Russia's Approaches to Strengthening the International Legal Regime Prohibiting the Weaponization of Outer Space and Efforts for Building an International Coalition in This Sphere

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The paper is focused on the attempts and ways for strengthening the existing international legal norms related to PAROS issues, undertaken by Russia. It shows the urgency and importance of ensuring the non-weaponization of outer space. The specific attention is given to the activities on this issue in the framework of the Conference of Disarmament, in particular, in connection with the Russian-Chinese initiative on elaborating an international agreement on non-placement of weapons in outer space. It also enlightens the Russian input in broadening an international support and multilateral co-operation in respect of PAROS issues.

Dear participants to the workshop,

I would like to share my personal views in respect of some aspects of strengthening the international legal regime prohibiting possible placement of weapons in outer space.

In the course of the past decades the problem of prevention of an arms race in outer space (PAROS) has occupied one of the central places on the disarmament agenda of the international community. As we have recently seen, the international community is paying increasing attention to the issue of outer space, which is evidenced by this forum. I am convinced that such discussions are useful for all their participants, because they enable to acquire a better understanding of basic approaches to the area by both representatives of various governments and non-governmental organizations and individual experts.
From the very beginning of outer space exploration era, military interests were a decisive factor stimulating space activities. At the present time space assets provide the effective solution of a lot of tasks both civil and military character. Among them are: medical and biological researches; monitoring of the environment; the control over emergency situations and liquidation of their consequences; researches of natural resources. Achievements of space technology are being actively used as an instrument ensuring a reduction of nuclear war risk and control over the implementation of disarmament agreements, and also in such auxiliary military purposes as communication, navigation, global positioning systems, intelligence and so forth.

All these, however, are military uses of "supporting" nature. Outer space is not - at least not yet - an arena where wars are fought, neither is it so far a springboard for attacking targets on the ground or in the air. Unfortunately, it can become precisely that, given plans for development of outer-space-based striking weapon systems.

At the same time, the information jerk of the world community in outer space without improving international legal regulation can create the appropriate potential of threat for mankind. And, indeed, speaking about space prospects for the 21st century, we can not disregard the fact that scientific and technological capabilities of a number of countries have now approached such a level that enables them to implement military programs of preparation for waging "star wars". There is no need to expand on such programs' specific aspects - they are well known to experts. I would like to emphasize only that Russia can not agree with the opinion that "star wars", whatever are justifications for the need for preparing to them, are "fatally imminent" allegedly brought about by technical progress and the logic of the political development of the modern world. Their realization would mean not only the broadening of spheres of military rivalry, but its qualitative spur fraught with unpredictable consequences.

Hence, it is obvious a serious concern was expressed by the international community in connection with outer space eventually transforming into a new arena of military confrontation. It is reflected, for example, in the UN Secretary General's message to the international conference "Outer Space without Weapons as an Arena of Peaceful Co-operation in the 21st Century" held in Moscow in April 2001: "We must guard against the misuse of outer space and, in particular, against unleashing of an arms race in outer space. The international community recognized early that a legal regime for outer space was needed to prevent it from becoming another arena of military confrontation".

It is necessary to note, that such a sphere of military activity as the use of outer space for military purposes certainly could not remain outside the sphere of international law. During elaboration of the basic international legal documents, which now adjust
all activity on the use of outer space, on its military component the certain restrictions were imposed.

The tasks of preventing an arms race in outer space have been the focus of the international community since the beginning of outer space activities in 1950s. The debate on this subject followed two tracks, that of the (1) comprehensive and complete disarmament (the ban on testing and deployment of WMD on earth, in the air and in outer space; assurances by the outer space powers that outer space be used exclusively for peaceful and scientific purposes) and that (2) of partial disarmament measures (guarantees that rocket launches designed to place outer space objects into orbit do not serve military purposes, etc.).

