

Zur Völkerrechtswidrigkeit des
US-amerikanischen Space Corps
und zugleich Abriss
von der Bedeutung des Friedens im äußeren Raum und Weltall

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Im US-amerikanischen Kongress behängt ein Gesetzverdungsverfahren betrefts des [Entwurfes](#) *National Defense Authorization Act for Fiscal Year 2020* (NDAA)¹.

In der Abteilung A, Titel IX, Untertitel C, Teil I: *UNITED STATES SPACE CORPS*, dieses Entwurfs findet sich der **Abschnitt 92I**, mit welchem dem Teil I des Untertitels D des Titels 10 des *United States Code* ein Kapitel 909 *The Space Corps*, hinzugefügt wird. Im darin liegenden § 909I heißt es u.a.:

§ 909I. Establishment of the Space Corps

*(a) ESTABLISHMENT.—There is established a United States Space Corps as an **armed** force within the Department of the Air Force.*

Zumal dieses fett hervorgehobene **armed** keinerlei gesetzliche Einschränkung (etwa auf leichte Faustfeuerwaffen) erfährt, stellt sich die Frage der Völkerrechtskonformität, die im Folgenden untersucht werden soll. Dies zu prüfen, ist ein Blick in das Völkerrecht des *Outer Space*, des Weltraumes vonnöten:

Die Generalversammlung (UNGA) der UNO befasste sich erstmals am 13. Dezember 1958 mit dem Weltraum in einer Resolution, nämlich [A/RES/1348\(XIII\)](#), *Question of the peaceful use of outer space*, wobei – im Gegensatz zu einigen späteren Resolutionen – auffällt, dass *outer space* klein geschrieben wird, was darauf hindeutet, dass damit kein spezifisch (vom Luftraum) abgegrenzter Raum, sondern vielmehr eine Örtlichkeit gemeint ist, die jenen eventuell mit einschließt.

In der Resolution 1348 (XIII) heißt es auszugsweise, wie folgt:

1348 (XIII). Question of the peaceful use of outer space

The General Assembly,

Recognizing the common interest of mankind in outer space and recognizing that it is the common aim that outer space should be used for peaceful purposes only,

Bearing in mind the provision of Article 2, paragraph 1, of the Charter of the United Nations, which states that the Organization is based on the principle of the sovereign equality of all its Members,

Wishing to avoid the extension of present national rivalries into this new field,

Desiring to promote energetically the fullest exploration and exploitation of outer space for the benefit of mankind,

Conscious that recent developments in respect of outer space have added a new dimension to man's existence and opened new possibilities for the increase of his knowledge and the improvement of his life,

Noting the success of the scientific co-operative programme of the International Geophysical Year in the exploration of outer space and the decision to continue and expand this type of co-operation,

Recognizing the great importance of international co-operation in the study and utilization of outer space for peaceful purposes,

Considering that such co-operation will promote mutual understanding and the strengthening of friendly relations among peoples,

Believing that the development of programmes of international and scientific co-operation in the peaceful uses of outer space should be vigorously pursued,

Believing that progress in this field will materially help to achieve the aim that outer space should be used for peaceful purposes only,

Considering that an important contribution can be made by the establishment within the framework of the United Nations of an appropriate international body for co-operation in the study of outer space for peaceful purposes,

Desiring to obtain the fullest information on the many problems relating to the peaceful uses of outer space before recommending specific programmes of international co-operation in this field,

Aus allen gelb markierten Stellen leuchtet der Wille der UNGA hervor, den äußeren Raum, ganz entsprechend den Grundsätzen der UN-Charta, zu einem Gebiet zu erklären, welches nicht von Militärischem, insbesondere also von Waffen, besetzt werden soll.

