

SPACE LAW AND POLICY
WITH SIMULATED NEGOTIATIONS
[11]

[3] MILITARY USES OF OUTER SPACE:
TRANSPARENCY AND CONFIDENCE-BUILDING MEASURES

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SPACE NEWS:

BBC News [25 June 2016]

China launches new generation rocket

China has launched its new generation rocket Long March-7 carrier rocket into space, transporting cargo for the country's planned space station.

http://www.bbc.com/news/video_and_audio/headlines/36630768

TRANSPARENCY AND CONFIDENCE-BUILDING MEASURES

LAST WEEK'S THEME

“HOW CAN WE CONTROL SPACE WEAPONS THAT ENABLE TO DESTROY PLANETS (OR ASTEROID)?”

In International law, the development, possession, deployment in outer space and use of ASAT weapons is not explicitly prohibited. Then, please make a list of confidence-building measures to effectively control powerful ASAT weapons.

TEAM A

- ✓ Prohibiting the weapon itself
- ✓ Limited the power
- ✓ Making multilateral treaties to prohibit the use of force against satellite
- ✓ Satellite controlled by organizations when using force against planet/asteroid for collective security.

TEAM B

- ✓ Education: talking kids the truth about the possible consequences of developing space weapons in classroom, by cartoon, etc.
- ✓ Making all the space agencies impartial, under supervision of UN
- ✓ Promote citizens awareness to such issue (NGO, etc) by demonstration, protest, etc.

TEAM C

- ✓ Joint program for education
- ✓ Make a documentary film
- ✓ Use weapons to fight against enemy from outer space

1. CBMS IN THE 1990S: TRANSPARENCY ON THE SURFACE OF EARTH

◆To ensure the Prevention of an Arms Race in Outer Space (PAROS)...

1) Monitoring by establishing multilateral institution

ISMA: International Satellite Monitoring Agency (made by France in 1978)
 using remote sensing data to verify arms control treaties and monitor crisis areas
 →due to political complexity and dual-use nature of space technology,
 no states supported the use of its national remote sensors for it.

ISpMA: similar to ISM (proposed by USSR)
 its scope covers reinforcing arms control treaties including
 the Chemical Weapons Convention of 1993 and Comprehensive Test Ban Treaty of 1996

UNITRACE:

A Space Surveillance System consisting of radar and optical sensors
 under the UN Secretariat (proposed by France in 1989)

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1. CBMS PROPOSED IN THE 1990S

◆To ensure the Prevention of an Arms Race in Outer Space (PAROS)...

2) Inspection by using satellite-based data

PAXSAT A: using space-based remote sensing technology for “space-to-space” observation
 to distinguish space weapons or not

PAXSAT B: using space-based remote sensing data for “space-to-ground” observation
 to verify arms control agreements

✕both with the establishment of International Space Data Center as a database.

(proposed by Canada in 1986)

International Space Inspectorate (ISI): on-site inspection before the launching of
 space objects to prohibit the placement of any weapons

(proposed by Russia, supported by Mongolia)

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1. CBMS PROPOSED IN THE 1990S

◆ To ensure the Prevention of an Arms Race in Outer Space (PAROS)...

3) Data Processing

Satellite Image Processing Agency (SIPA): (proposed by France in 1998)

International Launch Notification Center (INC): (proposed by France in 1998)

Open Outer Space (OOS): strengthening the Registration Convention of 1975,
developing code of conduct for outer space activities,
and the establishment of ISI (proposed by USSR)

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1. CBMS PROPOSED IN THE 1990S

No Treaty resulted

No definition of "outer space," "peaceful," "space weapons" internationally agreed

Consensus principle in UNCOUOS

Dual-use nature of space technology → unwillingness of spacefaring states to place
any restriction on their space activities

→ how to ensure PAROS?

Monitoring-oriented? Not necessarily treaty-based

Collecting information related to an agreement without necessarily verifying treaty compliance

Verification-oriented? Treaty-based

States Parties to certain treaty undertake collecting information to ensure treaty compliance

2. NEED FOR TRANSPARENCY IN OUTER SPACE

- 2001 “September 11” in US
US decided to withdraw from the Anti-Ballistic Missile Treaty of 1972
to start to use GPS for testing space-based systems for Missile Defense.
- 2005 Based on Russia’s proposal UNGA Res.
Transparency and Confidence-Building Measures in Outer Space
(voting: 2 against: US and Israel –until 2010)
- 2007 China conducted Anti-Satellite Tests in outer space
- 2009 Satellites of US and Russia were collided In outer space
- 2010 UNGA Res. on TCBM: Unanimously voted (under the Obama Administration)

→threat to space is not only the placement of space weapons, but.... also space debris⁹

※let’s see: <https://www.youtube.com/watch?v=wPXck85wMSQ>

3. WHAT ARE TCBMS?

◆Purpose

- ① Building mutual understanding and confidence
- ② Inter-governmental information-sharing to mitigate misunderstanding and miscalculation
→aiming to prevent armed conflict and
stabilize regional and international society

◆Function

By clarifying states’ intention towards peace,
to make other states’ purpose visible in the strategic fields such as economy and security

