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THE PRINCIPLE OF PEACEFUL USE OF OUTER SPACE FACED WITH MILITARY ACTIVITIES.

Abstract

The paper presents the Article IV of the Outer Space Treaty as a focal point dealing with the military uses of outer space. This article as one of the first and most important provisions on arms control is complemented by other treaties of arms control. But, the article as a whole does not provide any definition that would help clarify terms such as military uses, space weapon, or peaceful uses; or that would enable a clear distinction to be made between the terms peaceful and exclusively peaceful. At the present time, it fails to provide a comprehensive regime covering all aspects of the military uses of outer space.

The paper addresses the fact that military use has been and remains today an element of space activities, such as the utilisation of satellites for military communications, early warning, earth observation or navigation. The proliferation of such uses, together with a growing dual use tendency, is now widespread amongst numerous space-faring countries. Today, warfare is unthinkable without the support of space capacities. In this context, Article IV forms the basis for arguing that only the placement of weapons of mass destruction is explicitly prohibited by the provision, but that the use of outer space for military purposes, including the placement of conventional weapons in outer space, are allowed. This also raises the question of the weaponization of outer space.

What is not straightforward is precisely how various aspects of these activities are regulated at the international level.

The paper highlights that the existing legal and regulatory regime has not kept pace the remarkable technological and commercial progress of space activities since 1957. This represents a major challenge in relation to the ongoing development of effective legal principles, all the more in view of the strategic and military potential of outer space in an era of globalization.

It is important to understand what, and how, existing legal principles apply to any military activities involving outer space and to determine what needs to be done to provide, from a regulatory perspective, an appropriate framework to protect humankind in the future.