

Next Steps on a Code of Conduct for Responsible Space-Faring Nations

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There are three generic types of international agreements that have been proposed to enhance space security. Comprehensive proposals call for bans on space weapons and/or space warfare, such as China and Russia's PPWT. Partial bans of space weapons and/or space warfare may focus, for example, on the testing of destructive anti-satellite weapons. Others call for "rules of the road" or a code of conduct. These proposals may overlap in some respects. For example, some codes of conduct include provisions that would ban the testing or use of destructive anti-satellite weapons. The European Union's leadership on developing, disclosing, endorsing, and promoting its Draft Code of Conduct for Outer Space Activities has been useful and welcome. But more work is required to move this useful initiative forward, and the European Union is well positioned to do so. Some key questions remain about how best to advance this initiative: what venue would be most appropriate for discussing this initiative? And can major space-faring nations, including Russia and China, be brought on board, and if so, how?

1. Introduction

A question commonly asked by the European media is "Can Europe lead?" The answer at least on space security is an emphatic "yes." The European Union's leadership on developing, disclosing, endorsing, and promoting its Draft Code of Conduct for Outer Space Activities has been useful and welcome.¹ Most usefully, it advances a key norm for space activities: "no harmful interference with space objects."² But more work is required to move this useful initiative forward. Since the initial drafting of its Code, the European Union has been holding consultations with a number of other space-faring nations. But it remains to be seen what changes might be made as a result.

¹ Council of the European Union. Council Conclusions and Draft Code of Conduct for Outer Space Activities. PESC 1697 of 17 Dec. 2008. Brussels: European Union. Copy available at: http://www.stimson.org/space/pdf/EU_Code_of_Conduct.pdf

² For more on this concept, see: Black, Samuel. "No Harmful Interference with Space Objects: the Key to Confidence-Building", Stimson Report #69 (July 2008). Available at: <http://www.stimson.org/pub.cfm?ID=646>
 Krepon, Michael. "No Harmful Interference against Space Objects: Building on Precedent". 3 Nov. 2008. Available at: <http://www.stimson.org/pub.cfm?ID=706>

2. Proposed International Agreements to Enhance Space Security

When it comes to additional international agreements designed to enhance space security, there are three generic types of proposals, though they are not necessarily mutually exclusive. There are total bans on space weapons and warfare, partial bans of the same kind, and "rules of the road" or codes of conduct.³ China and Russia have been prominent in their advocacy of their proposed Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of

³ Falling in a gray area between categories is an idea tabled by a Canadian working paper at the Conference on Disarmament: "Working Paper On the Merits of Certain Draft Transparency and Confidence-Building Measures and Treaty Proposals for Space Security". CD/1865 of 5 June 2009. Available at: [http://www.unog.ch/80256EDD006B8954/%28httpAssets%29/C40D0B92E5F37A9CC12575FC003BCE37/\\$file/CD_1865_E.pdf](http://www.unog.ch/80256EDD006B8954/%28httpAssets%29/C40D0B92E5F37A9CC12575FC003BCE37/$file/CD_1865_E.pdf)

The proposal would seek to ban the placement of weapons in space, the testing or use of weapons against satellites, and the testing or use of satellites as weapons. The Canadian paper conceives of these rules as being either legally binding or politically binding, and thus the proposal could fall near either the first or third category noted above.

Force against Outer Space Objects (PPWT).⁴ However, the treaty suffers from a number of well-known and serious defects: its ban on the threat of the use of force against outer space objects is unverifiable at best and would likely lead to serious and debilitating disputes among the states party to any treaty containing this provision, it contains no verification measures whatsoever, and it does next to nothing to address the only dedicated anti-satellite weapon (ASAT) deployed today, the one deployed by China. Following the introduction of the PPWT into the United Nations Conference on Disarmament in Geneva, a number of states responded with questions and comments. But the Russian and Chinese letter responding to these questions is wholly inadequate on the most important points. For example, in response to a question about the verifiability of a ban on threats to use force against outer space objects, China and Russia stated that:

“the term “threat” means an intent to cause physical, material or other harm that is expressed orally, in writing, through actions or by any other means. In order for the country or countries at which they are directed to perceive them, such threats must be clearly expressed. Thus the question of the “reliable verification” of the prohibition of the “threat of the use of force” does not arise.⁵

This argument is less than convincing. The question of verification does in fact arise, particularly because threats are by nature subjective and dependent on the perspective of the threatened state.

