

The Origins and Prospects of the Open-Ended Working Group on Reducing Space Threats

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Earlier this week in Geneva a new diplomatic process under UN auspices got underway. To employ its full title, it is an Open-Ended Working Group (OEWG) on “Reducing space threats through norms, rules and principles of responsible behaviours”. As that title suggests this process will be open to any UN member state interested in participating. It also aims at reducing threats in outer space through establishing rules of “responsible behaviours”. To appreciate the significance of this development, one has to situate it in the context of UN deliberations about security in outer space over the years.

The UN General Assembly first put outer space security on its agenda in 1981 at the initiative of the Soviet Union. The General Assembly in turn called upon the 65 nation Conference on Disarmament (CD) in Geneva to undertake work on this issue under the rubric “Prevention of an Arms Race in Outer Space” (PAROS). The CD was active on this agenda item, especially for a ten-year period (1985-1995) when an Ad Hoc Committee was established to consider what could be done in terms of international cooperation to prevent the feared space arms race (recall that in 1983 President Ronald Regan had launched his Strategic Defence Initiative or “Star Wars” project which envisaged putting ballistic missile interceptors in outer space). Although the Committee had productive sessions it wasn’t able to agree on a way forward, with some states supporting negotiating an agreement and others believing that negotiations would be premature and only continued discussion of options was acceptable. The Committee’s mandate was not renewed and indeed after 1996 the Conference on Disarmament as a whole was unable to decide on a Programme of Work to begin work on any of its four “core issues”, PAROS being one.

Despite this gridlock, Russia and China introduced at the CD in 2008 a draft treaty on the “Prevention of Placement of Weapons in Outer Space and on the Threat or use of Force against space objects” (aka PPWT). The draft treaty was criticized by the United States as deficient in several aspects, principally with respect to the definition of a space weapon, its lack of verification and its failure to include terrestrial based anti-satellite weapons (ASATs). The sponsors issued a rebuttal to the US critique but were not able to advance consideration of their draft treaty at the CD given that forum’s general paralysis.

Ever since PAROS had been added to the General Assembly’s agenda, a resolution dedicated to this subject had been passed annually with near unanimity (last year the US agreed as well). The resolution recognized that the prevention of an arms race in space would avert a grave danger for international peace and security. It also specified that “further measures” would be required to prevent such an arms race. On the surface, the international community seemed to be committing itself through this resolution to take preventative action. In reality however almost nothing was done to translate the PAROS goals into actual measures. This state of

contradiction and inertia may well have continued indefinitely, if it wasn't for the impact of external events. In particular, the resumption of destructive ASAT testing, first by China in 2007 and then by the US in 2008, India in 2019 and Russia in 2021 made it painfully clear that intentional debris-causing actions in outer space (especially in LEO) could jeopardize safe space operations for everyone. Something had to be done.

Enter here, the United Kingdom with a diplomatic initiative promising a novel approach to overcoming the deadlock on space security at the UN. The UK successfully ran a resolution at UNGA in the fall of 2020 that asked the Secretary General to seek views from member states as to what could be done to promote responsible behaviours in outer space and to designate what would constitute "irresponsible" behaviour. The UK explained that by focusing on behaviour rather than on specific weapon systems, a way could be found to get around some of the issues, such as definition of a space weapon, that had blocked progress earlier. There was a good response to the Secretary General's call for submissions, a compendium of which was issued in summer 2021. Noteworthy, was the willingness of most states to support an OEWG under UNGA as the vehicle for taking this topic forward as well as the convergence around certain potential restraint measures, notably a ban on the testing of debris-causing ASATs.

Buoyed by the success of this initial action the UK moved rapidly to build on it by submitting a resolution at the 2021 session of UNGA that authorized the establishment of an OEWG on reducing space threats that would operate "on the basis of consensus" over the 2022-2023 period and report back to the General Assembly at its fall 2023 session. The resolution (76/231) was adopted on a vote of 163 in favour, 8 opposed and 9 abstaining. China and Russia were among those states voting "no" – perhaps upset that this initiative circumvented the blockage at the CD and favoured the elaboration of politically-binding measures over the legally-binding measures that Moscow and Beijing prefer. It seems likely that both these states will participate in the OEWG's work, in order to safeguard their interests if nothing else.

The first of the two one-week long sessions of the OEWG slated for 2022 was to take place February 14-18. Russia however has complicated matters by pressing for a postponement of the session, claiming that it didn't have sufficient time to prepare and raising an ambiguity in the resolution's language to argue that only one session per year was authorised. It now seems that the first session will not occur until May. Once the OEWG gets underway it will be interesting to see whether convergence can be achieved around a set of "rules" for responsible state behaviour in outer space. A prime candidate for an "early win" would be a ban on testing destructive ASATs, along the lines that the Outer Space Institute proposed last summer. Since all nations engaged in space operations or users of these services would have an interest in avoiding further debris hazards in space a ban should appeal as an eventual deliverable. My experience has taught me that just because something seems eminently logical doesn't mean that it will be embraced by participating states. Some states may want time to perfect their own ASATs or develop such systems themselves before entertaining a ban on their testing. Although procedures for input from the private sector and civil society have not yet been determined by the OEWG, one can expect some of the major players in the space industry to make their views known. With almost half of the current active satellites in LEO, Elon Musk and

his Space X company certainly has a commercial interest in not having these orbits become more hazardous than they already are.

To conclude, I am a “cautious optimist” regarding the OEWG, it has the potential to get beyond decades of diplomatic blockage and open up a new avenue for making tangible progress.