

## ISSUE FOCUS

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# Prevention of Outer Space Weaponization under International Law: A Chinese Lawyer's Perspective

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*Since the existing international legal regime governing space weapons is inadequate, the international community is worried about the weaponization of outer space. This paper introduces the efforts and contributions in this regard made by the UN General Assembly, the Conference on Disarmament, the UN Committee for Peaceful Uses of Outer Space and the UN Institute for Disarmament Research. It then analyzes several different approaches to solving the problem of weaponization of outer space, i.e. amendment of Article IV of the Outer Space Treaty, conclusion of a multilateral treaty on comprehensive prohibition of space weapons, and transparency and confidence-building measures in outer space activities. It concludes that a multilateral treaty on the prevention of weaponization of outer space with appropriate verification mechanism will be a final solution. At the present stage, a combination of various CBMs can also serve the purpose to prevent space weapons.*

### Keywords

Outer Space Treaty, Space Weaponization, Prevention of Space Weapons, Multilateral Treaty, Transparency and Confidence-Building Measures, Code of Conduct

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## I. Introduction

The international community has long been concerned about the weaponization of outer space. Fears that outer space would become another arena for warfare have been voiced in the United Nations General Assembly (“UNGA”),<sup>1</sup> the UN Committee for Peaceful Uses of Outer Space,<sup>2</sup> and the Conference on Disarmament.<sup>3</sup> Debates on weaponization of outer space were frequently heated in recent years: when the United States’ space policy was announced in 2006 denying the use of space to adversaries if necessary;<sup>4</sup> when the China’s land-based missiles destroyed a home-made obsolete meteorological satellite at 800 km above the earth on January 11, 2007;<sup>5</sup> when a US spy satellite was shot down by a US MS-3 missile on February 20, 2008;<sup>6</sup> and when the flight test of the US air force X-37 reusable space plane took place in April 2010.<sup>7</sup>

What makes the international community so worried is that the existing international legal regime governing space weapons is inadequate.<sup>8</sup> Since the withdrawal of the United States from the Anti-Ballistic Missile Systems Treaty in 2002, and the termination of US-Soviet Treaty on Limitation of Strategic Offensive Arms of 1979, there are only three international treaties governing space weapons, namely, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (“Partial Test Ban Treaty”) of 1963, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies (“Outer Space Treaty”) of 1967, and the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (“Moon Agreement”) of 1979. However, the Partial Test Ban Treaty only prohibits the testing of nuclear weapons

<sup>1</sup> See *Secretary-General says benefits of space exploration should not be limited to privileged few*, PRESS RELEASE, U.N. Doc. SG/SM/7767 (Apr. 12, 2001), available at <http://www.un.org/News/Press/docs/2001/sgsm7767.doc.htm> (last visited on Sept. 20, 2011).

<sup>2</sup> Report of the Committee on the Peaceful Uses of Outer Space, U.N. GAOR, 58<sup>th</sup> Sess., Supp. No. 20, U.N. Doc. A/58/20 8 (June 11-20, 2003), available at <http://www.un.org/documents/ga/docs/56/a5620.pdf> (last visited on Sept. 20, 2011).

<sup>3</sup> Paul Meyer, *The Conference on Disarmament and the Prevention of an Arms Race in Outer Space*, available at [http://www.unidir.org/bdd/fiche-ouvrage.php?ref\\_ouvrage=92-9045-011-B-en](http://www.unidir.org/bdd/fiche-ouvrage.php?ref_ouvrage=92-9045-011-B-en) (last visited on Sept. 20, 2011).

<sup>4</sup> See National Space Policy of the United States of America (Aug. 31, 2006), available at <http://www.nss.org/resources/library/spacepolicy> (last visited on Sept. 20, 2011).

<sup>5</sup> Aura Ang, *China confirms Anti-satellite Missile Test*, CBS NEWS (Jan. 23, 2007), available at <http://www.cbsnews.com/stories/2007/01/23/world/main2387524.shtml> (last visited on Sept. 20, 2011).

<sup>6</sup> David Morgan, *US: Missile Smashed Spy Satellite*, CBS NEWS (Feb. 11, 2009), available at <http://www.cbsnews.com/stories/2008/02/20/tech/main3851209.shtml> (last visited on Sept. 20, 2011).

<sup>7</sup> Paul Rincon, *X-37B US Military Spaceplane Returns to Earth*, BBC NEWS (Dec. 3, 2010), available at <http://www.bbc.co.uk/news/science-environment-11911335> (last visited on Sept. 20, 2011).

<sup>8</sup> Conference on Disarmament, CD/1818 (Mar. 14, 2007), 18-19.