

Draft PPWT: overview of key comments and suggestions

On 12 February 2008 Minister of Foreign Affairs of the Russian Federation tabled for the consideration of the Conference on disarmament (CD) a draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects (PPWT, document CD/1839).

The PPWT is called upon to fill in the existing gaps in international space law, create conditions for further exploration and use of outer space, ensure safety of space property, strengthen global stability and international security.

The principal PPWT provision – prohibition to place in outer space any objects carrying any kind of weapons, resort to the threat or use force against outer space objects.

The draft takes account of the suggestions made by the member – States of the Conference on disarmament as a result of the joint work on the elements of the future treaty, which had been submitted earlier by the Russia and China (document CD/1679) and debated during more than 5 years.

In 2008 the draft PPWT was discussed during the CD official plenary meetings, informal CD thematic debates (7 and 21 February, 5 August 2008), and the CD open-ended meeting organized by the delegations of the Russian Federation and the People's Republic of China on 6 August 2008 with the participation of the UNIDIR.

In general, reaction to the draft PPWT is positive. It was also positively assessed that the Russia and China, unwilling to complicate the situation in the CD, submitted the draft PPWT with a research mandate.

The comments and suggestions on the draft PPWT were made available by the delegations of Austria, Belarus, Canada, France, Germany, the Netherlands, New Zealand, South Africa, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

We would like to dwell on the most important of them.

The United States submitted their reaction in the form of an official document CD/1847. Its key idea – for the American side the draft PPWT is unacceptable. Earlier the United States had declared that the current international space law is sufficient and there is no need to develop it, including its part regarding the management of military activities in outer space. Since then the American position on this issue hasn't changed.

The previous debates showed that PAROS remains a pressing issue, and that only a legally binding treaty could provide security in outer space, on the one hand, and fill in all existing gaps in modern international space law, on the other hand.

Having come to power, the new American administration began a review of its space policy. Time will show us its outcome.

The questions on the draft PPWT which we have received recently are not concept related but refer to the text of the document as such.

It is asserted, that the definition of "outer space" based on the altitude is not perfect. This definition is said to provoke different legal interpretation in relation to objects in outer space, to objects that only fly through outer space (ballistic missiles, fractional orbital striking systems, including their reentry head parts), as well as to air-space devices working both in the atmosphere and in outer space.

The international space law does not yet contain the rule establishing the border between the air and outer space. The definition of outer space, contained in the draft PPWT - "space beyond the elevation of 100 km above ocean level of the Earth" - has been suggested for the purposes of the draft treaty only. The border is established at the altitude of minimum

elevations of perigees of artificial satellite orbits at about 100 km above the world ocean level.

The obligation not to place weapons in outer space spreads over altitudes higher than 100 km above ocean level. The prohibition does not concern the objects which fly through space (ballistic missiles).

Fractional orbital striking systems in case they are specially produced or converted "to eliminate, damage or disrupt normal function of objects" are covered by the PPWT obligations.

As it is defined in the draft treaty, the air-space objects carrying weapons, in case they fly on orbit or on fractional of orbit are covered by the PPWT obligations.

The question was raised regarding the feasibility of an international consensus on the term "weapons in outer space".

As it is clearly set fourth in the draft treaty, any device to be regarded as a "weapon in outer space" must be specially produced or converted to perform certain tasks. This device should be provided with specific features. All other devices, in discussions often referred to as "a possible weapon", including a spacecraft with peaceful purposes, could not be regarded as a weapon because they are not specially produced or converted for these purposes and have not been provided with specific features.

The definition proposed in the draft treaty is sufficient and exhaustive for purposes of the draft PPWT.

It is asserted that if, according to the draft PPWT, there remains a possibility to hit one's own satellites (or other's at the consent of the owner), it would lead to the formation of space debris.

One may need to destroy one's own (or someone else's, upon request of its owner) uncontrollable space object for the purposes of minimization or elimination of the threat that it creates to other space objects, activities on the Earth surface or in its air space. But we should assume that the draft PPWT is not the only document that regulates outer space activity. The provisions of other documents should be used as guidelines when deciding on the destruction of one's own space vehicle.

We were asked to clarify whether the draft PPWT prohibits laser systems on the ground aimed at blinding espionage satellites, as well as ground- and space-based systems of electromagnetic suppression of satellites.

The draft PPWT does not prohibit development and testing of ground-based laser systems and systems of electromagnetic suppression, including against one's own targets in outer space, because it is not always possible to authentically detect and identify such testing (on the Earth surface, in atmosphere and against outer space targets). It is prohibited to use them for hostile purposes (as "use of force") against space objects of other States.

Development and testing of space-based systems of electromagnetic suppression not in outer space are not prohibited. It is prohibited to place systems of electromagnetic suppression in outer space because such systems are covered by the definition of the term "weapon in outer space".