

# Conference on Disarmament

14 September 2017

English

Original: Spanish

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## **Note verbale dated 7 September 2017 from the Permanent Mission of Chile addressed to the Secretary-General of the Conference on Disarmament transmitting the report on the informal discussions on the prevention of an arms race in outer space**

The Permanent Mission of Chile to the United Nations Office and other international organizations in Geneva presents its compliments to the United Nations Office for Disarmament Affairs and has the honour to transmit herewith the report on the informal discussions on the prevention of an arms race in outer space, prepared by Mr. Hellmut Lagos, Co-Facilitator and Friend of the Chair of the working group on the way ahead, the Permanent Representative of Myanmar, H.E. Ambassador Htin Lynn.

The Permanent Mission of Chile requests that the United Nations Office for Disarmament Affairs circulate the report to member States and observer States at the Conference on Disarmament.

The Permanent Mission of Chile avails itself of this opportunity to renew to the United Nations Office for Disarmament Affairs the assurances of its highest consideration.



## **Summary of the discussions on PAROS provided by the Co-Friend of the Chair of the Way Ahead Working Group**

### **Introduction**

Following the agreement by the Conference on the timetable for the working group on the “Way Ahead”, established by CD/2090, the Conference on Disarmament held a series of informal open-ended meetings on agenda item 3 on the Prevention of an Arms Race in Outer Space (PAROS) on 14, 15 and 16 June in Geneva.

The meetings were co-facilitated by H.E. Htin Lynn, Ambassador to Switzerland and Permanent Representative of Myanmar to the United Nations Office and other International Organizations in Geneva and Mr. Hellmut Lagos, Head of the Disarmament Unit of the Permanent Mission of Chile to the Conference on Disarmament, as friend of the Chair of the working group on the “Way Ahead”.

The discussion followed the structure as proposed by the co-facilitator in his letter of 13 June 2017.

During the sessions, the working group, in line with its mandate, considered the four points of operative paragraph 1 of CD/2090:

- 1) Take stock of the progress on all agenda items of the Conference as contained in CD/2085,
- 2) Identify issues for substantive work under the agenda, taking into account the efforts and priorities of the international community,
- 3) Identify common ground for a programme of work with a negotiating mandate,
- 4) Consider steps for the way ahead.

By addressing these points, the working group considered what has been done until now, and what the Conference could do in the future to make progress in the discussions on the Prevention of an Arms Race in Outer Space.

### **Introductory presentation**

Mr. Massimo Pellegrini of the United Nations Institute for Disarmament Research (UNIDIR) gave an introductory presentation on Space Security and Strategic Stability based on his ongoing research. He highlighted the impact of new developments in technology and space exploration on strategic stability. In his view, the current legal framework is not sufficient to address contemporary security challenges.

The United Kingdom provided a summary of the coordinator’s report (CD/2043/Rev.1 Annex III) of the discussions on agenda item 3 held in 2015 under the schedule of activities (CD/2021). Appreciation was expressed by delegations to the valuable work of Ambassador Matthew Rowland, Permanent Representative of the United Kingdom to the CD, as the coordinator of those previous discussions.

### **Taking stock**

All delegations that took the floor recognized growing threats to the peaceful uses of outer space stemming from the increased dependence on space assets and the growing number of actors in outer space. It was broadly recognized that the existing legal framework, with the Outer Space Treaty (1967) at its core, was no longer sufficient as it left legal gaps.

Some delegations called for a comprehensive approach to deal with the prevention of an arms race in outer space.

Several delegations expressed concern that the commercial exploration of space could lead to military competition between States, which would lead to the militarization of space.

It was noted that new technological developments had brought new challenges to space security, such as the risk of interference with space assets and space debris mitigation efforts.

Some delegations noted the overwhelming support of the annual prevention of an arms race resolution in the General Assembly (A/RES/71/31).

### **Group of Governmental Experts on Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities (A/68/189)**

Mr. Hellmut Lagos of Chile, in his capacity as “friend of the chair” and former member of the GGE, provided an introductory briefing on the work of the Group of Governmental Experts (GGE) on Transparency and Confidence-Building Measures (TCBMs) in Outer Space Activities and its report (A/68/189).