Wenn im letzten markierten Erwägungsgrund vom Erreichen eines Ziels die Rede ist, was darauf hindeuten könnte, dass eine Übergangsphase toleriert werden sollte, in welcher das Militär-Verbot nicht gilt, ist dies keineswegs zugunsten der Stationierung von Rüstung im äußeren Raum zu verstehen, sondern lediglich dahin, wie es in den darauf folgenden Instrumenten, insbesondere dem Weltraumvertrag – siehe dazu unten! – geregelt worden ist: nämlich zugunsten der Anwesenheit militärischen Personals zu wissenschaftlichen Zwecken.

So heißt es etwa bereits im ein Jahr später, 1959, geschlossenen Antarktisvertrag², wie folgt:

¹

² *Antarctic Treaty*, Washington, 1. Dezember 1959; 402 UNTS [5778](#).

Article I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

Im operativen Teil der oben zitierten Resolution 1348 (XIII) ruft die UNGA das COPUOS ins Leben:

1. Establishes an *ad hoc* Committee on the Peaceful Uses of Outer Space composed of the representatives of Argentina, Australia, Belgium, Brazil, Canada, Czechoslovakia, France, India, Iran, Italy, Japan, Mexico, Poland, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and requests it to report to the General Assembly at its fourteenth session on the following:

(a) The activities and resources of the United Nations, of its specialized agencies and of other international bodies relating to the peaceful uses of outer space;

(b) The area of international co-operation and programmes in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices to the benefit of States irrespective of the state of their economic or scientific development, taking into account the following proposals, *inter alia*:

(i) Continuation on a permanent basis of the outer space research now being carried on within the framework of the International Geophysical Year;

(ii) Organization of the mutual exchange and dissemination of information on outer space research;

(iii) Co-ordination of national research programmes for the study of outer space, and the rendering of all possible assistance and help towards their realization;

(c) The future organizational arrangements to facilitate international co-operation in this field within the framework of the United Nations;

(d) The nature of legal problems which may arise in the carrying out of programmes to explore outer space;

2. Requests the Secretary-General to render appropriate assistance to the above-named Committee and to recommend any other steps that might be taken within the existing United Nations framework to encourage the fullest international co-operation for the peaceful uses of outer space.

792nd plenary meeting,
13 December 1958.

Ein Jahr später, am 12. Dezember 1959, verabschiedete die UNGA ihre Resolution [A/RES/1472\(XIV\)](#), *International co-operation in the peaceful uses of outer space*, in deren Erwägungsgründen es bereits weitaus bestimmter heißt, wie folgt:

1472 (XIV). International co-operation in the peaceful uses of outer space

A

The General Assembly,

Recognizing the common interest of mankind as a whole in furthering the peaceful use of outer space,

Believing that the exploration and use of outer space should be only for the betterment of mankind and to the benefit of States irrespective of the stage of their economic or scientific development,

Desiring to avoid the extension of present national rivalries into this new field,

Recognizing the great importance of international co-operation in the exploration and exploitation of outer space for peaceful purposes,

Noting the continuing programmes of scientific co-operation in the exploration of outer space being undertaken by the international scientific community,

Believing also that the United Nations should promote international co-operation in the peaceful uses of outer space,

Hier, im ersten Erwägungsgrund des Teils A der Resolution, wird ein gemeinsames Interesse der Menschheit als Ganzer anerkannt, die friedvolle Nutzung des äußeren Raumes zu fördern. Auch der zweite Erwägungsgrund ist das Postulat enthalten, den äußeren Raum nur zu friedvollen Zwecken zu nutzen, wenn dort von der Verbesserung der Menschheit und dem Vorteil aller Staaten, unabhängig von deren Entwicklung, die Rede ist; denn solche Ziele sind mit militärischen Mitteln nicht nur nicht zu erreichen, sondern letztere verhindern deren Erlangung nachgerade, was uns die Erfahrung lehrt, die auf 200 Jahre (und mehr) Kolonialismus und dessen Folgen zurück blickt.

