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Open-ended working group on reducing space threats through norms, rules and principles of responsible behaviours

Geneva, 28 August – 1st September 2023

Item 6 of the agenda

Consideration of issues contained in paragraph 5 of General Assembly resolution A/RES/76/231

European Union joint contribution on the works of the Open-Ended Working Group on reducing space threats through norms, rules and principles of responsible behaviours

Fourth part: recommendations on possible norms, rules and principles of responsible behaviour relating to threats by States to space systems

Submitted by the European Union

1. Space has become one of the backbones of our societies and it has an important role for continued global development and prosperity. Space is used for countless civil and military applications, which have induced critical dependencies in our highly connected and digitised societies. International engagement, collaboration and coordination amongst all stakeholders is needed to preserve a safe, secure and sustainable outer space. This is why improving space security today is essential, as all States, be them spacefaring nations or not, are increasingly reliant on space systems and services.

2. The European Union (EU) and its Member States continue to support effective multilateralism, with the United Nations at its core, in order to ensure a safer, more stable and sustainable world. The EU will continue to do its utmost to protect the integrity of the rules-based international system, which is key to our collective security and the cornerstone of the EU's Common Foreign and Security Policy.

I. International legal framework applicable to outer space

3. The EU and its Member States regard outer space as a global commons, to be used for the benefit of all. The EU and its Member States reiterate that the international law, including the United Nations Charter, the United Nations treaties on outer space and international humanitarian law, is applicable to outer space, and stress the importance of conducting space activities in accordance therewith.

4. The 1967 Outer Space Treaty and other United Nations treaties on outer space as well as the guiding principles developed in the United Nations framework constitute the cornerstone of the global governance of outer space and the essential framework for the peaceful exploration and use of outer space for the benefit of all nations. Any norm¹ of responsible behaviour should be consistent with and complement them. For these reasons,

¹ Throughout the document, for the sake of clarity, the reference to “norm of responsible behaviours” should be interpreted as a broader reference to “norms, rules and principles of responsible behaviours”.



the EU and its Member States believe that the final OEWG report should reaffirm the main principles of international law applicable to Outer Space, including the applicability of United Nations Charter and international humanitarian law to outer space. This would reaffirm that States are subject to the rules regulating armed conflict, regardless of whether the conflict occurs on Earth or in Outer Space.

5. Legally binding instruments on outer space have drawn from previous non-legally binding commitments and principles, through the adoption of different resolutions in the United Nations framework. At the same time, norms, rules and principles of responsible behaviour can stem from existing international law and help bring further accuracy to its key principles. The work of the OEWG therefore allows to reinforce international law applicable to space.

6. Moreover, norms of responsible behaviours within legal regimes governing other domains, such as maritime, cyberspace or telecommunication, constitute good examples, and different best practices and lessons learned could be taken into consideration for the work on responsible behaviours in outer space.

7. This approach has the ability to enrich the relevant traditional disarmament and arms control tools to further strengthen and develop the existing normative framework. The EU and its Member States strongly believe that global principles of responsible behaviours will reduce space threats, prevent escalation to potential conflicts and contribute to increased international cooperation in space, facilitate an equitable access to outer space and increase transparency and confidence in the conduct of space activities. The usefulness of such an approach is demonstrated by the national commitments made by several United Nations Member States not to conduct destructive direct-ascent anti-satellite (ASAT) missile tests, and the adoption by a vast majority of the related resolution entitled “Destructive direct-ascent anti-satellite missile testing” (A/RES/77/41) during the last United Nations General Assembly. The EU and its Member States consider such commitments as a pragmatic, concrete and measurable step forward for strengthening international security and stability. They constitute an effective norm of responsible behaviour. They contribute to building confidence between States in the development of possible legally binding instruments on the prevention of an arms race in outer space in the future.

The Member States of the European Union commit not to conduct destructive direct-ascent anti-satellite missile tests.

8. Concerned that the use of destructive ASAT systems might have widespread and irreversible impacts on the outer space environment, the Member States of the EU consider such commitment as an urgent and initial measure aimed at preventing damage to the outer space environment, while also contributing to the development of further measures for the prevention of an arms race in outer space.

9. The development of norms of responsible behaviours related to threats should be distinct but complementary to the same exercise relating to safety risks, which is being considered in the United Nations Committee on the Peaceful Uses of Outer Space.