Is it real under existing conditions to expect to address successfully the task of preventing weapons from going out into outer space? To answer this question let us recall that even in the period of tough confrontation between East and West the international community succeeded in achieving important results in halting the most dangerous lines of militarization of outer space. Thus, the 1963 Treaty on Banning Nuclear-Weapon Tests in the Atmosphere, in Outer Space and Under Water vetoed such tests in outer space. The 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space prohibited deployment of all types of weapons of mass destruction in outer space and on celestial bodies. An important sphere of bans was outlined in the 1977 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, which included outer space.

The military activities currently prohibited in outer space by the international law are as follows:

- placement of nuclear and other WMD on orbit around the Earth, their installation on celestial bodies or stationing in outer space;
- nuclear weapons testing;
- establishment of military bases, installations and fortifications and conduct of military manoeuvres on celestial bodies (except for the Earth) or orbits around them;
- hostile activities or use, of force on celestial bodies or orbits around them;
- military or any other hostile use of environmental modification techniques in outer space.

However insufficient perfection of the international legal regime, which carries out regulation of military space activity, nevertheless leaves an opportunity to place into outer space separate kinds of weapons.
The international law does not prohibit such kinds of military activity, for example, as placement in outer space of anti-satellite weapons; development and deployment in outer space of optical-electronic and radio-electronic jamming devices, etc.

In 1972 Moscow and Washington while working out the ABM Treaty have found indispensable to include in its text an obligation not to develop, test or deploy space-based ABM systems or its components. With termination last year of the ABM Treaty, this norm, relevance of which went far beyond the framework of a bilateral Russian-American relations and had a global strategic dimension, has seized to exist as well. And, here, it is worth bearing in mind that often space missile defence technologies and anti-satellite technologies are nearly the same thing.

The USSR played a considerable role in the elaboration of legal machinery to prevent an arms race in outer space by having proposed, as far back as in late 1950s, to ban the use of outer space for military purposes and establish international co-operation in outer space. The discussion of that initiative provided an incentive to create in 1959 the Committee on the use of outer space for peaceful purposes, which acquired, on a later stage, a permanent status.

The Third UN Conference on the Exploration and Use of Outer Space for Peaceful Purposes (UNISPACE-?) adopted the Vienna Declaration on the role of outer space in the future development of mankind, which emphasized the necessity of preventing an arms race in space around the earth and of conducting outer space activities solely for peaceful purposes in order to maintain international peace and security.

The issues of preventing an arms race in outer space have always been and continue to be among the priorities of Russia's diplomacy. My country has more than once launched initiatives in the area aimed at preventing weaponization of outer space and reaffirming the principle of non-use of force in outer space and from space against the Earth. Thus, of common knowledge are the proposals made by the USSR to conclude a treaty to prohibit deployment in outer space of any kind of weapons (1981) and to ban the use of force in outer space and from outer space against the Earth and from the Earth against outer space (1983). Those initiatives contained specific verification measures aimed at preventing development, testing and deployment of outer space combat assets. An attempt was made thereby to specify in terms of a treaty the basic provision of international law as applicable to activities in outer space, from the Earth vis-à-vis the outer space and from space vis-à-vis the Earth. While these initiatives have never been implemented, they gained a broad support from the majority of the international community and promoted further discussions on outer space issues. All key ideas of those draft documents have not lost their relevance even today.
Russia's consistent policy in the area is testified by the initiative launched by Russia's President V.V.Putin at the Millennium Summit to convene in Moscow in April 2001 an international conference on the prevention of the militarization of outer space to commemorate the 40th anniversary of the first manned flight to outer space. Such a conference, held under the motto "Outer Space without Weapons as an Arena of Peaceful Co-operation in the 21st Century", was focused on a dual objective - to discuss both issues of preventing placement of weapons in outer space and future peaceful use of outer space. During the Moscow forum, in which representatives of more than 100 states took part, a serious concern was expressed by the international community in connection with outer space eventually transforming into a new arena of military confrontation.