Mit dieser ihrer Resolution 1472 (XIV) richtete die UNGA das COPUOS übrigens als ständige Einrichtung ein:

1. Establishes a Committee on the Peaceful Uses of Outer Space, consisting of Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Czechoslovakia, France, Hungary, India, Iran, Italy, Japan, Lebanon, Mexico, Poland, Romania, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, whose members will serve for the years 1960 and 1961, and requests the Committee:

(a) To review, as appropriate, the area of international co-operation, and to study practical and feasible means for giving effect to programmes in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices, including, *inter alia*:

(i) Assistance for the continuation on a permanent basis of the research on outer space carried on within the framework of the International Geophysical Year;

(ii) Organization of the mutual exchange and dissemination of information on outer space research;

(iii) Encouragement of national research programmes for the study of outer space, and the rendering of all possible assistance and help towards their realization;

(b) To study the nature of legal problems which may arise from the exploration of outer space;

2. Requests the Committee to submit reports on its activities to the subsequent sessions of the General Assembly.

856th plenary meeting,
12 December 1959.

Auch dessen Agenda stellt klar auf friedvolle Nutzung des äußeren Raumes ab. Außerdem soll das COPUOS demnach die Unterstützung für die Fortdauer auf einer permanenten Grundlage, der Erforschung des äußeren Raumes, und zwar ausgeführt innerhalb des Rahmens des Internationalen Geophysikalischen Jahres, untersuchen, zu dessen Output auch der oben erwähnte Antarktisvertrag zählt.

B

The General Assembly,

Noting with satisfaction the successes of great significance to mankind that have been attained in the exploration of outer space in the form of the recent launching of artificial earth satellites and space rockets,

Attaching great importance to a broad development of international co-operation in the peaceful uses of outer space in the interests of the development of science and the improvement of the well-being of peoples,

1. Decides to convene in 1960 or 1961, under the auspices of the United Nations, an international scientific conference of interested Members of the United Nations and members of the specialized agencies for the exchange of experience in the peaceful uses of outer space;

2. Requests the Committee on the Peaceful Uses of Outer Space, established in resolution A above, in consultation with the Secretary-General and in co-operation

with the appropriate specialized agencies, to work out proposals with regard to the convening of such a conference;

3. Requests the Secretary-General, in accordance with the conclusions of the Committee, to make the necessary organizational arrangements for holding the conference.

856th plenary meeting,
12 December 1959.

Mit dem Teil B der oben zitierten Resolution 1472 (XIV) beruft die UNGA gar eine Internationale Konferenz zum Austausch der Erfahrungen betreffs der friedvollen Nutzung des äußeren Raumes ein, nachdem sie in dessen zweitem Erwägungsgrund die besondere Bedeutung der breiten Entwicklung einer internationalen Zusammenarbeit in der friedvollen Nutzung des äußeren Raumes im Interesse der Entwicklung von Wissenschaft und Verbesserung des Wohlergehens der Völker hervorhebt. Dies war, wie gesagt, 1959. Wenn seither nur wenigen Staaten gegeben war, im äußeren Raum zu friedvollen Zwecken wissenschaftlich und technisch zu reüssieren, so ist dies vor allem der Tatsache geschuldet, dass auf Erden, also gleichsam der Stammbasis derer Bemühungen, einige wenige Staaten mit militärischer Gewalt deren Sagen perpetuiert haben; was desgleichen den bisher zitierten Resolutionen und freilich der UN-Charta zuwiderläuft.

Die nächstfolgende Resolution der UNGA vom 20. Dezember 1961, [A/RES/1721\(XVI\)](#), *International co-operation in the peaceful uses of outer space*, lautet in deren Teil A, wie folgt:

1721 (XVI). International co-operation in the peaceful uses of outer space

A

The General Assembly,

Recognizing the common interest of mankind in furthering the peaceful uses of outer space and the urgent need to strengthen international co-operation in this important field,

Believing that the exploration and use of outer space should be only for the betterment of mankind and to the benefit of States irrespective of the stage of their economic or scientific development,

1. Commends to States for their guidance in the

exploration and use of outer space the following principles:

(a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;

(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law and are not subject to national appropriation;

2. Invites the Committee on the Peaceful Uses of Outer Space to study and report on the legal problems which may arise from the exploration and use of outer space.

