

## **THE DRAFT TREATY ON THE PREVENTION OF THE PLACEMENT OF WEAPONS IN OUTER SPACE, THE THREAT OR USE OF FORCE AGAINST OUTER SPACE OBJECTS**

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### **INTRODUCTION**

Speaking in Munich on 11 February 2007, Russian President Vladimir Putin warned against the emergence of new high-technology destabilizing types of weapons and new areas of confrontation, particularly in outer space. He emphasized that weaponization of outer space could trigger unpredictable consequences for the international community—no less serious than the onset of the nuclear era. He also noted that a draft special treaty was being prepared aimed at preventing such a development.

At its plenary meeting on 12 February 2008, Sergey Lavrov, Minister of Foreign Affairs of the Russian Federation, addressed the Conference on Disarmament (CD) and officially introduced the draft of the Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects (PPWT), prepared jointly by Russia and China, for consideration by the CD.

The PPWT is not a new idea. The draft is based on the working document CD/1679 on possible elements of the treaty tabled by the delegations of Russia and China together with a group of co-sponsors in June 2002. It is the result of the subsequent discussions in various formats, reflected in a series of working papers and three versions of compilations of the views expressed at those discussions. All these documents are available at the CD website. So, the draft PPWT has not come as a surprise.

### **THE RATIONALE BEHIND A PPWT**

Modern international space law does not prohibit deployment in outer space of weapons which are not weapons of mass destruction. However,

such weapons, if deployed in outer space, would have a global reach, high readiness and capability for engagement not only with other space objects to render them inoperative, but also with critical infrastructure on Earth. Such weapons would be fit for real use, generate suspicions and tension among states and frustrate the climate of mutual trust and cooperation in space exploration, rather than serve as a means of containment. This, in fact, will equate their military utility to that of weapons of mass destruction.

Besides, deployment of weapons in outer space by one state will inevitably result in a chain reaction. And this, in turn, is fraught with a new spiral in an arms race both in outer space and on the Earth.

The objective of the draft PPWT is to prohibit the placement of weapons of any kind in outer space, and the use or threat of force against space objects. The treaty is to eliminate existing gaps in international space law, create conditions for further exploration and use of outer space, preserve costly outer space property and strengthen international security and arms control regimes.

So, why do we need a PPWT?

First, because without such a treaty it would be difficult to predict the development of the strategic situation in outer space and on Earth due to the global operating range of space weapons. It would be impossible to claim that space weapons were "not targeted" at a given nation. Moreover, space weapons will enable actors to discreetly tamper with outer space objects and disable them.

Second, because the international situation would be seriously destabilized due to a possibility of unexpected, sudden use of space weapons. This alone could provoke pre-emptive acts against space weapons and, consequently, the spiral of an arms race.

Third, because space weapons, unlike weapons of mass destruction, may be applied selectively and discriminately, they could become real-use weapons.

Fourth, because the placement of weapons in outer space would arouse suspicions and tensions in international relations and destroy the current

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climate of mutual confidence and cooperation in exploration of outer space.

Fifth, because attaining monopoly of space weapons would be an illusionary goal, all kind of symmetrical and asymmetrical responses would inevitably follow, which in substance would constitute a new arms race, which is exactly what humankind wants to avoid.

### **PPWT VERSUS OTHER MEASURES**

Transparency and confidence-building measures (TCBMs) in outer space activities are important for strengthening trust in outer space activities, for enhancing safety in outer space manoeuvres, for decreasing motivation for weaponization of outer space and for obtaining the necessary climate for negotiating a PPWT. Through the relevant UN General Assembly resolutions, Russia has initiated a new round of elaborations on updating recommendations on TCBMs in outer space activities in the United Nations. TCBMs may also become a part of the new treaty. But they cannot be a substitution for a legally binding PPWT, they should not deviate our efforts and attention in the CD away from a PPWT, although reaching a certain agreement on TCBMs could be a relatively easy and consolidating step on the way to a PPWT.

We are not proposing a treaty on the prevention of an arms race in outer space (PAROS). But we intend to nip the problem of PAROS in the bud. If we prohibit the placement of weapons in outer space and everyone observes this ban, there will be no an arms race in outer space. There can be no room for an arms race there where even the placement of weapons as such is forbidden. In other words, by addressing the issue of non-weaponization of outer space we are at the same time averting the danger of a possible arms race in outer space. However, this prohibition alone is not enough. The functioning of outer space objects can be disrupted without using space-based weapons, but with weapons based elsewhere or by other actions not related to the use of weapons. In order to protect outer space objects from such a threat and to prevent any other force-related actions in outer space, we propose to supplement the non-weaponization obligation by another one—that of non-use of force or threat of force against outer space objects. Thus, in our view, a PPWT will be a solution to the problem of PAROS.

## DEFINITIONS AND SCOPE OF A PPWT

We are proposing a treaty which is realistic and practicable. No weapons are placed in outer space now. We want to keep this status quo. Nothing of what the states now possess in outer space will be affected in any way by a PPWT. On the contrary, the main purpose of a PPWT is to assure that safety and security of outer space assets is assured. This fully applies to the satellites which provide information services in the interests of national defence of the states.