At the 56th session of the UNGA Igor S. Ivanov, Minister of Foreign Affairs of the Russian Federation, offered the world community to start in the near future elaboration of an international agreement directed at prevention of appearance in outer space of any kind of weapons and we sketched out specific obligations that could underpin such an agreement. Its new component is the proposal to declare a moratorium on deployment of weapons in outer space, pending a relevant agreement to the effect by the international community. My country would be ready to undertake, without delay, such a commitment, provided that other leading outer space powers join the moratorium.

From the point of view of real and practically significant movement to the solution of the PAROS problem, realization of measures of trust, openness and predictability and expansion of multilateral co-operation in the sphere under discussion is of great value. Realization of such measures could become the intermediate stage on the way towards elaboration of international legal norms on non-deployment of weapons in outer space and would promote ensuring security in near space.

Russia has already made a practical step in this direction. In October 2002 Igor S. Ivanov, Minister of Foreign Affairs of the Russian Federation, stated the readiness of the Russian side to agree to a new transparency and confidence-building measure in the space domain, namely to provide in advance information about the upcoming launches of space objects, their purpose and basic parameters. Such information is already posted on the Russian MFA website. We call upon states practising launches of space objects to join in the implementation of this confidence building measure in outer space.

In the context of efforts on non-weaponization of outer space we see a clear necessity to solve, in particular, missile non-proliferation problems, that is one of the important components of activities in the PAROS sphere. In this regard activities aimed at establishing a Global regime of missile non-proliferation is among the main Russian priorities. Here we keep constantly on the agenda the well-known Russian initiative
on the Global control system for missiles and missile technologies non-proliferation (GCS), which we see as the basis of such a regime.

Taking into account that last November the ICOC was signed in the Hague, it is imperative now to ensure its effective implementation. Certainly, it takes time. We will closely follow this process and will make our decision in respect of when and how to convene the next meeting on the GCS.

As we understand, the idea of PAROS is widely and convincingly supported by the international community. The urgency of the need to solve the issue is affirmed, in particular, by annual adoption by the overwhelming vote of the UNGA resolution "Prevention of an arms race in outer space". While adopting this resolution at the 57th UNGA session (A/RES/57/57), 159 states voted in its favour and no nation voted against.

The UNGA resolutions on PAROS state that "the Conference on Disarmament, as the single multilateral disarmament negotiating forum, has the primary role in the negotiation of a multilateral agreement or agreements, as appropriate, on the prevention of an arms race in outer space in all its aspects". So to start work on the issue of PAROS is clearly an important responsibility that the CD must fulfil.

Russia is in favour of the prompt reestablishment of a CD Ad Hoc Committee on PAROS with a negotiating mandate. We see a clear need for a legally binding document on prevention of placement of weapons in outer space. Our Chinese colleagues, as well, propose launching of the substantive discussion in the CD on PAROS with a view to negotiating a relevant legal instrument. The urgent need to start work on PAROS in the CD is reflected in the 5 ambassadors' evolving proposal, which hopefully all delegations to the CD soon would be in a position to support.

Enhancing the efforts for building an international coalition in the sphere of non-weaponization of outer space, in June 2002 Russia together with China tabled in the CD a joint working paper "Possible Elements for a Future International Legal Agreement on the Prevention of the Deployment of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects" (CD/1679). Co-sponsors of the paper were Belarus, Indonesia, the Syrian Arab Republic, Vietnam and Zimbabwe. In proposing the basic parameters of a possible future agreement in the area of outer space we have taken into account the experience of nearly nine year-long (1985-1994) work of the CD Ad Hoc Committee on PAROS in the following basic directions:

- examination and identification of problems related to PAROS;
- improvement of existing agreements relating to PAROS;
- existing proposals and future initiatives on PAROS.
Discussions have focused on such issues as the status of outer space and its use exclusively for peaceful purposes; the need to prevent an arms race in outer space; identification of a possible danger to the functioning of space objects; interrelation between PAROS and arms limitation and disarmament; correlation of bilateral and multilateral efforts on PAROS; terminological aspects of outer space issues; need to improve existing legal regime of outer space, including verification measures; confidence-building and predictability measures in outer space activities.

