



CPR for the OST:

How China's Anti-Satellite Weapon Test Can Breathe New Life into Article IX of the Outer Space Treaty

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I: China's Test in Context

As news of a Chinese anti-satellite (ASAT) weapon test spread throughout the world during the second and third weeks of January 2007, most spacefaring nations condemned the action as irresponsible and troubling.¹ Some complaining states cited China's potential spurring of an arms race in space, and all noted the staggering amount of hazardous orbital debris generated by the test without any prior warning by the Chinese. While these statements were uniformly unequivocal in their disapproval, they seldom implied that China had somehow breached the terms of international law—China's actions were deemed reproachable, but not illegal. But the Outer Space Treaty of 1967 (OST), by its Article IX provisions, calls for a state to engage in international consultations when predicting that its space activities will harm the interests of others.² China failed to do so, and thereby violated the terms of the OST. Yet few states noted this illicit behavior.

Rather than skirting the issue of China's flagrant flouting of international law, states should directly confront the manifest illegality of China's behavior. Such a discussion among

¹ WMD Insights, "Special Report: Chinese Anti-Satellite Weapon Test – The Shot Heard 'Round the World," WMD Insights: Issues and Viewpoints in the International Media, http://wmdinsights.com/I13/I13_EA1_SP_PRC_ASAT.htm, Accessed 15 June 2008.

² Outer Space Treaty, "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies," opened for signature Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205.

members of the OST would strengthen Article IX and create customary law (as a supplement to the text of the agreement), engendering future compliance with the consultation provision. As an international agreement, the OST is binding law; although nations have often refrained from pursuing Article IX consultations in the past, this behavior has been contextualized and has not yet effected a customary “amendment” to the OST. To avoid rescission of Article IX in the future, parties to the OST can strictly abide by its principles to the letter; China’s ASAT test provides a perfect opportunity to do so. The deleterious consequences of continued wanton ASAT testing in space are many, and Article IX offers a solution. States should capitalize on the chance to strengthen the article’s legal muscle by denouncing the lack of notification surrounding the Chinese ASAT test.

II: China’s Actions as a Violation of the OST

By the explicit terms of the Outer Space Treaty, China’s failure to notify at least some OST parties of its ASAT test was a plain violation. In conducting the Jan. 11, 2007 test, China destroyed its own *Feng-Yun* satellite in low earth orbit (LEO) with a ballistic missile, creating an unfathomable amount of debris.³ In doing so, the Chinese government conducted no international consultations. Some anti-ASAT groups are skeptical of claims that China has acted illegally, saying that, rather than being covered by the OST, the test “highlights a significant gap in international law.”⁴ However, Article IX of the Outer Space Treaty provides that:

“If a State Party to the treaty has reason to believe that an activity
or experiment planned by it or its nationals in outer space,

³ “China Confirms Anti-Satellite Missile Test,” *Guardian*, January 23, 2007.

<http://www.guardian.co.uk/science/2007/jan/23/spaceexploration.china>

Theresa Hitchens, “Debris, Traffic Management, and Weaponization,” *The Brown Journal of World Affairs* . 14 (2007):174-175.

⁴ Jessica West, “Fallout from China’s Anti-Satellite Test,” *The Ploughshares Monitor* 28 (2007): 2.

including the moon and other celestial bodies, would cause potentially harmful interference with activities of other State Parties in the peaceful exploration and use of outer space, including the moon and other celestial bodies, it shall undertake appropriate international consultations before proceeding with any such activity or experiment.”⁵

Read as distinct elements, the consultation provision requires a state party conducting (1) “activities or experiments . . . in outer space” who (2) “has reason to believe” that the activity will “cause potentially harmful interference with activities of other State Parties” (3) “shall undertake appropriate international consultations before proceeding.” When considering the Chinese ASAT test and accompanying lack of consultation in light of these elements, the state’s behavior constitutes an unequivocal violation of the OST.⁶

(1) China’s ASAT test can appropriately be called an activity or experiment. The missile launch was, by China’s own admission, a “test,”⁷ while the intended target was a satellite orbiting in space. Because the missile’s purpose was to destroy an orbiting satellite, a substantial and definitive portion of the missile “experiment” was conducted in outer space. Had the ASAT test been an attack on another country’s satellite, it is possible that the activity would not be

⁵ Outer Space Treaty, *supra* note 2, art. IX.

