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

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Item 6(c) of the agenda

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

To make recommendations on possible norms, rules and principles of responsible behaviours relating to threats by States to space systems, including, as appropriate, how they would contribute to the negotiation of legally binding instruments, including on the prevention of an arms race in outer space

Working Paper to the Third Session of the United Nations Open-Ended Working Group on Reducing Space Threats Through Norms, Rules and Principles of Responsible Behaviours

Submitted by China

I. Current security threats in outer space

1. Ever since mankind entered the Space Age, the principle of peaceful uses of outer space has been frequently reiterated and reaffirmed by the UNGA resolutions, and has become a consensus of the international community. With the development of science and technology and the deepening of the explorations of outer space, outer space has a close connection with economical and social life of all countries. Most countries are looking forward to participating in outer space affairs, and making use of space technology to achieve sustainable development goals. Regrettably, more and more countries have established space force, and outer space was even declared as a "war-fighting domain" by a certain country. China believes that irresponsible policies, doctrines and strategies of one superpower is the greatest threat to outer space security, and the root cause of the increasing risks of the weaponization of and an arms race in outer space.

2. From a historical and realistic perspective, the root cause of an arms race in outer space is that the superpower attempts to seek absolute security at the cost of the security of other countries. In recent years, one space power pursues "dominance in space", seeking to establish permanent strategic advantage in space, and conducting a series of war-fighting oriented space weapons development plans, military build-ups and activities. This is not only irresponsible, but also contrary to the purpose of peaceful uses of outer space, hindering the negotiation of a legally-binding instrument on outer space arms control.

3. This OEWG was established by the resolution tabled to the UNGA First Committee and its core purpose should be maintaining peace and security in outer space, and creating conditions for the negotiation of a legally-binding instrument on outer space arms control. Therefore, the OEWG should start its work with identifying the root causes of the challenges to outer space security, focus on discussion on the threats from the superpower's space policies. If we put aside threats caused by national policies and merely focus on formulating "norms, rules and principles of responsible outer space behaviours" based on specific



scenarios, we will not only get one-sided and discriminatory outcomes, but also end up with a situation where “one superpower dominates, while other countries behave”, which will eventually turn the so-called “norms, rules and principles of responsible outer space behaviours” into “rules of war-fighting in outer space”.

4. China supports cooperation and exchanges on space surveillance and situation awareness. However, given the fact that countries vary in technological capabilities and resources, such cooperation should follow the principles of openness, transparency, and equality and be conducted on a voluntary basis, and carry out data sharing and verification at multilateral platforms including the UN. We need to prevent related data from being monopolized by certain superpower or being used for military or political purposes.

II. Relationship between “norms, rules and principles of responsible outer space behaviours” and international law

5. The discussion on international law is an important and indispensable part of the work of the OEWG. The norms discussed by the OEWG should neither challenge the authority of international law, nor over-ride international law. Several countries claim in their working papers that even if an action is lawful under international law, in some contexts, such an action may not be viewed as responsible. Such an argument is trying to judge “hard law” by “soft law”, which creates a critical logic loophole.

6. China believes that each country should ensure its space behaviours are in line with international law, and this is the most basic denominator of responsible behaviours. The OEWG should set “supporting peaceful uses of outer space and abiding by international law” as the only benchmark to define responsible behaviours, and any discussion about norms should be based on clear legal definitions and meaning. In the past two sessions, the OEWG did not pay enough attention to legal aspects, and many basic issues regarding legal interpretation and application have not been resolved yet. For example, how to understand the “due regard” article in the *Outer Space Treaty*? How to define the responsibilities of commercial space companies when they are involved in armed conflicts? Under such circumstances, the OEWG should carefully examine the legal application issues of the recommended norms submitted by member states, and ensure that there is no legal loopholes or room for arbitrary interpretation of international law.