The Chinese and Russian responses also admit that the PPWT does not ban the development or testing of ground-based ASATs like the one deployed by China.

The reason offered for this is that “there is no way that such activity can be effectively verified.”⁶ However, the letter also makes the claim that “it would seem appropriate to set

aside the question of verification and other contentious issues for the time being.”⁷ Heavy lifting is required to bridge the gap between the Chinese and Russian arguments that a lack of verifiability is both an insurmountable issue and a device to speed implementation.

The weakness of the responses to questions about the PPWT can only have reinforced the impression among many in the United States that the PPWT was not intended as a substantive arms control proposal, but rather as a way of scoring political points on the George W. Bush administration’s policy of opposing “the development of new legal regimes or other restrictions that seek to prohibit or limit U.S. access to or use of space.”⁸ While this position is likely to change under the Barack Obama administration, the United States is not likely to be in a position to play a leading role on space security in the near future.

The first review related to space security being conducted under the Obama administration is the Space Posture Review, which is roughly analogous in design to the recently-released Nuclear Posture Review.⁹ However, the Space Posture Review, the delivery of which was mandated by Congress to occur on February 1, 2010, has been delayed. The reason given by the administration was that there was a parallel review of National Space Policy that was also underway, and officials in the Department of Defence were concerned about the possibility that the Posture Review would immediately be outdated by a new Space Policy.¹⁰ A National Space Policy requires the involvement of many different departments and agencies, including but not limited to the Department of Defence, Director of National Intelligence and agencies within the intelligence community, NASA, and Department of Commerce. Since interagency reviews of national policy are the most time-consuming and contentious reviews conducted by the U.S. government, it would not be surprising if a new National Space Policy were delayed until the end of the summer or perhaps later.

⁴ A copy of the PPWT is available at: [http://disarmament.un.org/Library.nsf/a61ff5819c4381ee85256bc70068fa14/b387f2a6bb147c5c852573e700701b27/\\$FILE/cd-1839.pdf](http://disarmament.un.org/Library.nsf/a61ff5819c4381ee85256bc70068fa14/b387f2a6bb147c5c852573e700701b27/$FILE/cd-1839.pdf)

⁵ Permanent Representative of China and Permanent Representative of the Russian Federation to the Conference on Disarmament. “Letter Transmitting Answers to the Principal Questions and Comments on the Draft ‘Treaty on Prevention of the Placement of Weapons in Outer space and of the Threat or Use of Force Against Outer Space Objects (PPWT)’”. CD/1839 of 18 Aug. 2009. [http://disarmament.un.org/library.nsf/a61ff5819c4381ee85256bc70068fa14/4a10c7c900aa03c28525762500713d69/\\$FILE/cd-1872.pdf](http://disarmament.un.org/library.nsf/a61ff5819c4381ee85256bc70068fa14/4a10c7c900aa03c28525762500713d69/$FILE/cd-1872.pdf)

⁶ Ibid.

⁷ Ibid.

⁸ “U.S. National Space Policy”. 31 Aug. 2006. Available at: <http://www.fas.org/irp/offdocs/nspd/space.pdf>

⁹ “Nuclear Posture Review Report”. 6 Apr. 2010. U.S. Department of Defence <http://www.defense.gov/npr/> Some limited information on the Space Posture Review is available at: <http://www.defense.gov/spr/>

¹⁰ Bennett, John T. “Flournoy Confirms Space Posture Review Delay”, Defense News 2 Feb. 2010. <http://www.defensenews.com/story.php?i=4481146&c=POL&s=TOP>

The new National Space Policy may indicate U.S. attitudes on the two remaining types of initiatives: a partial ban on space weapons or warfare, and a code of conduct.

Unlike a code of conduct, no country has formally endorsed a partial ban on space weapons and warfare. However, proposals to do so exist. A notable one is a ban on destructive or kinetic-energy (KE) ASAT testing. Because of its focus on destructive actions, such a ban is inherently verifiable, especially with continued improvements to space situational awareness capabilities. And with the enhanced awareness of the dangers posed by the debris consequences of such tests that resulted from China's ASAT test in 2007, such a ban might resonate with non-specialists in space security.¹¹ Additionally, the American scholar Bruce MacDonald has argued that a ban on KE ASAT testing would enhance both strategic and crisis stability. Because it would limit the maturity of this proliferating technology, this proposal would reduce the capacity of relatively modest investments by one country to create significant danger for others (strategic instability). Again because banning the testing of these weapons would reduce confidence in their effectiveness, this initiative would also reduce incentives to use ASAT weapons first during warfare to gain a tactical advantage (crisis instability).¹² However, until such a treaty is drafted and tabled, this analysis will necessarily remain theoretical.