⁶ There is a further argument to be made that China violated articles V and XI of the OST. Article V asks state parties to inform other parties or the Secretary-General of the UN if they discover any space phenomena which could be hazardous to astronauts. Outer Space Treaty, *supra* note 2, art. V. Article XI states that state parties conducting activities in Outer Space shall “inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of the nature, conduct, locations, and results of such activities.” *Ibid.*, art. XI.

⁷ “China Confirms Satellite Downed,” BBC News, January 23, 2007, <http://news.bbc.co.uk/2/hi/asia-pacific/6289519.stm/>.

recognized under the scope of the treaty, which covers “studies” and “exploration.”⁸ Absent that exception, the ASAT test falls squarely within the bailiwick of Article IX.

(2) China had reason to believe that its activities would result in potentially harmful interference with the activities of other spacefaring nations party to the Outer Space Treaty. The creation of debris as a result of the test was inevitable, and thus posed a threat to other states’ satellites in a high-traffic area of orbital space. Because the treaty does not call for certainty, but reasonability (“reason to believe”) and conditionality (“potentially harmful interference”),⁹ China had sufficient evidence to follow the Article IX provision and engage in international consultations.

By destroying its aging satellite, China created a predictably substantial amount of debris. The satellite splintered into 2,377 identifiable pieces, making the test “the largest debris-generating event on record.”¹⁰ The Chinese state had ample evidence indicating this outcome. In fact, the accidental explosion of a similar Chinese satellite in 1990 left a cloud of debris that is mostly still in orbit.¹¹ Moreover, the U.S. test of an ASAT weapon against its Solwind satellite in 1985 spawned an alarming amount of space junk that later threatened the International Space Station.¹² The Chinese needed only to look at the results of that experiment to see the harmful debris their own test would create; they likely did, since “the Chinese test in some ways mimics”

⁸ Robert A. Ramey, “Armed Conflict on the Final Frontier: The Law of War in Space,” *Air Force Law Review*. 48 (2000): 76-77.

⁹ Outer Space Treaty, *supra* note 2, art. IX.

¹⁰ CelesTrak Special Event Coverage, “Chinese ASAT Test,” CelesTrak, <http://celestrak.com/events/asat.asp/>.

¹¹ K.K. Nair, “China’s ASAT Test: A Demonstrated Need for Legal Reform,” *Journal of Space Law*. 33 (2007):191-193.

¹² James P. Lamperitus, “The Need For an Effective Liability Regime for Damage Caused by Debris in Outer Space,” *Michigan Journal of International Law*. 13 (1992): 447, 451. (citing Annex to COSPAR Status Report on Space Debris (1987), UN Doc. A/AC.105/403 (1988), reprinted in 1 *Space Law Bulletin* III.11 (Karl-Heinz Bockstiegel and Marietta Benkö eds., 1990).

the Solwind test.¹³ But the destruction of the Solwind was only one of many ASAT trials conducted by the United States and Soviet Union at the height of the Cold War,¹⁴ and one boon of this otherwise dubious legacy is widespread knowledge of the negative consequences that accompany military exercises in outer space. China, as a major power and spacefaring nation, cannot claim ignorance of the fact that destroying its FY-1C satellite would send debris careening into orbit for decades.

Nor can China assert that, while knowing that the ASAT test would generate orbital debris, it had no reason to believe that debris would cause “potentially harmful interference” with the interests of other nations. China’s decade-long membership in the Inter-Agency Space Debris Coordination Committee (IADC) is proof of at least tacit acknowledgement that space debris poses an issue of international concern.¹⁵ Indeed, the IADC’s stated goal is to “exchange information on space debris research” because “man-made space debris poses an increasing risk to space vehicles.”¹⁶ But evidence of the danger of orbital debris is present in a more tangible form than scientific studies traded between nations. Space junk has significantly damaged several spacecraft, and even decommissioned two satellites entirely.¹⁷ Because “every craft sent into orbit gets whacked repeatedly,”¹⁸ China must surely have registered impact on one of its

¹³ Hitchens, *supra* note 4, at 179.

¹⁴ *See generally*, Peter L. Hays, “United States Military Space: Into the Twenty-First Century,” INSS Occasional Paper 42, U.S. Air Force Institute for National Security Studies, U.S. Air Force Academy, Colorado.

¹⁵ Nair, *supra* note 10, at 193.

