



The Air Force Role in Developing International Outer Space Law

Jr., Colonel, USAFR, Delbert R. Terrill

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The impact of the US defense and space initiatives on bilateral and multilateral treaties and on international outer space law in general, a topic of much current discussion, is better understood by an analysis of the development of that body of law. Col Delbert “Chip” Terrill Jr. discusses its early evolution and the Air Force contribution to it. He describes the Air Force’s ad hoc approach to international outer space law and its efforts to have this approach adopted by the United States and the international community. Further, the author details the profound impact that the surprise attack at Pearl Harbor on 7 December 1941 had on President Dwight D. Eisenhower. He vowed never again to allow the US to be similarly vulnerable to a surprise attack, particularly in a nuclear environment. As part of his efforts to preclude a surprise attack on the United States, Eisenhower sought to establish the concept of free passage of intelligence gathering satellites as part of accepted international outer space law. The author traces how the Eisenhower administration demonstrated a lack of concern about being first in space so long as the concept of free passage in outer space was universally accepted. However, the administration apparently and clearly underestimated the propaganda value that being first would have. Colonel Terrill traces how the Eisenhower administration failed to fully communicate its policy goal of achieving such free passage to the uniformed services. Although civilian leaders in the Defense Department were aware of the administration’s position, the Air Force and the other military services at times acted at cross purposes to the concept of free passage. Chip Terrill describes the Air Force’s continued efforts to resist the passage of most international outer space law conventions, the restiveness of the Air Force judge advocate general (JAG) corps with a backseat role, and how the JAG generally failed in its early attempt to have the Air Force become proactive in the development of the law. Ironically, Terrill illustrates how the Air Force’s ad hoc approach essentially dovetailed with Eisenhower’s goal of free passage. Colonel Terrill relates how the Air Force’s Project West Ford caused the passage of certain environmentally sensitive provisions of international outer space law. The author closes by examining the comment and coordination process leading to the passage of the Liability for Damages Convention. Such was typical of the Air Force’s lukewarm, reactive posture regarding the passage of international conventions, except for the Agreement on Rescue and Return of Astronauts, which the Air Force strongly supported. In short, this superb work documents the interesting gestation period regarding the development of international outer space law. It will undoubtedly contribute to the development of Air Force doctrine by providing a better understanding of the Air Force’s involvement in the development of international outer space law.

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