Several delegations noted that the conclusion and implementation of TCBMs could be an immediate step to mitigate the growing risks in outer space.

The United States, supported by several delegations, called for pragmatic efforts that would wield an immediate effect, such as the implementation of TCBMs in line with the GGE report.

A view was expressed that TCBMs must respect the principles of international law, be cross cutting, effective, pragmatic, sustainable and have an immediate effect.

A call was made to maintain a responsible behavior by spacefaring nations in outer space and those nations to be transparent in reporting space debris and high-risk entry into orbit and to ensure the dissemination of information on space activities.

Some delegations highlighted that TCBMs can build trust and mutual responsibility for activities related to outer space and that regional cooperation is an essential tool in promoting active intraregional and international cooperation.

The need for the CD to focus on hard security issues was emphasized, and that other issue like space debris mitigation, and TCBMs should be addressed in the Committee on the Peaceful Uses of Outer Space (COPUOS).

A view was expressed that the GGE report and its recommendations should be discussed in the CD.

It was noted that the international guidelines stipulated by COPUOS are only voluntary measure and are not sufficient to deal with the increased activities and growing threats in outer space.

Several delegations stressed that TCBMs cannot be a substitute for a legally binding instrument.

### **International Code of Conduct**

Malta (on behalf of the European Union) stressed that the European Union’s initiative on an International Code of Conduct (ICoC) was endorsed by the GGE and called for increased international cooperation to establish agreed standards of responsible behavior in outer space.

Several delegations expressed that the ICoC should only be pursued in the right format with all relevant players and under the right conditions. China and the Russian Federation regretted that their suggestions and amendments were not taken on board during the last

round of negotiations. China added that in its view the ICoC only deals with the peaceful uses of space.

### **Non-First Placement Initiative**

The Russian Federation drew attention to its Non-First Placement (NFP) initiative as a TCBM and called upon other States to join. Several delegations expressed their support for the NFP.

Some delegations argued that the NFP did not prevent the Russian Federation from being the second or third to place weapons in outer space, nor did the initiative stop the development of weapons for outer space purposes. They added that the NFP did not meet all the requirements sent out by GGE in their report (A/68/189).

The Russian Federation noted that the GGE report did not prescribe that a TCBM should meet all the requirements set out in the GGE report.

### **Treaty on the prevention of placement of weapons in outer space (PPWT)**

China and the Russian Federation drew attention to their updated draft treaty on the prevention of placement of weapons in outer space and of the threat or use of force against outer space objects (PPWT, CD/1985). They underlined that the text is not “set in stone” and are open to suggestions and additions from other delegations.

The Russian Federation highlighted that the draft PPWT had a clarification provisions in case of suspected breach of the Treaty in article VII, while article V left open the possibility to negotiate a verification mechanisms in the future. It was of the view that a legal regime needed to be established first and that the question of verification should be put aside for the moment.

Several delegations expressed support for this proposal and noted that the PPWT could provide a basis for the commencement of negotiations within the CD.

A view was expressed that PPWT should be qualified as a “no first use” treaty and added that further work is needed on the draft. It noted that the further development of definitions, the entry into force mechanisms of the treaty and the question of jurisdiction was needed. It was of the view that a verification regime could be developed at a later stage.

It was noted that further work is needed on the definitions, scope of the prohibition, institutional aspects and verification of the PPWT. It warned that not including a verification mechanism from the outset could lead to similar problems as currently faced by the Biological and Toxin Weapons Convention. In this regard, a view was expressed that the CD should take into account the technological developments in space monitoring that had been made in recent years.

The United States referred to its objections to the PPWT as outlined in CD/1998 and highlighted that the absence of a verification mechanism, a definition of space weapons and the exclusion of Anti-Satellite Weapons (ASAT) were among its main concerns. It added that any legal regime should be equitable, verifiable and enhance security. It underlined that the PPWT would not command consensus in the CD.

Malta (on behalf of the European Union) also expressed its reservations to the PPWT and underlined that a new legally binding instrument needed to be comprehensive, precise and verifiable.

### **Anti-Satellite Weapons**

The United States accused China and the Russian Federation of developing Anti-Satellite Weapons (ASAT) aimed at the United States.

China replied that it could not take the accusations serious in the absence of evidence.