¹⁶ “IADC Presentation to 45th UN COPUOS STSC,” IADC-07-09, February 2008, http://www.iadc-online.org/docs_pub/UN_Presentation_2007.pdf/.

¹⁷ Simon Collard-Wexler, et. al., *Space Security 2004*, at 5, *Space Security Index* (June 2005).

¹⁸ Brad Lemley, “The Shooting Gallery,” *Discover*, Jan. 12, 2001, <http://discovermagazine.com/2001/dec/featshoot/>.

nearly 100 satellites.¹⁹ As such, Beijing was keenly aware of the threat posed by space debris and the potential harmful interference with the spacecraft of another nation.

Because “the Chinese [ASAT test] roughly doubled the debris threat to satellites in the most heavily used part of [low earth orbit],”²⁰ it has imposed significant preventative costs on spacefaring nations, causing harmful interference with their respective space programs. While collisions can be as minimally damaging as a quarter-inch dent caused by a speck of paint,²¹ states must take account of the risk of serious debris damage by adding costly shielding to their satellites.²² An increase in the cost of space operations must constitute “potential harmful interference.” There is, moreover, an amplified risk in the densely-populated altitude of about 800K where the ASAT test was conducted. LEO is known as the “cradle of human activity in space,” home to more satellites than any other orbit.²³ Even expending valuable fuel and flight resources to avoid collision with debris can be recognized as “harmful interference;” the U.S. Terra satellite had to do so, firing its thrusters to dodge fallout from the ASAT test.²⁴

Therefore, in addition to direct impact damage, debris can significantly increase prevention costs. While the term “harmful interference” is “extremely ambiguous” and may not aid in requiring consultations for potential future hazards,²⁵ the concrete, physical interests implicated in a debris-creating event of this magnitude surely meets this amorphous element.

¹⁹ See generally, Jonathan McDowell, ed., “The U.N. Registry of Space Objects,” Main Registry of Satellites and Space Probes, July 2007, http://planet4589.org/space/un/un_tab1.html/.

²⁰ “Debris in Brief: Space Debris from Anti-Satellite Weapons,” Union of Concerned Scientists, December 2007, http://www.ucsusa.org/global_security/space_weapons/debris-in-brief.html/.

²¹ Robert Roy Britt, “Space Junk,” *Space.com*, October 19, 2000, http://www.space.com/spacewatch/space_junk.html.

²² David Wright, “Space Debris,” *Physicstoday.org*, http://ptonline.aip.org/journals/doc/PHTOAD-ft/vol_60/iss_10/35_1.shtml (accessed June 25, 2008).

²³ Vincent Sabathier and G. Ryan Faith, “Present and Future Human Expansion into Outer Space,” *Brown Journal of World Affairs*. 14 (2007): 147, 149.

²⁴ Brian Berger, “NASA’s Terra Satellite Moved to Avoid Chinese ASAT Debris,” *Space.com*, July 6, 2007, http://www.space.com/news/070706_sn_china_terra.html/.

²⁵ Lawrence D. Roberts, “Ensuring the Best of All Possible Worlds: Environmental Regulation of the Solar System,” *NYU Environmental Law Journal* 6 (1997): 126, 139.

Given its knowledge of the ASAT test's debris proliferation, China should have foreseen the "potentially harmful interference" of both direct collisions with the FY-1C satellite particles as well as the increased costs of a cluttered orbital space.

(3) Despite having reason to believe that the ASAT test would result in "potentially harmful interference," with other OST parties' space interests, China did not engage in international consultations of any kind. Though "'consultations' can be interpreted in different ways in the international arena,"²⁶ the term implies a modicum of information-sharing. Not only did the Chinese fail to conduct such consultations,²⁷ they remained silent for 10 days after the incident, despite the U.S. and other states' alleged repeated questioning.^{28, 29} Given their knowledge of the danger that debris emanating from the blast would pose to other nations' interests in space, even the least restrictive reading of the OST obliged China to engage in some type of consultation or notification procedure. By all accounts, the Chinese government failed to do so. This lack of regard for Article IX is a flagrant and impermissible violation of the terms of the Outer Space Treaty.

III: The Legal Status of the Article IX

China's violation of Article IX, a valid and potent part of the OST, can and should be deemed illegal by other treaty parties. Violation of a treaty is a breach of international law.