II. Norms of responsible behaviours that could be further developed

10. The EU and its Member States are committed to reduce space threats and preserve the peaceful use of outer space using a step by step approach towards possible legally binding instruments in the future. They believe that, given the dual-use nature of many space systems, an approach based on responsible behaviours, supported by relevant monitoring capabilities, is the most pragmatic and immediate way forward to improve space security today.

11. Based on the constructive discussions conducted during the three sessions of the OEWG, the EU and its Member States express their desire for the OEWG to endorse a consensus report. This report should duly recognize the vital role of responsible behaviours in effectively addressing space threats. Furthermore, it should accurately reflect the diverse

ideas and perspectives put forward by participating States and international organizations, and identify areas of convergence where additional efforts and collaborations are needed. These areas of convergence are of particular importance in driving forward progress and advancing a common understanding of responsible behaviours in outer space. They include in particular:

- (a) Norms addressing the use and/ or testing of destructive, direct ascent anti-satellite missiles;
- (b) Norms addressing intentional and destructive acts that result in the creation of space debris, in particular long-lived debris;
- (c) Norms addressing in-orbit rendez-vous (physical contact) operations that affect another State's space systems;
- (d) Norms addressing proximity orbital operations that affect other State's space systems;
- (e) Norms addressing activities that impair the provision of space-based/enabled services critical to the public;
- (f) Further discussions to shape a common understanding the concepts of "due regard", "harmful interference" (Article IX of the Outer Space Treaty), and of their practical implementation by States.

III. Enhancing the transparency of outer space activities

12. Trust and confidence are at the centre of any security-building process. Thus, the EU and its Member States are convinced that fostering mutual trust and strengthening transparency between States is key to enhance space security and to avoid a conflict in outer space. Publishing and sharing information about space doctrines, policies and strategies is a key effort in creating confidence between different actors.

13. Against this background and in order to ensure transparency on the EU's space activities and intentions, a Joint Communication by the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy on the EU Space Strategy for Security and Defence² has been issued and made public in March 2023. Subject to further discussions with the EU Member States, it proposes concrete action that will allow the EU to protect its space assets, defend its interests, deter hostile activities in space and strengthen its autonomy, while privileging international cooperation and promoting responsible behaviours in space. Indeed, the EU and its Members States acknowledged the importance of space as a strategic domain in the Strategic Compass³ adopted in March 2022 and that they need to be prepared for a more competitive and contested space environment. Due to the increasing dependency of our societies and economies on space systems and services, we are more vulnerable to irresponsible and threatening behaviour in the space domain.

14. Further, sharing information on space launch vehicle programs, including prelaunch notifications, is already established practice under the Hague Code of Conduct (HCoC). The EU and its Member States encourage all States to subscribe to the HCoC and to fully implement its provisions. Such measures will help reduce the risks of misperception and miscalculation, and help to decrease the risk of conflicts and escalation in outer space. Other types of transparency and confidence-building measures, such as those contained in the report of the 2013 GGE on TCBMs, are still relevant (as proven by the United Nations Disarmament Commission's consensual recommendations of April 2023) and should also serve as a basis for further work. For these reasons, they consider that a clear reference to both the HCoC and the 2013 GGE on TCBMs should be made in the final OEWG report. Similarly, they are looking forward to the United Nations Secretary General's report on Transparency and Confidence Building Measures in Outer Space Activities that will be submitted at the next

² https://ec.europa.eu/commission/presscorner/detail/en/IP_23_1601

³ <https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf>

session of the United Nations General Assembly pursuant to UNGA Resolution A/RES/77/251.

15. Furthermore, the EU and its Member States welcomes the efforts of UNIDIR to establish an online Space Security Portal, to which they are and will continue contributing.

16. In conclusion, the EU and its Member States consider that the comprehensive work undertaken within the OEWG, using an inclusive format and a multi-stakeholder approach and encouraging the attendance of other international organisations, commercial actors and civil society representatives, has significant value in addressing space threats to international peace and security. Moreover, this approach has played an important role in scaling down the risks of misunderstandings, misperceptions, miscalculations and unintended escalation as it is a confidence building measure in itself. The final OEWG report should duly reflect the effectiveness and usefulness of this cooperative and comprehensive approach. Additionally, the report should provide guidance on how this work can be further advanced within the United Nations (UN) system, emphasizing the importance of sustaining and building upon the trust and confidence generated through this collaborative endeavour.