The draft PPWT provides some basic definitions which could be useful for the clarification of the specific scope of the treaty. They are as follows: "outer space", "weapons in outer space", "outer space object", "placement of weapons in outer space" and others. These definitions are supposed to answer some important questions. For example, ballistic missiles flying through outer space will not qualify for being "placed" in outer space, and thus will not be affected by the treaty. On the other hand, these missiles will not qualify as "outer space objects" and will be exempt from the rule of no-use-of-force against outer space objects. This means that ballistic missile defences will not be subject to a PPWT, except for the prohibition of placement of their "striking" components in outer space, because they would qualify as "weapons in outer space". We understand that the proposed definitions may raise questions. Our objective was to give a general idea what we mean using best practices and existing definitions and approaches. We are open to negotiate the final formulations within a PPWT.

The no-use-of-force obligation is an application of the UN Charter principle to outer space activities. It covers a wide range of possible hostile actions against outer space objects: destruction, damage, injuring normal function, disruption of channels of communication with ground command and control centres, deliberate alteration of the parameters of their orbit and so forth. In any case, it implies the prohibition of such actions against outer space objects, and not the prohibition on the means (the hardware) to exercise such actions. It would be impractical to create things for the use of force in outer space if the use of force itself is banned. This obligation, *inter alia*, while not prohibiting directly the development of non-space-based anti-satellite weapons, bans their testing against outer space objects and their use against such objects. This obligation seems to be more verifiable than a ban on the "development" of such systems.

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A special verification protocol can follow the treaty at a later stage or a PPWT verification mechanism may be substituted by a set of confidence-building measures. This does not mean at all that compliance with a PPWT's provisions is unverifiable and that verification is not needed. A special study of this issue by our Canadian colleagues (see CD/1785) has proven that verification of non-placement of weapons in outer space is possible in principle. We agree with their conclusions.

### **THE DRAFT PPWT AND THE CD**

The CD has been discussing and developing basic elements of a PPWT for five years. The results of the discussions have been reflected in three compilations and in the set of CD working documents submitted by Canada, Russia and China. They speak for themselves.

We have not heard any substantive or convincing arguments against a PPWT. The overwhelming majority of our partners reacted positively to the PPWT draft. Many states are looking forward to substantive work on this issue at the CD.

We think it is now essential to focus on substantial discussions on a PPWT within Item 3 of the CD Agenda without linking it to any other issues. We also believe that such discussion will allow us to develop necessary interaction with the UN Committee on the Peaceful Uses of Outer Space (COPUOS) and thus deal with what directly corresponds to the CD mandate—that is, elaborate a PPWT.

We have submitted the draft PPWT with a research mandate. It has been supported by the majority of member states of the CD and does not add any complications to achieving a compromise on the current draft programme of work of the CD. We hope that subsequently, when appropriate conditions are there, our work can be channelled into a negotiating format through establishment of a relevant ad hoc committee of the CD.

### **NEXT STEPS**

We believe that we can subsequently conduct discussions on PPWT issues if we follow the structure of the proposed treaty elements. Hence, the subject of the further work could be divided in the following topics:

- preamble—aims of a new treaty, its place in the system of international space legislation, explanation of how important and practically useful it is;
- terms and definitions—the real need for them, and what they might possibly contain;
- the scope and basic obligations;
- use of outer space for peaceful and other purposes;
- TCBMs in outer space activities—the appropriateness, the opportunity for and the content of measures to verify implementation of basic obligations;
- a settlement of disputes mechanism;
- the need for and the opportunity to establish an executive body to deal with the implementation of a PPWT, how it would interact with COPUOS and other international organizations;
- a PPWT and international cooperation in research and use of outer space for peaceful purposes;
- organizational issues—the possibility of making amendments, signature and ratification of the treaty, and its entry into force; and
- possible additional elements for such a treaty.

In the course of the recent CD debates on the issues of outer space we have already reached a common understanding that all states are interested in keeping outer space from turning into an arena for military confrontation, in assuring security in outer space and uninterrupted functioning of outer space objects. It is important that we all share this interest. The issue is how to realize this interest in practice.

A number of countries have already submitted some specific proposals in connection with the draft treaty. We should have thorough discussions and take maximum account of them. We hope that the timetable of meetings to be finalized by the six presidents of the CD would allow us to continue substantive discussions on all matters related to a PPWT.

## CONCLUSION

We are driven by the belief that the PPWT will serve the security interests of all states and will contradict the interests of none.

We should remember that the nuclear arms race was started with a view to preserve the monopoly on this type of weapon, but this monopoly was to last only four years. However, that spell was sufficient to channel the world politics along "Cold War lines", which lasted for over four decades and resulted in a gigantic waste of material and other resources at the expense of finding solutions to the problem of development. Is it worthwhile to repeat such a history?

Let us hope that "Star Wars" will remain the domain of Hollywood rather than a business plan in other headquarters.