

Studies in Space Policy

Annette Froehlich
Vincent Seffinga *Editors*

The United Nations and Space Security

Conflicting Mandates Between
UNCOPUOS and the CD

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Executive Summary

Outer space and issues pertaining to outer space are inherently international. The designation of outer space as the province of all mankind, the focus on cooperation between states and the recognition of the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes included in various space law instruments illustrate the inherent international nature of space matters. The mandate given to the Committee on the Peaceful Uses of Outer Space (COPUOS) in United Nations General Assembly (UNGA) Resolution 1472 (XIV) stipulates that it should focus on the peaceful uses of outer space and the legal problems that arise from the exploration of outer space. Through UNGA Resolution S-10/2, the Conference on Disarmament (CD) was given the mandate to discuss the prevention of an arms race in outer space.

Even a cursory glance at the stipulated mandates reveals that the mandates do not necessarily encompass all uses of outer space. Rather, depending on the interpretation of the mandates, the military use of outer space can be discussed in either forum or in neither forum, leaving an apparent gap as to which forum is the locus for international discussion of the military uses of outer space. This question is the focal point of this publication. To answer this question, this book first determines the mandates given to COPUOS and the CD at their respective establishment. The initial mandates, however, leave ambiguity about the discussion of space matters internationally. Depending on the interpretation of the term ‘peaceful’, divergent interpretations of the mandates of the forums arise. This leads to a void in the discussion of space matters internationally, specifically about the ‘non-arms military’ use of outer space.

Thereafter, the development of the mandates is analysed from the establishment of the forums until the present. This analysis illustrates that the interpretation of the mandates has fluctuated. Divergent interpretations existed at the establishment of COPUOS in the late '50s. During the deliberations on the five UN Space Treaties, these interpretations seemed to change, with the interpretation that COPUOS was mandated to discuss the military use of outer space and the limitation of the use of outer space to ensure that it is used for exclusively peaceful purposes prevailing.

However, following the adoption of Resolution S-10/2, the diverging interpretations reappeared. In practice, both COPUOS and the CD exceed their mandate. COPUOS, on occasion, discusses military uses of outer space and disarmament matters. The CD frequently deliberates on matters that are ‘non-arms military’ uses of outer space and sometimes even peaceful uses of outer space (or at least have an impact on the peaceful use of outer space). The overlap between the discussions in both forums demonstrates the interrelated nature of space matters. The absence of any real cooperation then leads to the question whether the current UN space-related framework can effectively discuss these space matters.

The final chapter first briefly describes four space matters that are currently under discussion in COPUOS and the CD: the ways and means of maintaining outer space for peaceful purposes, space traffic management, space debris and the long-term sustainability of outer space activities. These issues are described as examples of space matters under consideration that cannot simply be divided into military and non-military or peaceful and aggressive use of outer space. Instead, the issues illustrate the interrelated nature of space matters. The interrelated nature of these space matters and the conclusion that they need to be dealt with in a cooperative effort between COPUOS and the CD is then used as the background for the evaluation of the current UN space-related framework. It is argued that the current UN space-related framework, in which space matters are discussed in the CD and COPUOS separately despite the interrelated nature of space matters, is not effective, first, because of the current deadlock in the CD that prevents the CD from making any substantive progress and, second, because a result or outcome on an issue in one forum affects the discussion in the other forum, which might lead to unforeseen complications or consequences for the further discussion of the issue. Two possible solutions are given to deal more effectively with space matters internationally, namely closer and consistent cooperation between the two forums or giving COPUOS a specific mandate to discuss the military use of outer space and disarmament matters within a specific context.

However, two important notes are placed. First, cooperation between the two forums can only effectively take place when the CD resolves its deadlock. Second, both solutions run the risk of falling in the same pitfall as the CD, namely that states cannot agree on how to proceed with the discussion of the disarmament aspects of certain space matters, which will then lead to a deadlock. This is a reasonable expectation because historic evidence indicates that the contentious and political nature of the topic of the military use of outer space leads to discussions on the topic coming to a standstill. The solutions are thus not without their problems. Nevertheless, one thing remains certain: space technology will continue to develop, and this development will bring with it new legal problems that will need to be addressed in a more timely and effective manner than is currently the case.