Wenn hier also ausdrücklich die Geltung internationalen Rechts, einschließlich der Charta der Vereinten Nationen angeordnet wird, beinhaltet dies auch die vorangegangenen Resolutionen, die im Licht dieses Rechts auszulegen sind. Aus Artikel [26 UN-Charta](#) folgt, dass Endziel der internationalen Gemeinschaft ist, dereinst völlig ohne Waffen auszukommen. Die Erreichung dieses Ziels hat nicht unwesentlich mit der ausreichenden Erschließung von Lebensraum zu tun, sodass die Erforschung und Nutzung des äußeren Raumes diesem Ziel nützlich ist, weshalb ein logischer erster Schritt in seine Richtung der Untersagung der militärischen Rüstung im äußeren Raum ist.

Der Teil B der zuletzt zitierten Resolution 1721 (XVI) lautet:

B

The General Assembly,

Believing that the United Nations should provide a focal point for international co-operation in the peaceful exploration and use of outer space,

1. Calls upon States launching objects into orbit or beyond to furnish information promptly to the Committee on the Peaceful Uses of Outer Space, through the Secretary-General, for the registration of launchings;

Auch hier wird friedvolle Nutzung betont. Außerdem erfolgt durch den an zweiter Stelle blau hervorgehobenen Passus eine Klarstellung, dass auch der Orbit zum äußeren Raum zählen soll; denn dieser Umfang des äußeren Raumes wird an den Aufruf der Staaten geknüpft, dorthin gebrachte Objekte registrieren zu lassen, wobei dieser Aufruf, wie gesagt, zufolge des Titels und Inhalts der Resolution den äußeren Raum als solchen betrifft.

Sodann folgt Teil C der Resolution 1721 (XVI), der da lautet:

C

The General Assembly,

Noting with gratification the marked progress for meteorological science and technology opened up by the advances in outer space,

Convinced of the world-wide benefits to be derived from international co-operation in weather research and analysis,

1. Recommends to all Member States and to the World Meteorological Organization and other appropriate specialized agencies the early and comprehensive study, in the light of developments in outer space, of measures:

(a) To advance the state of atmospheric science and technology so as to provide greater knowledge of basic physical forces affecting climate and the possibility of large-scale weather modification;

(b) To develop existing weather forecasting capabilities and to help Member States make effective use of such capabilities through regional meteorological centres;

2. Requests the World Meteorological Organization, consulting as appropriate with the United Nations Educational, Scientific and Cultural Organization and other specialized agencies and governmental and non-governmental organizations, such as the International Council of Scientific Unions, to submit a report to the Governments of its Member States and to the Economic and Social Council at its thirty-fourth session regarding appropriate organizational and financial arrangements to achieve those ends, with a view to their further consideration by the General Assembly at its seventeenth session;

3. Requests the Committee on the Peaceful uses of Outer Space, as it deems appropriate, to review that report and submit its comments and recommendations to the Economic and Social Council and to the General Assembly.

*1085th plenary meeting,
20 December 1961.*

Was zuvor über das Ausmaß des äußeren Raumes gesagt wurde, wird hier, im blau markierten, Passus bestätigt, zumal dabei auf Erfolge der Meteorologie im äußeren Raum abgestellt wird, was zweifelsohne allein auf die Satelliten etc. im Orbit zurückzuführen sein wird.

