

The U.S. and International Treaties on Space

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In 1958, I was in the UN Political Office of the State Department handling the multilateral aspects of the U.S. space program. This work, and that of dozens of others, culminated in the Outer Space Treaty of 1967.

When the space age first started, we were faced with some basic questions: Who owned outer space and the celestial bodies? Would outer space follow the pattern of the discovery of the new world? Would some astronaut repeat a variant of what Columbus had said in 1492, "I claim this land for King Ferdinand and Queen Isabella?"

The Outer Space Treaty's answer was an emphatic No. It states:

"Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use of occupation, or by any other means."

Space, the Treaty said, would be a common resource for mankind, not a national preserve.

The Treaty also contained a number of other provisions which bear repeating today: First, it affirmed that international law, including the UN Charter, extended into outer space. At a time when the Bush administration is disparaging international law in almost any way it can, this is an important provision to remember. Secondly, the Treaty stated that the moon and other celestial bodies "shall be used exclusively for peaceful purposes," and that "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."

This is very important today, as the U.S. moves to make outer space a new theater for military operations.

Finally, it forbid nations from

orbiting "nuclear weapons or any other kinds of weapons of mass destruction," installing "such weapons on celestial bodies," or stationing "such weapons in outer space in any other manner." Again, consider where we are in 2004.

Our aim in drafting the Outer Space Treaty was to take outer space out of the Cold War. Things were bad enough on earth. Weekly, we were reading reports from the Rand Corporation and other research institutes that a nuclear exchange with the Soviets would result in 100 million deaths in the first strike, and the creation of radiation fallout would permanently pollute the planet and kill many hundreds millions more in the years to come. Our aim was to prevent the extension of this mad-

systems. It stated that the U.S. and the Soviets would not

"develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

Then, in 1975 there was the Convention on Registration of Objects Launched into Outer Space. This convention is being breached because we have failed to register about 150 of our satellite payloads, and maybe more.

The 1979 Moon Treaty declared space resources to be the "common heritage of mankind" and proposed "to establish an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the moon."



Rogue State: The U.S. has refused to sign the Moon Treaty, the Comprehensive Nuclear Test Ban treaty, the Kyoto Protocol, and conventions on the International Criminal Court, land mines, child soldiers, small arms and bacteriological weapons.

ness into outer space.

Other developments in outer space law looked to the same objective. In 1963, the U.S. had ratified the Limited Test Ban, which forbid the testing of nuclear weapons on the earth, in the atmosphere, and in outer space. Again, as the current administration expands its "Missile Defense" system, or considers nuclear bombardment satellites, it is worth recalling this provision.

In 1972, we and Soviets agreed to the Anti-Ballistic Missile Treaty, which limited to a token site on each side the deployment of missile defense

The U.S. bowed to commercial and military interests and refused to ratify the treaty. Subsequently, Cyrus Vance [President Carter's Secretary of State, 1977-1980] said that states could indeed own the natural resources of the moon, as long as they removed them from their original site.

This was the legal situation of outer space as we moved into the Bush era in 2000. Bush's neoconservative revolution, has been to put into force to assert the primacy of the Department of Defense over the State Department, and unilateral action over multilateral

1959: "The lunar outpost is required to develop and protect potential U.S. interests on the moon; to develop techniques in moon-based surveillance of the earth and space...to serve as a base for exploration of the moon, for further exploration into space and for military operations on the moon if required." *The Establishment of a Lunar Outpost, a once-secret U.S. Army study, 1959.*



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cooperation. It has resulted in a new aggressive style of dealing with other nations, and a doctrine of using force preemptively, rather than defensively, and even, in the *Nuclear Posture Review*, of using nuclear weapons preemptively against non-nuclear states.

As a result, the U.S. has refused to sign the Comprehensive Nuclear Test Ban treaty, the Kyoto Protocol and conventions on the International Criminal Court, land mines, child soldiers, small arms and bacteriological weapons.

It also meant the abrogation of the ABM Treaty, first proclaimed by President Bush in December 2001, which went into

effect six months later. Not only was this the first arms control treaty to be abrogated, but it also established a precedent in law whereby the president does not need to even consult Congress in canceling a treaty, even though it takes two thirds of the Senate to ratify one.

Dennis Kucinich (Democrat-Ohio) and the 31 other members of the House of Representatives sued the president on this issue. I was part of the team conducting the suit. However, we failed to gain the support of even one Senator, and eventually lost the case before a Bush appointee in the district

court of the District of Columbia. It is well to ponder the consequences of this suit, as it puts at risk all other treaties to which we are signatory, including the Outer Space Treaty and the Limited Test Ban. It means that such treaties can be abrogated if they get in the way of some current policy, say, using nuclear

President Bush declared a war on terrorism. We have witnessed in Afghanistan and more recently in Iraq the military use of outer space in identifying and directing weapons. This had previously been seen in the 1991 Gulf War and in Yugoslavia. This use of space has given us the dangerous option of



Kucinich

In 2002, Dennis Kucinich and 31 other Congressmen, filed suit against President George W. Bush, Secretary of Defense Donald Rumsfeld and Secretary of State Colin Powell, charging that they did not have the right to abrogate the Anti-Ballistic Missile Treaty without Congress' consent. However, their suit failed to gain the support of even one Senator, and they eventually lost.

fighting wars with virtually no casualties. For example, in the U.S.-directed NATO air campaign over Kosovo and Serbia in 1999, NATO air forces attacked 900 targets with 37,465 sorties and suffered no combat casualties. During the Iraq war in 2003, our casualties were less than 175, less than a third of what we have

weapons as a way of knocking out decoys, or as bombardment satellites.

We have now an administration which is moving aggressively to weaponize outer space, and to achieve what it calls "global battlefield dominance," or "full-spectrum dominance." We must be clear. Space has been at least partially militarized for some time. As Michael Moore, former editor of *The Bulletin of the Atomic Scientists*, has written space has:

"been militarized for forty years; but it has not been weaponized."

Following September 11, 2001,

suffered since in our on-the-ground occupation.

Today, the U.S. government is aggressively researching anti-satellites using high-powered microwave, kinetic and directed energy or laser weapons, as well as laser, kinetic and possibly nuclear weapons to bombard the earth.

Source: "Resisting Empire: Reaffirming Our Vision of Outer Space," Keynote Speech at 12th Annual International Conference of the Global Network Against Weapons & Nuclear Power in Space, April 23, 2004.