The European Union will likely be able to secure the formal support of the United States for the Code of Conduct after its reviews are complete.

Meanwhile, the draft EU Code of Conduct has been released to the public and discussed with several key space-faring nations, including the United States, behind closed doors.

While running for President, then-Senator Obama endorsed the concept of a code of conduct, saying that "A treaty that increases space security is a good idea but is likely to take a long time to negotiate. There is a simpler

and quicker way to go: a Code of Conduct for responsible space-faring nations. One key element of that Code must include a prohibition against harmful interference against satellites."¹³ And more recently, in a speech to the National Space Symposium, Deputy Secretary of Defense William J. Lynn III stated that the first element of the new U.S. strategy would be to "develop norms that all nations should observe in space." After describing the sharing of space situational awareness and conjunction analyses as the bare minimum elements of these norms, Lynn stated that "We need shared "rules of the road" in space to provide predictability in the congested environment space has become."¹⁴ While not an explicit endorsement of the European Union's Code, these remarks certainly indicate that a favorable position is likely.

The U.S. policymakers developing the new National Space Policy are thus very familiar with the draft EU Code of Conduct. They are most likely to adopt a combination of the following options: indicate support for proposals that advance the general principles set forth in the policy, indicate support for a KE ASAT test ban, or indicate support for a code of conduct. In my view, a combination of the first two would be the best course of action. The third could unnecessarily alienate those in Europe who have dedicated some years to producing a draft which, by many accounts, has been positively received in Washington. An indication of general openness to proposals consistent with U.S. policy would open the door to a formal endorsement of the EU Code, while an endorsement of a KE ASAT test ban would allow the United States to champion in parallel an initiative which reinforces the goals of the EU Code.

3. Next Steps on the Code of Conduct

What might be done with the draft EU Code of Conduct while the Russians and Chinese continue to advocate the PPWT and United States weighs its options? An obvious first step is to move forward based on the discussions already held by European diplomats and their counterparts in other space-faring nations. But

¹¹ Young, Kelly. "Anti-satellite Test Generates Dangerous Space Debris." NewScientist.com 20 Jan. 2007. <http://www.newscientist.com/article/dn10999>.

¹² MacDonald, Bruce. "Steps to Strategic Security and Stability in Space: Banning KE-ASAT Tests". Presentation. UNIDIR Space Security 2009 Conference. UNIDIR, Geneva, Switzerland. 15-16 June 2009. <http://www.unidir.ch/pdf/conferences/pdf-conf101.pdf>

¹³ "Endorsements of a Code of Conduct". Stimson Center 20 Apr. 2010.

<http://www.stimson.org/space/?SN=WS200701191170>

¹⁴ U.S. Deputy Secretary of Defense William J. Lynn III. "Remarks at the National Space Symposium". Colorado Springs, U.S. 14 Apr. 2010. <http://www.defense.gov/speeches/speech.aspx?speechid=1448>

increased transparency might enhance this effort.

If the European Union were to release a document like that put forth by Russia and China that gave details about the comments and questions raised about the Code during consultations with other countries, or issue a revised version of the Code itself, this might serve several useful purposes.

First, it would demonstrate the European Union's commitment to accepting input from other nations, increasing the buy-in that will be necessary for implementation. Second, assuming such a document were more forthcoming than the one put forth by China and Russia, it would highlight the differences between the approach taken by the European Union and the former duo, especially in the sense that the Union is willing to take steps to address any deficiencies in the Code.

In striving to gain endorsements for its Code, the European Union might usefully focus on a two key space-faring nations: Japan and India. Japanese support would help solidify the image of the draft EU Code of Conduct as a practical, useful way of ensuring the long-term sustainability of outer space. Because of Japan's arms control and non-proliferation credentials, Japanese support would be a significant signal to countries on the fence between a code of conduct and a more traditional legally binding arms control initiative. Japanese support would also provide another avenue towards the further internationalization of the Code. Japan has bilateral relationships with space organizations from countries including South Korea, Vietnam, Thailand, and Kazakhstan.¹⁵ Through these existing bilateral relationships, Japanese operators will be able to discuss their experiences and perspectives on the Code, which might hopefully improve the prospects garnering the endorsements of these countries. Finally, having the support of a key American ally certainly wouldn't hurt the chances of bringing Washington on board, though it may be the case that Japan would prefer that the United States endorse the Code first. Would Japan be willing to subscribe to the draft EU Code of Conduct? Given Japan's traditional role as a champion of nuclear disarmament, some Japanese may be inclined

to support more ambitious proposals. However, the entry into effect of the Basic Space Law in May 2008 and the Basic Space Plan in May 2009, may represent the influence of a different perspective. Two of the five objectives of the new Basic Space Plan are of particular interest in this light: "contributing to national security" and "promoting diplomacy."¹⁶ Given that widespread adherence to the Code would advance both of these objectives, a strong argument can be made for Japan's endorsement.

