

- 3) testing or using a satellite itself to inflict damage or destruction on any other object by direct action.

The Canadian paper leaves open several important, difficult questions:

- 1) When would it be acceptable for states to engage in non-physical means of interference with another country's use of space? In other words, where is the line between those military uses of space that are "peaceful" and thus completely protected, and those that are not, in cases that do not fit classical conceptions of transborder aggression or deterrence stability?
- 2) In the event that a country uses space for aggressive, illegal, or otherwise unprotected purposes, how should legitimate justifications for interfering with those activities (in the name of self defense, treaty enforcement, or maintenance of international peace and security) be weighed against the potential damage to the space environment?
- 3) How much and what type of verification, confidence-building, and compliance management arrangements would be appropriate in a regime where dual-use capabilities could be used, albeit often at great cost, in place of dedicated space weapons and where inadvertent interference poses at least as much of a threat to space assets as does purposeful interference?

These questions cannot be definitively answered on the basis of existing international space law or traditional arms control precedents. One basic problem is that many scenarios that concern space security experts do not fit neatly into the concept of physical transborder aggression that shapes the U.N. Charter's rules about the use of force and by extension the OST's basic distinction between "peaceful" uses of space that enjoy the right of safe passage, and other uses that have no such protections. For instance:

- If Taiwan declares independence and Beijing uses force to reassert sovereignty over the island, would satellites being used to support Chinese military operations have a right of safe passage, or not?
- What, if any, legal protections exist for satellites used by a country or dissident group to broadcast television messages urging citizens to overthrow their own government?²⁷

²⁷ UNGA Res. 37/92, "Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting," (December 10, 1982) juxtaposes the right to seek and impart information and ideas with the directive to respect the sovereign rights of states and the principle of non-intervention, so it could support either side in this scenario. <http://www.un.org/documents/ga/res/37/a37r092.htm>. Two earlier accords could have some bearing. The 1936 International Convention Concerning the Use of Broadcasting in the Cause of Peace prohibits broadcasts to incite civil unrest or international war, but the United States and many other countries are not parties. The 1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, generally considered part of customary law, includes the duty to refrain from propaganda for wars of aggression and the duty not to incite or support violence aimed at internal regime change in other states.