However, the law is defined as much by actual practices than by agreements and accords, and

²⁶ Michael J. Listner, "The Ownership and Exploitation of Outer Space: A Look at Foundational Law and Future Legal Challenges to Current Claims," *Regent Journal of International Law*. 1 (2003): 75, 81.

²⁷ Nair, *supra* note 10, at 192.

²⁸ Agence France-Presse, "U.S. Unable to Get China to Talk About Antisatellite Weapons Test: Report," *DefenceTalk.com*, January 22, 2007, http://www.defencetalk.com/news/publish/defence/US_unable_to_get_China_to_talk_about_antisatellite_weapon_test30010032.php/.

²⁹ Some reports indicate that the U.S. had advance knowledge of China's intent or plans to conduct the test. Michael R. Gordon and David S. Cloud, *U.S. Knew of China's Missile Test, but Kept Silent*, *N.Y. TIMES*, Apr. 23, 2007. While this may potentially constitute a separate Article IX violation on the U.S.'s part, it does not insulate the Chinese from culpability. Rather, it reinforces the notion that states other than the traditional space powers must be on the forefront of Article IX enforcement.

these practices can effectively change the content of existing treaties.³⁰ Because prior failures by the OST community to indemnify Article IX violations have been particular and contextual rather than evidence of a broader international desire to amend the treaty, the consultation provisions remain as binding obligations on parties to the OST. Therefore, violations of Article IX may legitimately be labeled illegal in order to strengthen the provisions and ensure that the normative mission of the OST is honored.

In general, states respect the principle of cooperation in outer space, and adhere to a norm of international consultations when engaging in space activity. International forums such as the United Nations General Assembly and Conference on Disarmament are often host to discussions and recommendations considering space debris and ASAT testing.³¹ Agreements such as the Registration Convention³² and groups like the IADC encourage collaborative studies and information-sharing from member states. By these mechanisms, nations consult one another with regards to impending launches and make public the location of satellites and significant debris to avoid damage. While lacking explicit reference to their obligations under Article IX, the states taking cooperative actions in space demonstrate a commitment to its principles, and a belief that the requirement of minimum consultations for hazardous space activity is relevant and necessary.

In addition to these general affirmations, history has seen some affirmative uses of Article IX. When the Soviet satellite Cosmos 954 was plummeting out of the sky with a nuclear payload, the United States sent a communiqué to the Soviet Union asking for information on the

³⁰ Restatement (Third) of Foreign Relations Law § 102 (1987).

³¹ In 1981, for example, the U.S.S.R. proposed two draft treaties prohibiting the placement of ASAT weapons in space to the UNGA. Hays, *supra* note 13, at 108.

³² Convention on Registration of Objects Launched into Outer Space, *opened for signature* January 14, 1975, 28 U.S.T. 695, 1023 U.N.T.S. 15.

satellite and invoking the Outer Space Treaty.³³ The Russians replied, answering the questions—albeit obliquely—and provided the U.S. and Canadian authorities with critical intelligence.³⁴ More recently, the United States was candid about the potential environmental impact of its shoot-down of USA 193, a deorbiting satellite.³⁵ While the United States has since been criticized for failing to disclose any military purpose in conducting the test,³⁶ the minimum international consultations that the government engaged is a much closer reflection of Article IX requirements than China’s absolute lack of forewarning. Thus, the community of OST parties has shown a respect for Article IX’s general ideas and its specific mandates.

However, some argue that contradictory practices have rendered the article invalid. Treaties and agreements may change through the ages, effectively amended by the practices of their parties, and “the widespread repudiation of the obligations of an international agreement may be seen as state practice adverse to the continuing force of the obligations.”³⁷ In the terms of the restatement, this “repudiation” must be “general and consistent” and a clear manifestation of the parties’ will to change the treaty, but no clear guidelines exist to judge when state actions (or omissions) reach this level.³⁸ Because the OST’s Article IX has seldom been explicitly invoked to date, some scholars argue that it holds little clout in the realm of international law.³⁹ However, these prior failures to act are explained by context and circumstance, and do not reflect the general will of the OST members.

³³ Gus W. Weiss, “Life and death of Cosmos 95,” (study, U.S. Central Intelligence Agency, 1978), <http://www.loyola.edu/dept/politics/intel/cosmos954.pdf/>.

³⁴ *Id.*, at 3-4.