Securing India's endorsement seems likely to be more difficult. On the one hand, approaching India early on may play into its desire for great-power status and a leadership role in global affairs. In addition, discussing India's endorsement of the Code while it hasn't been endorsed by America would allow advocates to avoid a fight with those in India who oppose a close relationship with the United States and are especially keen on proving their independence since the U.S.-India nuclear deal. On the other hand, Indian hawks (like those in other countries) will want to preserve maximum military freedom of action in outer space, and thus may oppose any initiative that circumscribes it unless or until India tests an ASAT of its own. Though securing an endorsement from India may be difficult, the benefits would be well worth the effort. India has a unique dual status as both an accomplished space-faring nation and as a leader in the developing world more broadly and the Non-Aligned Movement and G-77 in particular. An Indian endorsement would help establish adherence to the Code of Conduct as a model of responsible behavior that could be followed by other emerging space faring nations. Finally, both India and Japan, as launch-capable states, are inherently important to ensuring the implementation of the Code of Conduct, which will require action on the national level by parliaments and regulators. (Paragraph 4.1 of the draft Code of Conduct calls on states to "establish and implement national policies and procedures" to accomplish its aims.)¹⁷

While seeking further endorsements of the Code of Conduct, the European Union might usefully consider three additional questions: in

¹⁵ "International Cooperation". Japan Aerospace Exploration Agency (JAXA) 22 Apr. 2010
http://www.jaxa.jp/collabo/int/index_e.html

¹⁶ Tachikawa, Keiji. "2009: A New Era for Japan's Space Program". Interview. Japan Aerospace Exploration Agency (JAXA) 22 Apr. 2010.
http://www.jaxa.jp/article/interview/vol44/index_e.html.
¹⁷ Council of the European Union. Council Conclusions and Draft Code of Conduct for Outer Space Activities. PESC 1697 of 17 Dec. 2008. Brussels: European Union.

what formal venue, if any at all, should future discussions on the Code be held? If Russia and China continue to hold out for the PPWT or something like it, should the European Union proceed without them? And what changes to the Code might be made to enhance both its effectiveness and the prospects for its widespread acceptance?

On the choice of venue, it seems likely that some venue will become necessary in lieu of constant and numerous bilateral discussions. This was one lesson of the Inter-Agency Debris Coordination Committee (IADC). While the IADC began in 1986 with a series of bilateral discussions, eventually this became too cumbersome even for its four founding members. So, the IADC was formally established eight years later.¹⁸ Given that the number of countries that will have to be involved for the Code to take full effect is substantially larger than four, some multilateral forum will be required. In my view, neither the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) nor the Conference on Disarmament (CD) would be appropriate. The CD was able to agree to a program of work for the first time in more than a decade at the end of 2009, but the stalemate there has renewed in 2010 with the opposition of Pakistan to any discussions on a Fissile Material Cutoff Treaty. Since this was one item on which there was the most agreement to begin work, and Pakistan is unlikely to revise its stance unless either its strategic position or its political relationship vis-à-vis India improves significantly, the prospects for a new program of work are unlikely.¹⁹ Similarly, the European Union stated in early 2009 that while “it is not our intention to negotiate the Code in this forum [the CD], we will keep the CD informed on the progress of the work on the Code.”²⁰ Meanwhile, the focus of COPUOS on civil space is useful and appropriate. But a major threat to the peaceful uses of outer space is

space debris, and the most dangerous source of space debris is the destructive testing of ASATs.²¹ Hence, the concept of “no harmful interference” is most useful if it is understood as proscribing such activities. Since even debating this interpretation will necessarily involve participants’ militaries, COPUOS may not be an appropriate forum either.

By this analysis, a forum other than those in the U.N. system that traditionally discuss space issues will be required.

