



INTERNATIONAL INSTITUTE OF
AIR AND SPACE LAW

Of **Good Stewards** and **Good Samaritans**

International Legal Aspects of Planetary Defense Issues

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2007 Planetary Defense Conference

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Introduction

- The role of the law
 1. Detection & surveillance
 2. Threat response & mitigation
 1. Non-contact deflection (/ fragmentation?)
 2. Deflection / fragmentation by contact
 3. Involvement nuclear devices
- ... & what are the legal parameters:
- Rights, obligations & legal consequences
 - ◆ Notably: liabilities...

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Detection & surveillance

1. From earth

- Main issue: obligations to inform
 - ◆ General int'l (humanitarian) obligations
 - ◆ Artt. I, IX, OST on 'exploration' (?!)

2. From outer space

- Additional issue: applicability space law
 - ◆ Via Art. III, OST: general international law
 - ◆ State responsibility & liability
 - ◆ Cf. also Principles X, XI, UN Res. 41/65!
 - Promote protection Earth & mankind

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Response & mitigation

1. Right to respond / mitigate
 - Right of self-defence; 'use' Art. I, OST
 - 'Manifest absurdity or unreasonableness'
2. Obligation to respond / mitigate
 - General humanitarian obligations
 - Art. IX, OST, on 'appropriate measures'!
 - **Good Stewardship** – well defined?
3. Parameters response / mitigation
 - No unlawful use → enter *trust & politics*



Non-contact response

1. From earth

- Liabilities 'non-space'...?
 - ◆ Liability Convention does *not* apply
 - General int'l law: Trail Smelter; Corfu Channel
 - 'Not to allow damage to other states'

2. From space

- Liability Convention *may* apply
 - ◆ Art. II: 'damage caused *by* a space object'
 - ◆ Mind: usually taken to mean *by contact*



Response by contact

- Liability Convention *does* apply (?)
 - Physical contact & direct causal link
 - Then... absolute liability (!)
 - ...and unlimited compensation
 - So where's the **Good Samaritan**?
- Broader issue of 'space debris'
 - No fundamental prohibition thereof
 - Only general duty **Good Stewardship**...?
 - ◆ Art. IX, OST, again...

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Use of nuclear devices

- If with contact:
 - Liability Convention *does* apply (...?)
 - ◆ Does nuclear fall-out constitute 'damage'?
- For all nuclear options:
 - Art. IV, OST: no WMD in orbit / stationed
 - Art. I(a), Test-Ban Treaty: no nuclear explosions
 - Need to carefully phrase exceptions
 - Need for confidence-building measures

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Towards a solution?

- International agreement
 - Exclude normal application other treaties
 - Create obligations for **Good Stewardship**
 - ➔ ***Charter for Space and Major Disasters!***
 - Liability unless **Good Samaritanship**
 - International control regime
 - ◆ Crucial for co-financing & confidence building
 - ◆ Preferably IGO – UN or new one
- Or lesser arrangement *ad interim?*
 - ***Cf. also IADC space debris guidelines!***



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Thank you!



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