³⁵ Mike Mount, “Officials: U.S. to Try to Shoot Down Errant Satellite,” CNN, February 15, 2008, <http://www.cnn.com/2008/TECH/space/02/14/spy.satellite/index.html/>.

³⁶ *See, e.g.*, Noah Shachtman, “Experts Scoff at Sat Shoot-Down Rationale (Updated),” Wired, February 15, 2008, <http://blog.wired.com/defense/2008/02/15/index.html/>.

³⁷ Restatement (Third) of Foreign Relations Law § 102 (1987), cmt. i.

³⁸ *Id.*, cmt. b., i.

³⁹ Ramey, *supra* note 7, at 77-78 (“[O]ne wonders whether the international community even takes this consultation provision seriously given that so far as is publically known, no such consultation has ever been undertaken since the adoption of the Outer Space Treaty in 1967.”).

The lack of Article IX international consultations amidst extensive U.S. and Soviet ASAT testing during the Cold War is the result of a particular geopolitical moment and does not reflect a concerted, general effort by parties to the OST. While the testing was egregious and in some ways paralleled the Chinese test, the absence of protest from either the United States or the Soviet Union is easily explained by their mutual desire to surpass the other in military capabilities.⁴⁰ Establishing Article IX as applicable to these tests would potentially have hindered the accusing states' ability to freely develop their own weapons without facing international scrutiny, and was therefore not an option to a state eager to gain a strategic advantage. Those states with sophisticated space research capabilities or concrete interests in space were typically positioned on either side of the bipolar divide, and thus likely refrained from demurring at their allies' behest. Meanwhile, non-aligned and third-world states lacked the requisite knowledge establishing the threat of space debris⁴¹ and had few space interests imperiled by the testing.⁴² Those parties engaged in the Cold War and their allies, therefore, had political and military reasons to overlook Article IX, and the other states simply didn't recognize the "potential harmful interference" of the testing. Neither of these reasons amount to a general manifestation of intent to read Article IX out of the treaty. A lack of demonstrated intent on the part of the OST member states to change its consultation provision is evident in both the states' acts and the particularity of their omissions. Article IX is alive and kicking, but missing the opportunity to deem China's actions illegal could signal the beginning of the valuable Article's demise.

⁴⁰ See Hays, *supra* note 13, at 89.

⁴¹ The IADC, for example, was founded in 1993. While studies were conducted in the 1980's, few took orbital debris as a serious hazard until the early 1990's. Theresa Hitchens (director, Center for Defense Information), interview by Chelsea Dilley, June 13, 2008.

⁴² See McDowell, *supra* note 18.

IV: Article IX in the Future

The circumstances that made prior failures to insist upon the terms of Article IX less than a showing of intent to change the OST are lacking in the case of the Chinese ASAT test. To avoid an outright repudiation of Article IX, parties to the OST should follow Japan's lead⁴³ by declaring China's test illegal. While some nations may consider this to be a desirable result, an increased use of Article IX would contribute to the security, sustainability, and stability of outer space. These are noble goals for the short and long term, and their accomplishment is contingent on faithful respect of the OST.

Continued neglect of Article IX by the entire international community can rightly be seen as establishing a custom contravening the OST. While some countries may still desire to weaponize space, either for offensive or defensive purposes, most nations have disavowed this purpose.⁴⁴ But even if a select few nations choose to ignore the terms of the OST—the U.S. space policy seems to point in this direction⁴⁵—others should step in to reify them. The widely-publicized harm stemming from space debris and the ubiquity of satellites indicate that future debris-creating events implicate the interests of a large body of OST parties in an overt and notorious way. Whereas prior inaction by these states could not be called “general and consistent” or a manifestation of the states’ will due to a lack of information on space debris, the information is now available and convincing. Because so many states depend on satellites for essential communication and defense functions, any failure by the international community to recognize Article IX violations as illegal equates to their dissatisfaction with the consultation

⁴³ Weitz, *supra* note 1.

⁴⁴ Theresa Hitchens, “Space Wars,” *Scientific American*, March 2008, at 66 (“[A] norm has developed against the weaponization of space . . .”) (“Nations mostly shunned such weapons, fearing the possibility of destabilizing the global balance of power with a costly arms race in space.”).

⁴⁵ U.S. National Space Policy, “NSPD 49,” U.S. National Space Policy, <http://www.fas.org/irp/offdocs/nspd/space.pdf/>.

provision. Like a muscle left idle, states must exercise Article IX, lest it should atrophy and leave the OST's legal regime severely weakened.