However, there is certainly no reason why the existing forums could not receive regular updates on the progress made in some other negotiating forum. Those selecting this forum must wrestle with two competing impulses: on the one hand, to include as many of the relevant countries as possible, while on the other hand keeping the forum small enough to be manageable. Moises Naim has argued that the magic number for his concept of “minilateralism” is about twenty countries. As he notes,

Of course, countries not invited to the table will denounce this approach as undemocratic and exclusionary. But the magic number will break the world’s untenable gridlock, and agreements reached by the small number of countries whose actions are needed to generate real solutions can provide the foundation on which more-inclusive deals can be subsequently built. Minilateral deals can and should be open to any other country willing to play by the rules agreed upon by the original group.²²

We now arrive at the question of what to do with Russia and China. There are three possible scenarios that might occur if the effort to advance the Code reaches the point where a multilateral gathering becomes both necessary and practical. First, they both may decide to take part in multilateral discussions on the Code in return for some changes to its language or other concessions. The report of a workshop held in 2008 indicates that preambular language expressing a common vision for an outer space perpetually free of weapons might be necessary, though perhaps not sufficient, to gain the support of Russia and China.²³

¹⁸ Levin, George M. and Flury, Walter. “Inter-Agency Space Debris Coordination Committee (IADC)”. Presentation. 34th Session of the Scientific and Technical Subcommittee of the UNCOUOS. United Nations. Vienna, Austria. Feb. 1997. Available at: http://www.iadc-online.org/Documents/Docu/34th_UN_COPUOS_STSC.pdf

¹⁹ For more information, see: Acheson, Ray. “CD Reports 2010,” 20 Apr. 2010. <http://www.reachingcriticalwill.org/political/cd/2010/reports.html>

²⁰ The Czech Presidency of the European Union. EU Statement on “PAROS”. Conference on Disarmament 1st Part. United Nations. Geneva, Switzerland. 12 Feb. 2009. [http://www.unog.ch/80256EEDD006B8954/%28httpAssets%29/EEA43906F2B69099C125755B003E11BA/\\$file/1123_EU_PAROS.pdf](http://www.unog.ch/80256EEDD006B8954/%28httpAssets%29/EEA43906F2B69099C125755B003E11BA/$file/1123_EU_PAROS.pdf)

²¹ Black, Samuel and Butt, Yousaf. “The Growing Threat of Space Debris,” *The Bulletin of the Atomic Scientists* 66:2 (March/April 2010): 1-8.

²² Naim, Moises. “Minilateralism: The Magic Number to Get Real International Action”. *Foreign Policy* (July/August 2009). Available at: <http://www.foreignpolicy.com/articles/2009/06/18/minilateralism?page=full>

²³ “Executive Summary of Discussions”. Bellagio Space Security Workshop. Bellagio, Italy. 11-13 Nov. 2008.

Second, one may decide to take part while the other holds out for a legally binding instrument. The probability of this outcome is extremely difficult to discuss, given the opaque process through which the PPWT was drafted. Their diplomatic solidarity on the treaty to this point leaves no obvious reason to expect anything different in the future. The third possibility is that neither Russia nor China will be willing to take part in multilateral discussions.

In the first or second scenarios, it seems clear that the European Union should press ahead with a multilateral discussion of the Code. In the second, whichever country continues to hold out will see its position and influence deteriorate as other countries discuss the Code without it, giving the holdout strong incentives to join the process. The third scenario is more tricky. But a good case can be made that the European Union and other like-minded countries should proceed nonetheless.

Few norms begin with universal adherence, including those on important strategic matters such as the use of outer space.

Even countries that object initially to norm-building agreements may later see their value. China denounced the Nuclear Non-proliferation Treaty (NPT) in 1968 as being “a conspiracy concocted by the USSR and the U.S. to maintain their nuclear monopoly.” Yet China joined the International Atomic Energy Agency in 1984 and acceded to the NPT in 1992.²⁴ Though this evolution in perspective on the NPT mirrored dramatic generational shifts in China’s leadership, the fact remains that if agreements are proven by experience to be useful, skeptics may be converted. More fundamentally, there is a question as to whether ambitions to avert an arms race in space once and for all should forever hold hostage practical near-term measures to increase the transparency and sustainability of space operations. Russia and China will not abandon their push for a ban on space weapons regardless of whether a Code of Conduct remains in draft form indefinitely or becomes widely adhered-to. The two initiatives are not mutually exclusive, nor are they mutually dependent. Each should stand or fall on its own

Available at:
http://www.stimson.org/space/pdf/Bellagio_Workshop_Summary.pdf

²⁴ Zhu, Mingquan. “The Evolution of China’s Nuclear Non-proliferation Policy,” *The Non-proliferation Review* 4:2 (Winter 1997). <http://cns.miis.edu/npr/pdfs/zhu42.pdf>

merits.

