

## **THE 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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In his speech in Munich on 10 February 2007, President Vladimir Putin announced that Russia had prepared a draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects (PPW). We are now holding consultations on the draft with our partners. After these consultations, we intend to table the draft PPW in the Conference on Disarmament (CD). We hope that we shall be able to do this before the end of the 2007 session.

In the course of recent CD debates on outer space issues, 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 of outer space and in the safe functioning of outer space objects. It is important that we all share these interests. The issue is how to realize these in practice.

Russia is open to all ideas and proposals in this respect. We do not rule out any possibility. But we believe that the best way to meet these goals is to elaborate and adopt a new treaty, namely the PPW.

### **WHY A NEW TREATY?**

Why is a new treaty needed? First, because new obligations, covering the well-known gaps (and ever-expanding with the development of technology) in international law, must enjoy the same status as the norms and rules currently in force. Second, because new obligations will entail inevitable limitations on national military activities and on national business, which should be regulated by domestic legislation, including liability in case of violations. Third, because such obligations should be a reliable factor of national security for all states.

One of the possible options for the new treaty is working out an additional protocol to the Outer Space Treaty, banning the stationing in outer space not only of weapons of mass destruction, but weapons of any kind. We are not against this option in principle. But it is hard to imagine a situation where, at the same time, we would have consensus on such a protocol, on the one hand, and no consensus on PPW, on the other. If we reach agreement in principle that outer space must not be weaponized, it is better to fix it by an option (that being the PPW) which is stronger, more focused and detailed, and tailored to the realities of today.

Transparency and confidence-building measures are important for strengthening trust in outer space activities, for enhancing safety in outer space manoeuvring, for decreasing motivation for the weaponization of outer space and for obtaining the necessary climate for negotiating a new treaty on the prohibition of weapons in outer space. Through a General Assembly resolution, Russia has initiated in the United Nations a new round of updating recommendations on TCBMs in outer space activities. Such may also become a part of the new treaty. But they cannot substitute for a legally binding PPW. Thus they should not weaken our efforts and attention on a PPW in the CD, although reaching agreement on TCBMs could be a relatively easy way to support such work.

#### **WEAPONIZATION OF OUTER SPACE IS NOT AN OPTION**

Using weapons placed in outer space to assure outer space security, in our view, is not an option, as it will bring less, not more, security. Why is this our position?

First, 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 prove that space weapons were not targeted at a given nation. Moreover, space weapons would enable states to discreetly tamper with outer space objects and disable them.

Second, the international situation would be seriously destabilized due to the possibility of unexpected and sudden use of space weapons. This alone would provoke preemptive acts against space weapons and, consequently, present the danger of an arms race.

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

Fourth, the placement of weapons in outer space would arouse suspicions and tensions in international relations and destroy the current climate of mutual confidence and cooperation in exploration of outer space.

Fifth, attaining a monopoly on space weapons is an illusory goal—all kinds of symmetrical and asymmetrical responses would inevitably follow, which in substance would constitute a new arms race.

To be sure that no one is preparing to place weapons in outer space—and Russia, the United Kingdom and the United States have already made specific political statements that they were not doing so—the non-weaponization of outer space should become a universal legally binding norm.

#### **HOW WILL A PPW ENHANCE SECURITY IN OUTER SPACE?**

We are not proposing a treaty on the prevention of an arms race in outer space (PAROS). But we intend to resolve the issue before it is a problem. If we prohibit the placement of weapons in outer space and everyone observes this ban, there can be no arms race in outer space. 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 alone is not enough. The normal functioning of outer space objects can be disrupted without 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 threats 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 a certain sense, a PPW would be a solution to the threat of arms racing in outer space.

#### **WHAT WOULD BE AND WHAT WOULD NOT BE PROHIBITED BY A PPW?**

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. We are proposing prevention, which is easier than elimination or limitation or non-proliferation. Nothing of what the states now possess in outer space will

be affected in any way. On the contrary, the main purpose of PPW is to assure that safety and security of outer space assets is guaranteed. This fully applies to the satellites which provide information services in the interests of national defence of the states.

Compared to CD/1679, the draft PPW will provide some basic definitions which could be useful for the clarification of the specific scope of a treaty, but will not set precedent for the discussions on terms and definitions of international outer space law, which have been going on in the UN Committee on the Peaceful Uses of Outer Space (COPUOS) for decades. These definitions were elaborated in a joint working paper by Russia and China (CD/1779). They are "outer space", "weapon in outer space", "outer space object", "placement" and others. These definitions will 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 limited. On the other hand, these missiles will not qualify as "outer space objects" and thus will be exempt from the rule of no use of force against outer space objects. This means that ballistic missile defences will not be limited by the PPW, except for the prohibition of placing their "striking" components in outer space, because then they would qualify as "weapons".

The no-use-of-force obligation is an application to outer space activities of article 2(4) of the UN Charter. 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 orbit, and so on. In any case, it implies the prohibition of such *actions* against outer space objects, and not the prohibition of the *means* (the hardware) to exercise such actions. It is understood that it would be impractical to create tools for the use of force in outer space if the use there of force itself is banned. This obligation, while not prohibiting directly the development of non-space-based anti-satellite weapons, bans their testing and use against outer space objects. This obligation seems to be more verifiable than a ban on the development of such systems, which would be hard to control.

Taking into consideration recent developments, we believe that the window of opportunity for negotiating a PPW is not very wide. That is why we cannot wait too long. To speed up work on a PPW, we are not going to provide for a verification mechanism, which for the time being may be substituted for

by a set of confidence-building measures. A special verification protocol can follow the treaty at a later stage. This does not mean, however, that compliance with a PPW's provisions is unverifiable and that verification is not needed. A special study of this issue by our Canadian colleagues (CD/1785) has proved that verification of non-placement of weapons in outer space is possible in principle. We agree with their conclusions. But they have also clearly shown how difficult the practical realization of verification procedures can be.

No doubt, at this stage it is premature to discuss further details of a PPW before it is formally tabled. Some details of its contents may be altered in the course of ongoing consultations. Nevertheless, we have had two rounds of very useful and productive discussions on the topic during the focused thematic debates in the CD in February–March 2007. These discussions have revealed some additional facets of PPW scope which may require further careful consideration.

Generally speaking, we are driven by the belief that, in the final count, a PPW would serve the security interests of all states and will contradict the interests of none. We expect that after the draft PPW is formally introduced, the CD will focus its substantive work under agenda item 3, PAROS, on the issue of the prevention of the placement of weapons in outer space, threat or use of force against outer space objects.