Der Teil D der zitierten Resolution 1721 (XVI) lautet:

D

The General Assembly,

Believing that communication by means of satellites should be available to the nations of the world as soon as practicable on a global and non-discriminatory basis,

Convinced of the need to prepare the way for the establishment of effective operational satellite communication,

1. Notes with satisfaction that the International Telecommunication Union plans to call a special conference in 1963 to make allocations of radio frequency bands for outer space activities;

2. Recommends that the International Telecommunication Union consider at that conference those aspects of space communication in which international co-operation will be required;

3. Notes the potential importance of communication satellites for use by the United Nations and its principal organs and specialized agencies for both operational and informational requirements;

4. Invites the Special Fund and the Expanded Programme of Technical Assistance, in consultation with the International Telecommunication Union, to give sympathetic consideration to requests from Member States for technical and other assistance for the survey of their communication needs and for the development of their domestic communication facilities, so that they may make effective use of space communication;

Von einer nichtdiskriminierenden Nutzung der Satelliten durch alle Staaten der Welt darf heute, beinahe 60 Jahre später, immer noch bloß geträumt werden, wofür erneut die UN-Charta widrige militärische Hegemonie auf Erden von einigen wenigen Staaten verantwortlich ist.

Sodann folgt noch der Teil E der Resolution 1721 (XVI), der da lautet:

E

The General Assembly,

Recalling its resolution 1472 (XIV) of 12 December 1959,

Noting that the terms of office of the members of the Committee on the Peaceful Uses of Outer Space expire at the end of 1961,

Noting the report of the Committee on the Peaceful Uses of Outer Space,¹

1. *Decides* to continue the membership of the Committee on the Peaceful Uses of Outer Space as set forth in General Assembly resolution 1472 (XIV) and to add Chad, Mongolia, Morocco and Sierra Leone to

5. *Requests* the International Telecommunication Union, consulting as appropriate with Member States, the United Nations Educational, Scientific and Cultural Organization and other specialized agencies and governmental and non-governmental organizations, such as the Committee on Space Research of the International Council of Scientific Unions, to submit a report on the implementation of these proposals to the Economic and Social Council at its thirty-fourth session and to the General Assembly at its seventeenth session;

6. *Requests* the Committee on the Peaceful Uses of Outer Space, as it deems appropriate, to review that report and submit its comments and recommendations to the Economic and Social Council and to the General Assembly.

*1085th plenary meeting,
20 December 1961.*

its membership in recognition of the increased membership of the United Nations since the Committee was established;

2. *Requests* the Committee on the Peaceful Uses of Outer Space to meet not later than 31 March 1962 to carry out its mandate as contained in General Assembly resolution 1472 (XIV), to review the activities provided for in resolutions A, B, C and D above and to make such reports as it may consider appropriate.

*1085th plenary meeting,
20 December 1961.*

Nachfolgte die Resolution der UNGA [A/RES/1802\(XVII\)](#), *International co-operation in the peaceful uses of outer space*, vom 14. Dezember 1962, die *grosso modo* ins selbe Horn stößt, wie die vorangegangenen.

Die Resolution der UNGA, [A/RES/1884\(XVIII\)](#), *Question of general and complete disarmament*, vom 17. Oktober 1963, lautet indessen:

1884 (XVIII). Question of general and complete disarmament

The General Assembly,

Recalling its resolution 1721 A (XVI) of 20 December 1961, in which it expressed the belief that the exploration and use of outer space should be only for the betterment of mankind,

Determined to take steps to prevent the spread of the arms race to outer space,

1. *Welcomes* the expressions by the Union of Soviet Socialist Republics and the United States of America of their intention not to station in outer space any objects carrying nuclear weapons or other kinds of weapons of mass destruction;

2. Solemnly calls upon all States:

(a) *To refrain from placing in orbit around the earth any objects carrying 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;*

(b) *To refrain from causing, encouraging or in any way participating in the conduct of the foregoing activities.*

*1244th plenary meeting,
17 October 1963.*

Auch wenn hier lediglich auf eine Absichtserklärung der beiden militärischen Großmächte dieser Zeit abgestellt ist, so bedeutet dies nicht deren Unverbindlichkeit, weil das Gegenteil, nämlich die Verbindlichkeit, wie oben gezeigt, schon bisher geltendes Recht war.