Though some time has passed since the launch, and many states have already made public their reactions to China's test, a call for consultations is still possible. Under the auspices of Article IX, states could unite to condemn China's failure to consult as a breach of international law and assert that similar omissions by any state in the future would be similarly reviled. The accusing states could then ask China for consultations regarding their knowledge of the ASAT test, the debris created, and the hazards it poses. However, the states should be clear to state that this is no substitute for proper consultations *before* the space activity. While retroactive consultations are no remedy, they will show some effort by the international community to enforce Article IX's provisions, and could be used as a model for the consultations that states will be obliged to undertake in the future.

The consultations that Article IX calls for could be framed in a number of ways. One potential method could be requiring states about to conduct space activity falling under the auspices of Article IX to directly inform those states whose interests could be implicated. The informed states could then ask for further information in the spirit of Article IX, or state that they have no qualms with the activity. Instead of contacting individual parties, a state may instead contact an international panel of experts, who would assess the proposed activity and make a statement as necessary. While the latter plan is significantly more involved and time-consuming, it could result in more fruitful consultations, as the conclusions would not rest on the quality of research conducted by the acting state. A third option could be a notice and comment period, wherein a state can make a general announcement via press release and other states could respond with further questions or complaints. This option removes the necessity for an

international panel, but no longer relies on the reporting state to identify the relevant interests. Finally, depository states or the Secretary-General⁴⁶ could play a role in receiving the initial information and disseminating it to the appropriate parties. Any of these methods is an improvement over the utter lack of consultation leading up to the Chinese ASAT test.

Regardless of the form that it may take, a strong legal mechanism by which to stymie space weaponization is needed now more than ever. While the OST has no explicit provisions about placing arms other than nuclear weapons and other weapons of mass destruction in orbit,⁴⁷ Article IX provides a means by which to ensure that those states that choose to deploy ASAT technologies and other such weapons are accountable to other parties to the treaty. If states learn of an impending test or launch, they may request information on it. While failing to answer such requests does not expressly violate Article IX, the request itself can be proof of the chance of “potentially harmful interference” that necessitates self-disclosure. Therefore, states may be able to claim a breach of international law if their requests go unfulfilled.

This procedural hurdle may not stop tests altogether, but it will call for greater debris mitigation practices during tests. In forcing states to publicly declare their intentions for outer space, it may cause states to cancel their weaponization plans altogether. Consultation will also allow states to gather evidence that can later be used in liability claims—a prospect that may deter many states from conducting tests or launches that contribute to space junk. Moreover, once a nation condemns a breach of Article IX as illegal, they will be barred from doing the same in the face of international scrutiny. While the U.S. space policy shows a fear of being restrained, it is often best to tie oneself to the mast like Ulysses to avoid any ill-advised acts in the future.

⁴⁶ See *supra* note 6.

⁴⁷ Outer Space Treaty, *supra* note 2, art. IV.

Finally, the most valuable benefit of consultation procedures would be transparency and information-sharing between spacefaring states. Keeping fellow OST members in the know “helps reduce the threat of accidents and misunderstandings that could escalate into conflict” and “reduce[s] the paranoia that arises in climates of secrecy among competitive actors.”⁴⁸ The greatest danger of placing weapons in space is the mistrust and insecurity that would arise in other nations. The Outer Space Treaty, in its preamble, states one of its goals to be “recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes.”⁴⁹ The greatest injury to this globally averred ambition is an arms race in our common outer space. Article IX provides an effective device—international consultations—to dissuade potential space weaponizers from carrying out their plans. To maintain Article IX’s standing as valid international law, it must be insisted upon in all appropriate circumstances. The Chinese ASAT test of January 2007 was one such event. In deeming this test inappropriate, but not illegal, many nations missed their chance to assert the validity of Article IX. But the ship has not yet sailed, and states should reexamine the test before other nations follow suit. The objectives of the Outer Space treaty are as poignant now as ever; though the moon colonies it imagines may still be decades in the future, the specter of a weaponized space is a present threat.

⁴⁸ Theresa Hitchens, “Future Security in Space: Charting a Cooperative Course 67,” Center for Defense Information, 2004.

⁴⁹ Outer Space Treaty, *supra* note 2.