



Cyber Issues in Space Law: Legal Tools Some introductory remarks

ECSL Practitioner's Forum, Paris, 23-03-2018





57 • snmp

46 • ssh

52 ms-sql-s

161

1433 22 Tarren



GVM Customer

2014-06-25 08:33:01.16

unknown, Romania

93.120.27.62

......

8 84 45 pt 1 . . .



San Leandro, United States

So what are we talking about...?

- ◆ 'Cyber' = 'Everything having to do with the Internet considered collectively' (Wiktionary)
- ◆ 'Cyber-' = 'From "cybernetic", from the Greek for "skilled in steering or governing", may refer to: cybernetics, a transdisciplinary study of control and communications (...); Cyberspace, the global technology environment' (Wikipedia)



→ Outer space…?

- 1. Outer space, like cyber space, is a 'global technology environment'
- 2. All space activities need to be 'steered' & 'governed', whether using the Internet or not; & they are indeed 'controlled' & 'communicated with'
 - Cyber 'nuisance' against space infrastructure, activities & services ← → use of space infrastructure & technology for cyber 'nuisance'



→ The Law...?

- ◆ Internet, digitalization & globalization: civil cyber 'nuisance' ←→ security-related cyber 'nuisance'
 - Criminal law $\leftarrow \rightarrow \dots$ law on the use of force...?
 - 'Nuisance' intentional or non-intentional; in many cases addressed by '(harmful) interference' 'law'!?
- ◆ Beyond interference *lex lata* mostly yet to be developed, nationally & internationally → *lex ferenda* ...?



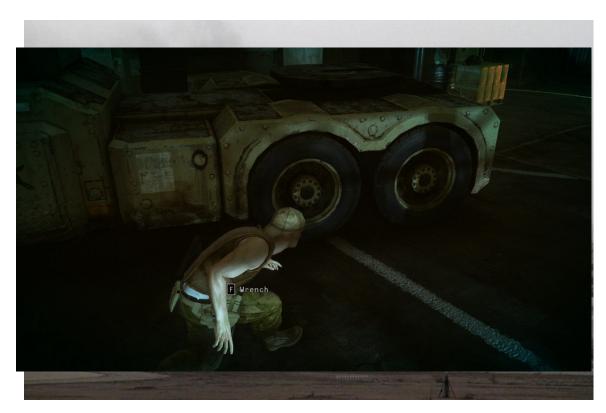
Let's be careful with terminology...

In particular if already established (legal) meaning:

- Cyber warfare' ←→ 'War on drugs' ...?
- 'Cyber security'
 - Art. 1(1), UN Charter: 'international peace and security'
- 'Cyber force'
 - Art. 2(4), UN Charter: 'threat or use of force'
- 'Cyber attack'
 - Art. 51, UN Charter: 'armed attack against a state'



Cyber attack...?



Cyber sabotage!



...and precise with international law

- 'Customary international law'
 - Requires *state* practice & 'opinio iuris' also of *states*
 - ≠ The practice / opinion of individual experts, academics, NGOs, private companies
 - ≠ The contents of 'guidelines', 'recommendations', 'manuals' etc. without being condoned as such by official state organs
 - National law ≠ (customary) international law ← → may
 arguably be state practice / reflect 'opinio iuris' Nebraska Law

Business Insider, 07-12-2017

The space kingdom of Asgardia says it's the first nation with 'all of its territory in space'

- A non-governmental organization called Asgardia wants to become the first kingdom and nation-state in space.
- On Wednesday, the group deployed its first satellite into orbit around Earth.
- Asgardia claims the small satellite's deployment means it is "the first nation to have all of its territory in space."

"Asgardia will be a space nation that is a trans-ethnic, trans-national, transreligious, ethical, peaceful entity trying to settle the humanity in space,"



Are you kidding me?

- A 'State' under international law has:
 - 1. A territory
 - 2. A permanent population living on such territory
 - 4. Recognition by existing states (generally speaking)
 - *Cf.* Palestine & Taiwan
- ◆ This is terminological pollution



Are you kidding me?

◆ Would cyber interference with Asgardia's satellite amount to an 'armed attack', to the 'use of force against the territorial integrity or political independence', to a 'threat to international peace & security'? Would 'someone' be entitled to exercise 'self-defense', use 'counter-force' & reprisals, invoke UN Charter obligations?