Am 13. Dezember 1963 nahm die UNGA schließlich ihre Resolution, [A/RES/1962\(XVIII\)](#), *Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space*, an, in deren erstem hier zitierten Teil es heißt, wie folgt:

1962 (XVIII). Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space

The General Assembly,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the betterment of mankind and for the benefit of States irrespective of their degree of economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as in the legal aspects of exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between nations and peoples,

Recalling its resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression, and considering that

the aforementioned resolution is applicable to outer space.

Taking into consideration its resolutions 1721 (XVI) of 20 December 1961 and 1802 (XVII) of 14 December 1962, adopted unanimously by the States Members of the United Nations,

Solemnly declares that in the exploration and use of outer space States should be guided by the following principles:

1. The exploration and use of outer space shall be carried on for the benefit and in the interests of all mankind.

2. Outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law.

3. Outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

4. The activities of States in the exploration and use of outer space shall be carried on in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.

Schon aus dem Titel dieser Resolution ergibt sich die Verbindlichkeit der in ihr verlautbarten Prinzipien! Wenn im ersten Erwägungsgrund das Ergebnis des Menschen Eintritt in den äußeren Raum gepriesen wird, dann ergibt sich daraus auch, dass die in den Prinzipien 2 und 3 bezogene Größe, nämlich äußerer Raum und Himmelskörper, auch auf die Erde selbst anwendbar sind, ist doch auch sie nichts anderes als ein Himmelskörper, was der ebenso beschworene erste Mensch im All eindrücklich vernommen haben wird. Damit wurde dem ISA-Regime der UNCLOS, welches, wie gezeigt³, auch auf das trocken liegende Land anwendbar ist, Bahn gebrochen.

Im dritten Erwägungsgrund ist zwar erneut nur die Rede von: *glaubend*, doch drückt dies nur die Zuversicht aus, dass zufolge geltenden Rechts die sich aus ihm ergebenden Folgen schon noch einstellen werden.

In einem weiteren Erwägungsgrund wird die Resolution, [A/RES/110\(II\)](#)⁴, *Measures to be taken against propaganda and the inciters of a new war*, vom 3. November 1947, als auf den äußeren Raum anwendbar erklärt; was bedeutende Folgen auch insoweit hat, als jedwede damit verbotene Propaganda nicht über Satelliten verbreitet werden darf. Die weiteren Hervorhebungen im obigen Zitat sind an sich selbsterklärend und bedürfen kaum der Auslegung. Resolution 1962 (XVIII) setzt sodann fort, wie folgt:

5. States bear international responsibility for national activities in outer space, whether carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried on in conformity with the principles set forth in the present Declaration. The activities of non-governmental entities in outer space shall require authorization and continuing supervision by the State concerned. When activities are carried on in outer space by an international organization, responsibility for compliance with the principles set forth in this Declaration shall be borne by the international organization and by the States participating in it.

6. In the exploration and use of outer space, States shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space with due regard for the corresponding interests of other States. If a State has reason to believe that an outer space activity or experiment planned by it or its nationals would cause potentially harmful interference with activities of other States in the peaceful exploration and use of outer space, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State which

has reason to believe that an outer space activity or experiment planned by another State would cause potentially harmful interference with activities in the peaceful exploration and use of outer space may request consultation concerning the activity or experiment.

7. The State on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and any personnel thereon, while in outer space. Ownership of objects launched into outer space, and of their component parts, is not affected by their passage through outer space or by their return to the earth. Such objects or component parts found beyond the limits of the State of registry shall be returned to that State, which shall furnish identifying data upon request prior to return.

8. Each State which launches or procures the launching of an object into outer space, and each State from whose territory or facility an object is launched, is internationally liable for damage to a foreign State or

³ Siehe dazu LAMBAUER, *Zur Anwendbarkeit des ISA-Regimes der UNCLOS*, [hier](#).