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Abbreviations

ARRA	Agreement on the Rescue of Astronauts the Return of Astronauts and the Return of Objects Launched into Outer Space
ASAT	Anti-satellite weapons
CCD	Conference of the Committee on Disarmament
CD	Conference on Disarmament
CIA	Central Intelligence Agency
COPUOS	Committee on the Peaceful Uses of Outer Space
CTBTO	Comprehensive Nuclear-Test-Ban Treaty Organisation
DBS principles	Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting
GDR	German Democratic Republic
EAEC	European Atomic Energy Community
EC	European Communities
ECSC	European Coal and Steel Community
EEC	European Economic Community
Eighteen-Nation Committee	Eighteen-Nation Committee on Disarmament
ELDO	European Launcher Development Organisation
EO	Earth Observation
ESA	European Space Agency
ESRO	European Space Research Organisation
EU	European Union
EUCoC	European Union Draft Code of Conduct for Outer Space Activities
First Committee	Disarmament and International Security Committee
Fourth Committee	Special Political and Decolonization Committee
GEERS	Groupe d'Études Européen pour la collaboration dans la domaine des recherches spatiales
IAA	International Academy of Astronautics

IADC	Inter-Agency Space Debris Coordination Committee
ISS	International Space Station
LIAB	Convention on International Liability for Damage Caused by Space Objects
Legal Subcommittee	Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space
LTS	Long-term sustainability of outer space activities
MOON	Agreement Governing the Activities of States on the Moon and Other Celestial Bodies
NASA	National Aeronautics and Space Administration
NATO	North Atlantic Treaty Organisation
OST	Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies
PAROS	Prevention of an Arms Race in Outer Space Treaty
PPWT	Treaty on the Prevention of the Placement of Weapons in Outer Space
PRC	People's Republic of China
PTBT	Treaty Banning Nuclear Tests in the Atmosphere, in Outer Space and Under Water
REG	Convention on Registration of Objects Launched into Outer Space
ROC	Republic of China (Taiwan)
RS principles	Principles Relating to Remote Sensing of the Earth from Space
SPC	Special Political Committee of the United Nations
SSA	Space Situational Awareness
STM	Space Traffic Management
STSC	Scientific and Technical Subcommittee of the Committee on the Peaceful Uses of Outer Space
Ten-Nation Committee	Ten-Nation Committee on Disarmament
UAR	United Arab Republic
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UN Charter	Charter of the United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UN-Space	Inter-Agency Meeting on Outer Space Activities
U.S.	United States of America
USSR	Union of Soviet Socialist Republics

Chapter 1

Introduction



Annette Froehlich, Vincent Seffinga, and Ruiyan Qiu

Abstract An examination of the mandates of the Committee on the Peaceful Uses of Outer Space (COPUOS) and the Conference on Disarmament (CD) reveals that their individual mandates do not necessarily encompass all uses of outer space. Rather, depending on the interpretation of their mandates, the military use of outer space can be discussed in either forum or in neither. This begs the question in which forum the military uses of outer space are discussed internationally. This question is the focal point of this book. This introduction outlines the importance of this question by describing the extent of the military use of outer space. Furthermore, it lays out the structure of the research, which is divided into three parts. First, the research will examine the initial mandates given to COPUOS and the CD. Second, the research will analyse the further development and practical interpretation of those mandates. Finally, the research will assess the effectiveness of the current UN space-related framework to cope with near to medium future space matters that affect both the military and non-military use of outer space.

1.1 The Setting

With the creation of the Committee on the Peaceful Uses of Outer Space (COPUOS) in 1959, the international community established a forum for the discussion of issues related to outer space activities. The name of the committee implies that the mandate of COPUOS is limited to the discussion of issues pertaining to the peaceful uses of

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