## International cooperation

Several delegations called for a better interaction between COPUOS and the CD, and some expressed that a better cooperation with the General Assembly's First and Fourth Committee should be considered as well.

Some delegations expressed the view that the CD should be better aware of the developments in other relevant fora.

## The Way Ahead. Specific proposals

- A call was made for the reestablishment of the ad hoc group on the prevention of an arms race on outer space, which worked between 1985 and 1994.
- A proposal was made to establish a subsidiary body in the CD with an exploratory mandate.
- One delegation proposed to substantively consider the issue in the CD and added that the report of the co-facilitator should reflect the discussions held so that the CD could reflect upon these discussions. It added that discussions on the mandate of the CD could be updated. It suggested that the CD should discuss TCBMs with a view to a future legally binding instrument.
- Another proposal was to include further technical discussions on the issue as part of a programme of work. In this regard, it was noted that the CD should better interact with both the First and Fourth Committees of the General Assembly and followed the discussions taking place there. It also suggested that the CD should report this fall on its discussions on PAROS.
- A proposal was made for the CD to elaborate principles on PAROS.
- A suggestion was made for the CD to consider the negotiation of political binding commitments, as was concluded in the report of the Informal Working Group on a programme of work (CD/2033), in the absence of consensus on negotiations of a legally binding instrument.
- Another proposal was presented to develop a "general formula" on objectives, content, procedures and schedule for a future treaty on PAROS. These discussions in the CD would lead to a negotiating mandate at a later stage.

## Conclusions

Delegations expressed concern over the paralysis of the CD and its failure to agree on a programme of work.

Delegations recognized the importance of addressing the threats to Space Security and in particular, several delegations remain concerned about the possibility of an Arms Race in Outer Space, even though the discussions confirmed the divergent perceptions on this issue.

Many delegations pointed out the diverse nature of the threats to Space Security, including the risks posed by Space Debris and Collisions between Space Objects.

Appreciation was expressed to the important role that can be played by voluntary political commitments, which do not replace, but complement international legally-binding instruments. In particular, the work of the GGE on Transparency and Confidence Building Measures (TCBMs) was highlighted as a positive result that needs to be implemented. The EU and European delegations explained and updated the proposal to negotiate a voluntary instrument on responsible behavior in outer space activities. Many delegations emphasized the need to preserve Outer Space for exclusively peaceful purposes and avoid the weaponisation of Outer Space.

Concern was expressed about the existing legal gap in the international legal regime that prohibits the placement of WMD but is silent on conventional weapons.

Some delegations reminded the need to keep in mind the relevance of the issues discussed in the WG, considering that the CD is mandated to focus on a Prevention of an Arms Race in Outer Space and that other aspects are already addressed in other Fora.

Delegations pointed out the need to improve coordination of the CD with other relevant fora, including UN COPUOS and the General Assembly Committees I and IV.

The importance of International Cooperation in Outer Space Activities was highlighted, as a means to provide equitable access to all nations to the benefits and as a tool for preserving international peace and security.

The proposals of PPWT and No First Placement received support from an important number of delegations, but some delegations still raise some fundamental questions on these initiatives.

Despite of the prevailing differences on the main proposals for international initiatives to address PAROS, the discussion reflected the existence of a strong political will by most delegations to make progress on this issue and to find a formula to adequately address this agenda item in the CD.

### **Friend of the Chair's Recommendations:**

- As reflected in the informal discussions. It is Important to improve coordination between the CD and other relevant fora, including UN COPUOS and the General Assembly Committees I and IV.
  - It is necessary to review this discussion, taking into account the technological and scientific developments and the evolution of the threats.
  - In order to make progress, a considering that the different approaches to not all focus specifically on PAROS, an adequate body should to be established for this purpose.
  - The dedicated body could be a subsidiary body or an ad hoc group like the one that worked between 1985 and 1994.
  - Another option would be to establish another GGE, building upon the positive results of the GGE on TCBMs in Outer Space, with the aim of determining the elements for an international legally binding instrument on PAROS.
  - In order to create the adequate body, and considering the persistence of important differences on this issue, and the positive political will of most delegations, the CD should update its mandate, including specific tasks to establish the basic PAROS principles, definitions and objectives for a future legally binding Instrument.
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