⁴ Von selbst versteht sich, dass jede Form der Aufrüstung (im äußeren Raum, etwa zur Abschreckung) desgleichen eine Art von Propaganda darstellt.

to its natural or juridical persons by such object or its component parts on the earth, in air space, or in outer space.

9. States shall regard astronauts as envoys of mankind in outer space, and shall render to them all pos-

sible assistance in the event of accident, distress, or emergency landing on the territory of a foreign State or on the high seas. Astronauts who make such a landing shall be safely and promptly returned to the State of registry of their space vehicle.

1280th plenary meeting,
13 December 1963.

Auch die restlichen Prinzipien bedürfen hier keiner weiteren Ausführung.

Vor diesem Hintergrund ist nun der mit Resolution der UNGA, [A/RES/2222\(XXI\)](#), Annex, vom 19. Dezember 1967 verabschiedete *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies* (OST) auszulegen.

Die Erwägungsgründe dieses Vertrages lauten:

ANNEX

Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies

The States Parties to this Treaty,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes,

Believing that the exploration and use of outer space should be carried on for the benefit of all peoples irrespective of the degree of their economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1962 (XVIII), entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space", which was adopted unanimously by the United Nations General Assembly on 13 December 1963,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Taking account of United Nations General Assembly resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

Convinced that a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, will further the purposes and principles of the Charter of the United Nations,

Have agreed on the following:

Abermals beruft man sich hier auf große Aussichten, welche sich vor der Menschheit als Resultat des Eintritts des Menschen in den äußeren Raum auftun: Damit kann in wörtlichem Sinne nur JURI GAGARINS Ausblick bei seiner Erdumrundung 1961 gemeint sein.

Auch die anderen Erwägungsgründe rekapitulieren Inhalte der oben behandelten Resolutionen. Insbesondere aus den grün hervorgehobenen Passagen ergibt sich, dass eine Bewaffnung im äußeren Raum, die über leichte hinausginge, mit den darin enthaltenen Grundsätzen unvereinbar wäre.

Die ersten drei Artikel des OST lauten:

Article I

The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

Outer space, including the Moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the Moon and other celestial bodies, and States shall facilitate and encourage international co-operation in such investigation.

Article II

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

Article III

States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the Moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations, in the interest

of maintaining international peace and security and promoting international co-operation and understanding.

Damit, mit den blau hervorgehobenen Passagen, ist die Verbindung zu den oben erörterten Inhalten der dort zitierten Resolutionen der UNGA hergestellt.

Der, soweit hier von Relevanz, zentrale Artikel IV des OST sieht nun vor, was folgt:

Article IV

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station weapons in outer space in any other manner.

The Moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. 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. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the Moon and other celestial bodies shall also not be prohibited.

Dass sich der blau hervorgehobene Passus nur auf Himmelskörper bezieht, kann bei einer auf Treu und Glauben sowie die Grundsätze der Logik gegründeten Auslegung nicht bedeuten, dass die darin untersagten Aktivitäten im äußeren Raum (außerhalb der Himmelskörper) zulässig sein sollten. Denn solche Lesart machte den Sinn und Zweck des Verbotes der schweren Waffen im äußeren Raum zunichte: den Frieden (ohne martialische Propaganda) zu bewahren.

Bezeichnend ist somit, dass Abschnitt 924 NDAA lautet, wie folgt:

SEC. 925. EFFECTS ON MILITARY INSTALLATIONS.

Nothing in this part, or the amendments made by this part, shall be construed to authorize or require the relocation of any facility, infrastructure, or military installation of the Air Force.

Die implizite Anregung, man möge doch eigene Einrichtungen entwerfen und schaffen, zielt daher in den völkerrechtlichen Verbotsbereich des Artikels IV/2 OST.