The European Union should make efforts to bring China and Russia on board, but continue advancing the Code of Conduct whether these efforts are successful or not.

There are two examples which may shed light on the advancement of norms without the endorsement of several key nations. These are the Ottawa Treaty which aims to ban anti-personnel land mines and the Convention on Cluster Munitions which aims to ban cluster munitions. Both were drawn up at ad hoc conferences created specifically for these purposes and attended by groups of like-minded countries – a process similar to that proposed above. The Ottawa Treaty was opened for signature in 1997 and was immediately signed by 122 countries.²⁵ While the number of countries that have ratified the Treaty stands at 156, there remain a number of significant countries who remain outside the treaty, including China, India, Russia, and the United States.²⁶ The successes among the states party to the treaty have been significant, and even among the states outside the treaty, the norm has had some effect.²⁷ The United States, for example, has refused to sign the treaty but has highlighted its commitment to the humanitarian spirit behind the creation of the treaty. For example, the U.S. State Department pointed out in 2007 that the United States has been the single largest donor to humanitarian mine action efforts around the world and banned the use of non-detectable mines in 2005.²⁸ The tone of the State Department’s defense of the U.S. position suggests that the norm and its advocates have succeeded in pressuring the United States and perhaps other countries as well, to defend or alter their positions on anti-personnel land mines. The Convention on Cluster Munitions was a more

²⁵ “Ban History”. International Campaign to Ban Landmines 5 May 2010.
<http://www.icbl.org/index.php/icbl/Treaties/MBT/Ban-History>

²⁶ “States Not Party”. International Campaign to Ban Landmines 5 May 2010.
<http://www.icbl.org/index.php/icbl/Universal/MBT/States-Not-Party>

²⁷ “Executive Summary: Major Findings”. *Landmine Monitor* 2009. International Campaign to Ban Landmines.
http://www.the-monitor.org/lm/2009/es/pdf/major_findings.pdf

²⁸ Kidd IV, Richard G. “U.S. Landmine Policy and the Ottawa Convention Ban on Anti-Personnel Landmines: Similar Path,” *Dipnote*: U.S. Department of State Official Blog 21 Nov. 2007.
http://blogs.state.gov/index.php/entries/anti_personnel_landmine/

recent effort, being first signed by 94 countries in December 2008. To date, there have only been 32 ratifications, and there are again a number of significant outsiders, including the four named above. As the treaty has not yet entered into force, it is difficult to gauge the effect of the norm on states party, signatories, and outsiders. So while there are important differences between a code of conduct for responsible space-faring nations and the bans on both anti-personnel land mines and cluster munitions, the Ottawa Treaty has had some success in advancing the norm it embodies both in states party to the treaty and outsiders.

Finally, we come to the question of what changes to the Code might be made to enhance both its effectiveness and the prospects for its widespread acceptance.

The key question is whether to offer a definition of what constitutes “harmful interference,” since it is from my perspective the linchpin of the entire Code of Conduct.

The term exists in a number of other international agreements related to space security, but has not to my knowledge been defined by any of them.²⁹ The absence of a definition provides less certainty in the case of debatable or mysterious incidents but allows for greater responsiveness in the case of technological advancements. This question will likely come up during discussions of the Code, and the tradeoffs between certainty and flexibility will have to be managed by the interested parties.

Finally, given that a few of the questions asked of China and Russia regarding the PPWT had to do with the dispute-settlement mechanism and executive organization provided for therein, it may be worthwhile to do some advance research on the possible structure and modalities of the consultation mechanism laid out in Section 9 of the Code and specify in greater depth the characteristics of the biennial meetings, central point of contact, and outer space activities database provided for in Sections 10, 11, and 12, respectively.

4. Conclusion

Given the deficiencies of the Chinese and Russian treaty and the likelihood of eventual U.S. support, the European Union should build on its success in developing a useful Code of Conduct. Based on the strengths of the existing draft, and it seems that there is a window of opportunity to gain some momentum by securing the endorsement of other key space-faring nations, most notably Japan and India. From there, Europe should push on regardless of the reaction of China and Russia. This is the best path towards the establishment of an important norm that will enhance the long-term sustainability of space.

²⁹ Black, Samuel. “No Harmful Interference with Space Objects: the Key to Confidence-Building”, Stimson Report #69 (July 2008).



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