III. Relationship between “norms, rules and principles of responsible outer space behaviours” and negotiation of an international legally-binding instrument on outer space arms control

7. China does not oppose the discussion on transparent and confidence building measures (TCBMs) in outer space. China has voted in favor of related UNGA resolutions and supported the UN Disarmament Commission to consider related issues. “Soft law” such as TCBMs could play a positive role in regulating outer space behaviours or enhancing mutual trust to some degree. However, they are not legally binding and unable to fundamentally prevent weaponization and an arms race in outer space. The TCBMs can not replace negotiation of a legally-binding instrument on outer space arms control. The subjective and selective “norms” may well be used as a political tool by the superpower to serve its own interests. In fact, “hard law” and “soft law” could complement each other and be implemented in parallel. What China opposes is that some countries only agree to discuss “soft law” rather than “hard law”, or even attempt to arbitrarily interpret or modify “hard law” with “soft law”, in order to maintain their military advantage in outer space.

8. The only solution to space security threats is to negotiate and conclude a legally-binding instrument on outer space arms control as soon as possible, implement the international legal regime for outer space, address threats caused by the national policies of the superpower in a legally-binding manner, and defend the principle of peaceful uses of outer space. The Chair of the OEWG should make a briefing to the Group of Governmental

Experts (GGE) on PAROS and Conference of Disarmament (CD), focusing on how the OEWG's discussions contribute to the negotiation of an international legally-binding instrument on outer space arms control.

IV. Outer space activities of commercial space companies

9. In recent years, the participants of space activities have been increasing and diversifying, with many commercial space companies involved. The commercial companies have played a role in promoting scientific and technological progress and improving public facilities and services. However, they also create new challenges. The expansion of the low-earth orbit (LEO) mega-constellation has greatly squeezed the launch windows of various states' space activities, occupied frequency and orbital resources, increased the risk of collisions between spacecrafts, and even threatened the security of space stations and astronauts. The satellites of these mega-constellations have a limited life span and become space junks shortly after launch, which hinder other countries' peaceful uses of outer space.

10. In addition, some commercial space companies interfere in armed conflicts directly, causing international concern as well as legal controversy. According to the *Outer Space Treaty*, states should bear international responsibility for their commercial space companies' outer space activities, ensure that these activities are carried out in conformity with the *Outer Space Treaty*, and supervise these activities continuously. The OEWG should make an in-depth study of the political and legal consequences of commercial space companies' involvement in military activities in outer space and interference in armed conflicts, and prevent commercial space companies from taking a dangerous path.

V. Norms of states' outer space behaviours

11. China believes that outer space should become a new area for international cooperation rather than a new battlefield for competition or confrontation. The international community should reject militarization of outer space, avoid creating tension or increasing the risk of miscalculation among states by an arms race or military activities in outer space. With these objectives in mind, China would like to propose that states' outer space behaviours should adhere to the following norms:

(a) States should uphold a vision of common, comprehensive, cooperative and sustainable security, address differences and disputes through dialogue and consultation in a peaceful manner, strive to prevent an arms race in outer space and build a community of shared future for mankind in outer space;

(b) States shall be guided by the purposes and principles of the *Charter of the United Nations*, abide by the *Outer Space Treaty* and other international law, commit not to place weapons in outer space, not to use or threaten to use force against space objects, and support negotiation of a legally-binding instrument on outer space arms control in the Conference of Disarmament (CD);

(c) States should recognize that a space war could never be won and must never be fought, commit not to seek hegemony or dominance in outer space, not to adopt offensive space policies or strategies, not to declare outer space as a "war-fighting domain", and ensure its outer space activities are only for peaceful purposes;

(d) States should stop developing counter-space capabilities such as co-orbital warfare capabilities, commit not to develop and deploy missile defense systems that could possibly be used for anti-satellite purposes, and commit not to proliferate anti-satellite capabilities to other states or non-state entities;

(e) States should respect the rights of other States to participate in outer space security governance on an equal and non-discriminatory basis, carry out information exchanges or technical cooperation on a voluntary basis, and follow the principles of openness, transparency and equality. States should not obstruct other states' development of space technology or peaceful uses of outer space due to ideological bias and national security

interests, or even impose illegal unilateral sanctions to other states by invoking domestic laws;

(f) States should fulfill their obligations under the *Outer Space Treaty* in real earnest and strengthen supervision of their commercial space companies so as to prevent the companies' activities from posing security threats to other states or increasing the risk of the weaponization of outer space.
