) were taken with the US, ASAT test was halted.

In 1976 and 1977, the Soviet resumed satellite rendezvous experiments

### ◆ The United States

In the 1960s, a limited antisatellite program was begun as part of

Anti-Ballistic Missile (ABM) developments (finished in 1975). 8

In 1983, when former US President Reagan started SDI, ASAT raised concern internationally.

#### 4. ASAT AND INTERNATIONAL LAW

##### ◆The Outer Space Treaty of 1967

###### Article I (2)

“Outer space, including the Moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.”


###### Article III

“[...] shall carry on activities in the exploration and use of outer space, [...] in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding.

#### 4. ASAT AND INTERNATIONAL LAW

##### ◆The Outer Space Treaty of 1967

###### Article IV

[...] undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner. 

The Moon and other celestial bodies shall be used by all States [...] exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the Moon and other celestial bodies shall also not be prohibited.

#### 4. ASAT AND INTERNATIONAL LAW

##### ◆ The Outer Space Treaty of 1967

###### Article IX

“In the exploration and use of outer space, [...], States [...] shall be guided by the principle of cooperation and mutual assistance and shall conduct all their activities in outer space, [...], with due regard to the corresponding interests of all other States [...].

States [...] shall pursue studies of outer space, [...], and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose.

check:

If a State [...] has reason to believe that an activity or experiment planned by it or its nationals in outer space, [...] , would cause potentially harmful interference with activities of other States [...] in the peaceful exploration and use of outer space, [...], it shall undertake appropriate international consultations before proceeding with any such activity or<sup>11</sup> experiment. [...].

#### 4. ASAT AND INTERNATIONAL LAW (OTHERS)

##### ◆ Deployment and Use:

The UN Charter                      Article 2 (4) / Article 51

##### ◆ Use: (former ABM Treaty of 1972 invalidated in 2002)

(in wartime)

Convention on the Prohibition of Military or Any Other Hostile Use of Environmental  
Modification Techniques

##### ◆ Export: Proliferation

UN Security Council Resolutions “(WMD and its) delivery systems”

Export Control (non-binding)

## 5. DEVELOPMENT OF CONFIDENCE-BUILDING MEASURES SINCE THE 1970S

### ◆Background:

In the law of disarmament and arms control, the UN General Assembly called for  
the need to strengthen international peace and security  
through confidence-building among States (limits of treaty-based verification)

### ◆Goals: (defined in 1978)

- (a) prevent attacks which take place by accident, miscalculation or communications failure  
by taking steps to improve communications between governments, particularly in areas of tension;
- (b) assess the possible implications of States' military research and development for  
existing agreements as well as for further efforts in the field of disarmament; and
- (c) involve the UN Secretary-General in periodical reporting to the UN General Assembly  
on the economic and social consequences of the armaments race and  
its extremely harmful effects on world peace and security

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## 5. DEVELOPMENT OF CONFIDENCE-BUILDING MEASURES SINCE THE 1970S

### ◆Example: the application of CBMs to the Biological Weapons Convention of 1972

(in line with Article IV of the Outer Space Treaty of 1967)

resulted into the establishment of Implementation Support Unit (ISU)

in support of UN Office for Disarmament Affairs

ISU's mission:

- (1) assist the Chair in the activities mandated by the Six Review Conference;
- (2) assist States Parties in conducting the activities agreed at the Six Review Conference;
- (3) receive and distribute CBMs from States Parties; and
- (4) serve as an information exchange point for national implementation and  
conduct outreach with signatories and States not party to the Convention

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## 5. DEVELOPMENT OF CONFIDENCE-BUILDING MEASURES SINCE THE 1970S

◆ In space law, the application of CBMs to outer space activities was studied in the 1990s

Group of Governmental Experts' Report of 1993

"The Application of Confidence-Building Measures in Outer Space" (UN Doc. A/48/305)

identified CBM-related elements in Space Treaties (example: information-sharing)

However...

No treaty was resulted because of:

consensus principle / non-binding nature of CBMs / unwillingness of spacefaring states

After September 11 of 2001, Transparency and CBMs attracted attention (→ next week's lecture)

## SIMULATED NEGOTIATION

Time Table:

16:00 ~ 16:15 Group Discussion

16:15 ~ 16:35 Presentation



THEME

“HOW CAN WE CONTROL SPACE WEAPONS THAT ENABLE TO DESTROY PLANETS (OR ASTEROID)?”

In International law, the development, possession, deployment in outer space and use of ASAT weapons is not explicitly prohibited. Then, please make a list of confidence-building measures to effectively control powerful ASAT weapons.

TEAM A

TEAM B

TEAM C

END