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Author: Dr. Maria Pozza

1) University of Otago (New Zealand), New Zealand

"REACHING A SAFE, SECURE, AND SUSTAINABLE SPACE ENVIRONMENT": THE NECESSITY
OF ACCOUNTABILITY IN RELATION TO STATES-ACTIVITIES IN OUTER SPACE

Abstract

International law as it pertains to outer space presently sees little if any accountability on the issue of arms control. The Outer Space Treaty 1967 or OST 67, prohibits two types of weaponry only:

Nuclear weapons; and Weapons of Mass Destruction

Yet the treaty makes no provision as to the use of conventional weapons in outer space, or any other type of weapon. Accountability as to the use of ASATs, for example, is beyond the scope of international space law at present including international organisations such as the Committee on Peaceful Uses of Outer Space (COPUOS) and the Conference on Disarmament (CD).

This paper argues that there is a serious lack of accountability by states in relation to the potential of weapons in space. This failure of accountability may be traced back to OST 67 and its Cold War origins. This paper offers perspectives on the international law pertaining to outer space issues of state accountability in the context of weapons in space. It further examines the draft "Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects" 2008 (PPWT 2008) as a means to implement accountability in space. This treaty would ensure state accountability through its various arms control provisions which are reflective of the changed global security environment in the post Cold-War era. However, the PPWT 2008 has been rejected by various states including the US as the major space faring state. A soft law approach instead has been advocated by the European Union and US delegates: the Code of Conduct (COC) in space 2008, 2010 and 2012. Interestingly, this approach has also been supported by China in 2013. The primary focus of COC is on space debris. COC calls for states to 'voluntarily' promote good space debris management, aiming for increased security, survivability and sustainability in outer space. Both hard law and soft law approaches rely on Transparency Confidence Building Measures (TCBM) as a means to promote state accountability in outer space. The soft law approach of COC relies on TCBM to a greater extent than the hard law approach of PPWT 2008. This paper aims to address the necessity of accountability in outer space and the best possible way to achieve it within the present international space law.