Our predecessors have already done a lot in preparing this issue for substantive negotiations. We are convinced that since the Ad Hoc Committee on outer space discontinued its activities in 1994 the issue of prevention of placement of weapons in outer space and of the threat or use of force on orbit around the Earth rather than losing its relevance, has only gained an added urgency. It is precisely for that reason that we support adoption of all possible measures to prevent placement of weapons of any kind in outer space, so as not to be forced later on to waste a great amount of time and effort on its "de-weaponization".

The Russia and China's proposal does not pursue the purpose to infringe on interests of any state, it is directed at joint search of ways of prevention of an arms race in outer space. The Russian side believes that such possible agreement would facilitate the carrying out of effective peaceful outer space activities and the development of multilateral co-operation in this area in accordance with international law and would strengthen legal norms for the protection of space objects already in space and prospective space objects on the basis of the UN Charter-enshrined principle of the non-use or threat of force in international relations. We are proposing to enhance international legal protection of space assets.

This document is not a completely finished text of a future treaty. It covers only its main elements, and the Russian side is ready to continue work on their further improvement in co-operation with all states and invites them to dialogue. Our objective was to start substantial discussions at the CD on PAROS, which could result in the legally binding agreement. All parties concerned are welcome to express possible specific proposals on its substance and content and to share their views on ways of its further promotion.

We, certainly, do not consider the proposed language as carved in stone. We welcome a constructive dialogue and are ready to take into account opinions of all interested parties. We also find useful a contribution of NGOs, which, among other things they do, have initiated a number of useful seminars on the subject.

I would like to note with satisfaction that a number of our partners have already shared with us their vision and thoughts on CD/1679 and made concrete proposals on improvement on the working paper's language. On the basis of these views Russia and
China have prepared an unofficial annex to CD/1679 which is a compilation of major comments and suggestions we have received from partners in the period after its official submission at the Conference. We prepared these compilation under our own responsibility in order to stimulate further discussions and brainstorming on CD/1679 and to try to make a further step in building an international coalition in the sphere of non-weaponization of outer space. We are planning to update this compilation regularly.

This compilation was distributed at the meeting, sponsored on the Russian side's initiative and held in Geneva this February, of all the member states and observers at the CD to discuss the Russian-Chinese document. The keen exchange of views at that forum has shown the growing and ever more active support of the idea of keeping outer space free of weapons of any kind and the necessity of holding negotiations in order to conclude an international agreement to this effect. In this context most of the speakers at the meeting spoke in support of the efforts by Russia, China and a number of other countries, directed at the practical embodiment of the provisions of the UNGA resolution on PAROS.

The joint Russian-Chinese document was found to provide a good, concrete basis for subsequent discussions on this theme. In the course of its informal discussions the prospect of a truly productive debate within the framework of the appropriate Ad Hoc Committee of the CD is becoming ever more clear. And the majority of the CD member states ever more explicitly shows readiness for vigorous substantive work on the preventing of placement of weapons in outer space.

The Russian side is ready to continue to work with all interested states on further improving the possible elements of a future international legal agreement on non-weaponization of outer space and on the search of a compromise regarding the CD's work program.

We offer the positive programme of actions on preventing placement of weapons in outer space. We are ready for practical work in this area. We believe that urgent beginning of this work within the framework of the Conference on Disarmament answers interests of the whole international community.

To conclude, as the experience of past decades shows, the issue of PAROS represents a strategic course of Russia's foreign policy which is not subject to revision. In this connection, we look forward to having a serious and constructive collaboration with all interested countries, organisations and individual experts. We are prepared to proceed with further improvement and modification of our proposals until a compromise acceptable to all is achieved.