◆Nature

Non-binding, voluntary measures

(※TCBMs stipulated already in the existing treaties are binding)

4. DEVELOPMENT OF TCBM

◆ Joint Paper on TCBMs

In 2002, joint working paper was submitted to the CD

by China, Russia, Vietnam, Indonesia, Belarus, Zimbabwe, and Syria

(in response to the US's withdrawal from the ABM Treaty of 1972)

◆ multiple platforms for TCBM consideration

UN General Assembly: "Transparency and Confidence-Building in Outer Space Activities"

→ established the UN Group of Governmental Experts on TCBM in 2010

UN COPUOS: "Long-Term Sustainability of Outer Space Activities (started in 2012)

Council of European Union: "Code of Conduct on Space Objects and Space Activities" in 2007

→ "Int'l Code of Conduct for Outer Space Activities" in 2014 ¹¹

Conference on Disarmament / NGO / Universities

5. PROPOSAL FROM MEMBER STATES ① EU + USA

◆ Draft International Code of Conduct for Outer Space Activities (2014)

(→ let's see the document delivered)

Purpose:

To enhance safety, security and sustainability in space by emphasizing that space activities should involve a high degree of care, due diligence and transparency, with the aim of building confidence among space actors worldwide.

✓ Originally drafted by Council of European Union in December 2008.

✓ Reaffirming the existing treaties and resolutions

✓ The scope of the Code covers commercial uses of outer space by private entities, as well as for military uses of outer space ¹²

6. PROPOSAL FROM MEMBER STATES ② CHINA + RUSSIA

◆ Draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects (PPWT) of 2014

Preamble

“recognizing... [space treaties are] unable to fully prevent the placement of weapons in outer space”

Article I. Definition

- (a) “outer space object” : any device placed in outer space and designed for operating therein
- (b) “weapons in outer space” ...any space object [...] produced to eliminate, damage or disrupt normal functioning of objects in outer space, on the Earth’s surface or in the air, [...] by using any principles of physics. check
- (d) “use of force” or “threat of force” mean, respectively, any intended action to inflict damage to outer space object under the jurisdiction and/or control of other States [...]. Actions subject to special agreements with those States providing for actions, upon request, to discontinue uncontrolled flight of outer space objects of the requesting States shall not be regarded as use of force or threat of force.

6. PROPOSAL FROM MEMBER STATES ② CHINA + RUSSIA

Article II.

States Parties to this Treaty shall:

- not place any weapons in outer space
- not resort to the threat or use of force against outer space objects of States Parties
- not engage in outer space activities, as part of international cooperation,
 - inconsistent with the subject matter and the purpose of this Treaty
- not assist or incite other States, group of States [...] to participate in activities
 - inconsistent with the subject matter and the purpose of this Treaty

Article IV. Right of Self-Defense

This Treaty shall by no means affect the States Parties’ inherent right to individual or collective self-defense, as recognized by Article 51 of the UN Charter. check

6. PROPOSAL FROM MEMBER STATES ② CHINA + RUSSIA

Article V. Verification

States Parties recognize the need for measures to control compliance [...] maybe the subject of an additional protocol.

In order to enhance confidence in compliance with the provision of this Treaty, States Parties can implement on a voluntary basis, unless agreed otherwise, agreed transparency and confidence-building measures.

check

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6. PROPOSAL FROM MEMBER STATES ② CHINA + RUSSIA

Article VI. Implementation

To promote the implementation [...], States Parties shall establish

the Executive Organization of the Treaty which shall:

- (a) Consider matters [...]
- (b) Receive for consideration inquiries [...] related to an alleged violation of the Treaty
- (c) Organize and conduct consultation
- (d) Refer the dispute to UNGA or UNSC if the problem related to the alleged violation [...] unresolved
- (e) Organize and hold meetings to discuss and accept the proposed amendment
- (f) Develop procedures for collective data sharing and information analysis
- (g) Collect and distribute information provided as part of TCBMs
- (h) [...] (i) [...]

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6. PROPOSAL BY GGE FOR TCBM

- ① Opening information of space policy and strategy related to national security
- ② Exchanging information of military budget for outer space activities
- ③ Exchanging information on space objects in orbit
- ④ Exchanging information on natural disaster in outer space (space weather forecast)
- ⑤ Notification of launching schedule
- ⑥ Notification of space program potential to harm space flight
- ⑦ Monitoring and Notification of the re-entry of uncontrolled and dangerous space objects
- ⑧ Notification of emergency
- ⑨ Notification of intentional destruction in orbit
- ⑩ Voluntary visit of launching site
(in accordance with Hague CoC for ICBM non-proliferation)
- ⑪ Demonstration of rocket technology

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SIMULATED NEGOTIATION

Time Table:

16:00 ~ 16:15 Group Discussion

16:15 ~ 16:35 Presentation

THEME

““WHAT ARE IDEAL BUSINESS MODELS USING SPACE TECHNOLOGIES?”

You are working in a space agency, in charge of promoting a space business for Launch Service Providers (**LSP**) . In order to prevent any concern or suspicion raised from neighbor countries, please make a list of action items that enhance transparency in launching activities, which also serve to strengthen the control of space weapons in outer space.

TEAM A

TEAM B

TEAM C

END