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Author: Prof. José Monserrat-Filho
Brazilian Space Agency (AEB), Brazil

DETERRENCE AND INTERNATIONAL SPACE LAW

Abstract

Deterrence is a political, not a legal term. It is not mentioned in treaties and resolutions on space activities. It represents a military action widely used in world political affairs, particularly in the current environment of intense crises, with tensions and arms race. However, the deterrence has an ambiguous character. On the one hand, while its presence can avoid at least temporary armed conflict, on the other hand it can hardly guarantee the maintenance of a truly stable situation – without threats – and even less solve the existing controversy. Deterrence as it has been applied by great powers in the past refers to coercive or potentially coercive ways of preventing war, mainly in conjunction with military means. The point is that spatial stability is of vital interest to global security, to the peace and development of the entire international community. And a war in space would certainly be detrimental to all countries, to all of humanity. This reality makes deterrence a serious global issue to be addressed by international law and, in particular, international space law. According to the most important source of these legal frameworks, the United Nations Charter (Article I, paragraph 1), one of the main objectives of the United Nations to "maintain international peace and security" is "to take effective collective measures for the prevention and removal of threats to the peace". Thanks to Article III of the Outer Space Treaty, this objective included space activities. Controlling the deterrence legally in some way is a challenge, as well as being a major political and diplomatic difficulty. Deterrence needs to be well-known, monitored, debated and evaluated by the UN General Secretary, the General Assembly and the Disarmament Conference. It is not a question of legalizing deterrence, or interfering in the defense rights of any States, but of putting it in the path of understanding and cooperation among nations, and building a solid peace. To develop these ideas is the aim of the present paper.