

EUROPEAN EXTERNAL ACTION SERVICE



Directorate K - Security Policy and Conflict Prevention

Principal Adviser and Special Envoy for
Non-proliferation and Disarmament J.Bylica

“International Code of Conduct: a Status Update”

REMARKS

At the UNIDIR Space Security Conference (Geneva, 20 March 2014)

Mr. Chairman, Ladies and Gentlemen,

At the outset let me congratulate and thank the United Nations Institute for Disarmament Research (UNIDIR), the Secure World Foundation (SWF) and The Simons Foundation for organizing this conference, with support from the Governments of Canada, the People’s Republic of China, the Russian Federation and the United States of America. It has become an important annual event for discussing the nexus of security policies, international law, and space activities which are constantly growing in importance.

Yesterday we listened with great interest to a number of fascinating presentations. In one of them Prof. Li Juqian, a researcher from the China University of Political Science and Law reminded us that the development of the international treaty framework governing space activities has effectively stopped some four decades ago, while the activities themselves have increased enormously. So have the problems associated with them, like space debris which was very graphically shown yesterday by Prof. Richard Crowther. The Chinese lawyer also pointed out to the step-by-step process way in which international norms are developed, and a similar point has just been made today by Peter Martinez in his final observations on the COPUOS work. This is exactly the conceptual framework in which I would urge you to see the EU initiative for an International Code of Conduct for Outer Space Activities: as a certain step in the long and often tortuous road of developing and codifying international norms.

The European Union had first proposed a Space Code of Conduct in 2007 in a reply to the UN Secretary-General’s letter soliciting proposals for transparency and confidence building measures in outer Space activities, following Resolution 61/75 of the United Nations General Assembly dated 6 December 2006. The cross-cutting nature of this proposal does not easily fit into any single UN body or forum. At the same time, the urgency of the issue was, and

actually still is, growing. That is why we launched this initiative by the European Union, certainly not to undermine or replace the United Nations, but rather to assist the international community. And we continue to see great convergence of this process with many activities on-going in the UN system, including the UN Committee for Peaceful Uses of Outer Space (UN COPUOS), and most recently with the highly relevant work of the UN Group of Governmental Experts on Transparency and Confidence-building Measures in Space (UN GGE), whose final report (Study) has already been welcomed by the UN General Assembly at its 68th session last year.

There is an international recognition, also in the framework of the United Nations, of the value and timeliness of such an initiative. One needs to look no further but at the GGE report. The group which consisted of 15 leading space experts chosen from all over the world, and working out of Geneva, has not only noted the EU initiative (in paras 7 and 16) but also, in the section titled "conclusions and recommendations", unanimously endorsed (in para 69) "efforts to pursue political commitments, for example in the form of unilateral declarations, bilateral commitments or a multilateral code of conduct to encourage responsible actions in, and the peaceful use of, outer space". Furthermore, the GGE concluded that such voluntary political measures "can form the basis for considerations of concepts and proposals for legally binding obligations". The initiative has also been noted in corresponding Resolutions passed in the First Committee of the UN General Assembly.

The draft text of the Code was first presented by the EU to the international community at a multilateral meeting in Vienna in June 2012. Initial comments concentrated much more on the process than on the substance of the proposal. The EU was called upon to develop the Code of Conduct initiative in a more transparent and inclusive manner. Exactly for this reason last year we embarked on a process of Open-ended Consultations (OEC), two of which have been held so far: in May 2013 in Kiev and in November 2013 in Bangkok. In-between, in September 2013 the EU has unveiled a revised draft of the Code, taking into account many of the suggestions voiced by the participants in the Kiev OEC.

In Kiev over 140 experts from 61 States participated in the Consultations. Even more countries and organizations were represented in the Second OEC in Bangkok - 66. This is not an insignificant number. By way of comparison, the UN Committee on Peaceful Uses of Outer Space (UN COPUOS) is composed of 74 Nations, and the UN Group of Governmental Experts on TCBM in Space (UN GGE) of 15 experts, representing 15 countries. I believe this puts in certain comparative perspective the representativeness, inclusiveness and geographic diversity of the OEC process.

In Bangkok we held six sessions: the Opening session, and sessions focusing on the major chapters of the draft Code: Preamble; Purposes, scope and general principles; the Safety, security and sustainability of outer space activities; Cooperation mechanisms; and Organizational aspects. Overall, we counted well over a hundred interventions, on the average over twenty substantive interventions in each session, most of them very closely focused on the revised draft text, unveiled by the European Union in September 2013, following the first Open-Ended Consultations held in Kiev in May 2013. In addition, the informal discussions in the margins were sometimes not less important or interesting.

The draft of the Code already contains most, if not all, of the substantive components which were judged as important by space experts, both from inside the European Union and from other countries. As one example I could point out that the element which was judged very

important by Ambassador Wu Haitao in his yesterday's comments, namely the encouragement of international cooperation which would assist developing nations in accessing benefits of Space – is already in the draft. A number of transparency and confidence-building provisions have been incorporated directly, almost word-for-word, from the UN GGE study. We are now in fact being faced more often with suggestions for deletions from the draft, than additions.

Let me restate one more important point related to the substance of the initiative: it is a well-considered view of the experts from both the European Union and a number of like-minded countries, that the Code would bring the necessary benefits to the international community only if it is comprehensive, cross-cutting in scope, that is applying to all activities in outer space, regardless of their nature. We assume that all States' activities in outer space are peaceful, even those which are relevant to, and important for national or international security. Such basic principles as limiting the creation of space debris or avoidance of collisions make sense only if they are applied to all space aircraft, regardless of their payload.

We have carefully noted the many opinions voiced in Bangkok that one more session of the Open-Ended Consultations would be useful before the initiative moves toward a final phase. We are currently preparing both a revised draft text, to be distributed hopefully at the end of March, and the Third Open-Ended Consultations, to be held at the end of May. Unfortunately, I am not yet in a position to specify neither the exact dates, nor the venue of this meeting, as we are still working on it with the potential Host Country.

We have been very open and transparent that the European Union considers the issues under discussion both extremely important and urgent, and that we would like to bring this initiative to conclusion some time in 2014, but we are in no way dogmatic about this date. Whether this will prove to be possible will depend on many factors, some of them clearly beyond the control of any of us assembled at this interesting and useful Conference.

Thank you for your attention.