



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

Geneva, 30 January – 3 February 2023

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****Australian Working Paper submitted to the Open-Ended Working Group on Reducing Space Threats Through Norms, Rules and Principles of Responsible Behaviour****Submitted by Australia*****I. Importance of space**

1. Space increasingly touches every aspect of our lives, from the global economy and international communications networks to defence capabilities. It is therefore incumbent upon all nations to behave responsibly in space.
2. Internationally agreed non-binding norms, rules and principles of responsible behaviours are essential to ensure the sustainable, and peaceful use of outer space. This is important for our quality of life on earth and for enhancing economic opportunities for all nations. The development and implementation of voluntary non-binding behaviours can strengthen international security in relation to space. It can encourage the certainty and stability necessary to encourage investment in, and growth of, the commercial space sector for all to prosper.
3. The Open-Ended Working Group provides an important opportunity to develop a common understanding of what constitutes responsible and irresponsible behaviours in space. This understanding assists in providing a framework that supplements existing international law and guidelines applicable to States in their access to and use of outer space. Such a framework could promote responsible and transparent behaviours, and discourage threatening and irresponsible behaviours.

II. Application of international law to space

4. Australia wishes to re-endorse and re-affirm its commitment to extant legal frameworks. Australia is a party to all five space treaties, including the Outer Space Treaty – we encourage all spacefaring nations to join and comply with these treaties.

* This document is submitted late due to circumstances beyond the submitter's control.



5. Australia maintains the position that international law, including the UN Charter, applies to the exploration and use of space, and that all states should behave consistently with their international obligations when carrying out activities in the exploration and use of outer space.

6. The application of international law in space includes international humanitarian law. Relevant rules of IHL include the principles of distinction, proportionality, and necessity, the requirement of precautionary measures, the prohibition of indiscriminate attacks, and the prohibition of using means and methods of warfare that cause superfluous injury.

7. The recognition of this does not promote or pre-empt conflict in space. On the contrary, it reminds us that if conflict occurs in, from, and through outer space, there is existing international law which will apply to regulate the conduct of hostilities in the space domain.

8. In noting the importance and continued relevance of existing legal frameworks, we also acknowledge the gaps which time and advancements in technology have created. The last session of the OEWG demonstrated there are behaviours that are not prohibited by the existing legal framework, but that do raise tensions and lead to possible miscalculation. It is these gaps we are seeking to address through the development of non-binding norms, rules, and principles of responsible behaviour in this Open-Ended Working Group.

9. A non-binding approach can complement international law by enabling the international community to set expectations regarding the conduct of certain space activities, which, even if lawful, may pose a risk of misunderstanding, escalation or conflict.

III. Threatening behaviours

10. Threatening behaviours can increase the risk of miscalculation and misperception of a state's intention. Agreement on what constitutes threatening behaviour is foundational to the work of the OEWG, as this will clarify the responsible behaviours that need to be internationally promoted.

11. Responsible behaviours should include behaviours of transparency and openness, which can make a positive contribution to space security and reduce the risk of miscalculation.

12. Australia considers the following elements for what might be considered a threat in outer space: behaviour, by an actor, with intent, causing, or having the potential to cause, detriment to persons or things.

13. Australia considers the following a non-exhaustive list of threats in outer space:

- Intentional generation of large amounts of debris that pose threats to space systems;
- Unsafe or uncontrolled operations that pose a threat to space systems;
- Actions or omissions that pose a threat to the security of humans in space;
- Actions or omissions that pose a threat to space systems through the creation of harmful interference;
- Actions or omissions that pose a threat to the long-term sustainability of human activity in space.

IV. Responsible behaviours

14. Taking into account the threats outlined above, Australia believes the following potential non-binding norms of responsible behaviour in peacetime would assist in mitigating these threats:

- States should commit to not conduct destructive direct-ascent anti-satellite missile testing;
- States should operate in, from, through, and to space safely;

- States should avoid endangering the lives of humans in space;
- States should avoid creating harmful interference;
- States should avoid creating long-lived orbital debris;
- States should publish information about national space policies, strategies, doctrine, expenditure, and major activities;
- States should communicate and make notifications to enhance the safety and stability of space activities;
- States should establish, maintain, and utilise communications channels to resolve concerns about international peace and security that arise from space activities.

V. Behavioural responses

15. To help promote responsible space behaviour and address threatening behaviours, Australia also continues to support the implementation of previously established normative frameworks, such as the recommendations of the 2013 Group of Governmental Experts on Transparency and Confidence Building Measures (TCBMs), and the Guidelines for the Long-term Sustainability of Outer Space Activities. TCBMs can help clarify intent and reduce the risk of misperception and miscalculation. The value of TCBMs can be summarised as follows:

- Enhance predictability and safety in outer space: By providing advance notifications of launches and satellite deployments, and exchanging information on space-related activities, states can reduce the risk of collisions and other accidents in outer space;
- Reduce risk of misunderstandings and misperceptions: By enhancing cooperation and communication among states, and by providing more information on the capabilities and intentions of space-related activities, TCBMs can help to reduce the risk of misunderstandings and misperceptions that could lead to conflict or escalated tensions;
- Contribute to the long-term sustainability and responsible use of outer space: By working to develop and strengthen international legal and normative frameworks for outer space activities, and by encouraging the participation of the space industry and academia in international transparency and confidence-building efforts, TCBMs can help to ensure that outer space is used in a sustainable and responsible manner;
- Encourage the development of new technologies and techniques: By encouraging the development of new technologies and techniques such as space-based sensors and data-sharing platforms, TCBMs can help to further enhance the transparency and predictability of outer space activities;
- Strengthening of international relations: TCBMs can help build trust and mutual understanding among countries, and contribute to the strengthening of international relations, particularly in the field of outer space.

VI. Next steps

16. From the outset, Australia's ambition for the Open-Ended Working Group has been for it to produce outcomes and recommendations that will bolster security, transparency, stability, predictability, and trust. We want the OEWG to identify responsible behaviours and assist with improving communications and consultations between States. Much of this can be achieved through non-binding norms, rules and principles, and the implementation of transparency and confidence building measures.

17. Australia has argued that the focus needs to be on the effects of behaviours. This approach ensures definitional parameters are not outpaced by rapidly developing technologies. It also preserves the future use of dual-use capabilities for the positive purposes they have been developed for, such as space domain sustainability.

18. In terms of continued development of non-binding norms, rules and principles, we suggest further work could be achieved by reconstituting this Open-Ended Working Group, following the fourth session in August 2023.

19. There are also opportunities to discuss these issues in other fora. In April 2023, the United Nations Disarmament Commission will conclude its work on TCBMs, a vital component of the responsible behaviours approach. Responsible behaviours are also an important part of discussions on PAROS at the Conference on Disarmament. Next year the Secretary-General plans to host a high-level space summit. This will be an additional opportunity to explore responsible behaviours in that context.

20. Australia applauds those States and organisations that have arranged regional meetings to discuss the issues of this working group. These have served to promote and increase understanding of the responsible behaviours approach.

21. We also continue to encourage commercial initiatives that might develop codes of conduct or other guidelines.

22. We encourage all States to engage in processes that seek to further define existing bodies of international law that are applicable in outer space.

23. Australia looks forward to working with the international community to develop voluntary, non-binding norms of responsible behaviours. History has demonstrated that the most supported space instruments have been built through the iterative development of principles and norms. It is important to ensure that we have a solid, agreed, foundation of non-binding TCBMs and norms, rules, and principles of responsible behaviour before we look to what may come next.
